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Rules and Regulations

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

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

MILITARY COMPENSATION AND RETIREMENT MODERNIZATION COMMISSION

5 CFR Part 9901

RIN 3260–AA00

Freedom of Information Act Regulations

AGENCY: Military Compensation and Retirement Modernization Commission.

ACTION: Final rule.

SUMMARY: The Military Compensation and Retirement Modernization Commission (MCRMC) is issuing a final rule, establishing procedures for the public to obtain information from MCRMC under the Freedom of Information Act (FOIA).

DATES: This final rule was effective October 27, 2014.

FOR FURTHER INFORMATION CONTACT: Christopher Nuneviller, Associate Director, Administration and Operations, Military Compensation and Retirement Modernization Commission, at (703) 692–2080 or by email at *foia@mcrmc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On January 2, 2013, the President signed into law the National Defense Authorization Act for Fiscal Year 2013, Public Law 112–239, Subtitle H, 126 Stat. 1632, 1787 (2013) (amended by National Defense Authorization Act for Fiscal Year 2014, Pub. L. 113–66, Sec. 1095, 127 Stat. 672, 878 (2013)), which created the Military Compensation and Retirement Modernization Commission (MCRMC). To establish procedures to facilitate public interaction with MCRMC, the agency is issuing final regulations under FOIA.

II. The Final Rule

This final rule establishes procedures for MCRMC necessary to implement FOIA, 5 U.S.C. 552. FOIA provides for the disclosure of agency records and information to the public, unless that information is exempted under statutory exemptions or exclusions. The procedures established herein are intended to ensure that MCRMC fully satisfies its responsibility to the public to disclose agency information.

III. Procedural Requirements

These regulations establish procedures under FOIA to facilitate the interaction of the public with MCRMC. MCRMC's policy of disclosure follows the Presidential Memorandum of January 21, 2009, ''Transparency and Openness,'' 74 FR 4685, and the Attorney General's March 19, 2009 FOIA policy guidance, advising Federal agencies to apply a presumption of openness in FOIA decision making. This final rule parallels the procedures currently used by other agencies to implement FOIA.

MCRMC has determined that good cause exists under 5 U.S.C. 553(b) and 5 U.S.C. 553(d)(3) to waive the notice and comment and delayed effective requirements of the Administrative Procedure Act to publish this regulation as a final rule with a request for comments. MCRMC is a temporary, independent establishment with statutorily defined deadlines and a limited existence. It is the intent of the agency to be as transparent as practicable in making information available to the public. This regulation establishes procedures to facilitate MCRMC's interactions with the public and the public's access to information about MCRMC. In light of this agency's limited duration, as set forth in its enabling legislation, and the need for timely access, MCRMC has decided that full notice and comment rulemaking is impracticable and contrary to public policy. The absence of FOIA regulations could impair the public's ability to access information. MCRMC has determined that this final rule should be issued without a delayed effective date pursuant to 5 U.S.C. 553(d)(3).

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply. This rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

Analysis of Public Comments and Final Rule

MCRMC received no comments in response to the Interim final rule for MCRMC's FOIA regulations (79 FR 54567, September 12, 2014). This final rule corrects two inadvertent formatting errors in the interim final rule.

List of Subjects in 5 CFR Part 9901

Administrative practice and procedure, Freedom of information, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 5 CFR chapter XCIX, part 9901, which was published at 79 FR 54567 on September 12, 2014, is adopted as a final with the following changes:

PART 9901—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for part 9901 continues to read as follows:

Authority: National Defense Authorization Act for Fiscal Year 2013, Pub. L. 112–239, Subtitle H, 126 Stat. 1632, 1787 (2013) (amended by National Defense Authorization Act for Fiscal Year 2014, Pub. L. 113–66, Sec. 1095, 127 Stat. 672, 878 (2013)); 5 U.S.C. 552.

■ 2. Amend § 9901.1 by revising paragraph (b)(1) to read as follows:

§ 9901.1 Authority, purpose, and scope.

* * * * *

(b) *Purpose.* (1) The National Defense Authorization Act for Fiscal Year 2013, Public Law 112–239, Subtitle H, 126 Stat. 1632, 1787 (2013) (amended by National Defense Authorization Act for Fiscal Year 2014, Pub. L. 113–66, Sec. 1095, 127 Stat. 672, 878 (2013)), established the Military Compensation and Retirement Modernization Commission (MCRMC). MCRMC's purpose, pursuant to its enabling statute, is to conduct a review of the military compensation and retirement systems and to make recommendations to modernize those systems to:

(i) Ensure the long-term viability of the All-Volunteer Force by sustaining the required human resources of that force during all levels of conflict and economic conditions;

(ii) Enable the quality of life for members of the Armed Forces and the other uniformed services and their

families in a manner that fosters successful recruitment, retention, and careers for members of the Armed Forces and the other uniformed services; and

(iii) Modernize and achieve fiscal sustainability for the compensation and retirement systems for the Armed Forces and the other uniformed services for the 21st century.

* * * * *

■ 3. Revise § 9901.3 to read as follows:

§ 9901.3 Requests for records.

(a) *Generally.* Many documents are available on the MCRMC Web site and MCRMC encourages requesters to visit the Web site before making a request for records pursuant to this subpart. MCRMC will provide records to individual requesters in response to FOIA requests for records not available on its Web site.

(b) *Electronic or written requests required.* For records not available on the Web site, requesters wishing to obtain information from MCRMC should submit a request on the MCRMC Web site. If a computer is not available to the requester, a written request may be made to the MCRMC FOIA Officer. Such requests should be addressed to: FOIA Officer, Military Compensation and Retirement Modernization Commission, Post Office Box 13170, Arlington, VA 22209. As there may be delays in mail delivery, it is advisable to send the request via facsimile to (703) 697–8330 or email to *foia@mcrmc.gov.* MCRMC will communicate with the requester by email unless he or she specifies otherwise.

(c) *Contents of request.* Requests must include the following:

(1) A statement that the request is being made under FOIA, the requester's full name and address, a telephone number at which the requester can be reached during normal business hours, and an email address for the requester, if the requester has one;

(2) A description of the records sought in enough detail to allow the records to be located with a reasonable amount of effort. The request must identify/describe the records sought and include information such as date, title or name, author, recipient, and subject matter of the records sought, where possible;

(3) If submitting the request as an *educational institution,* a *non-commercial scientific institution,* or a *representative of the news media,* the request must specifically identify the organization on which the status is based, and if a free-lance representative of the news media, the requester should submit a history of past publications and/or demonstrate a solid basis for expecting publication through a news-media entity;

(4) A fee waiver, if applicable; and

(5) If the request is made by mail, the words ''FOIA REQUEST'' or ''REQUEST FOR RECORDS'' must be clearly marked on the cover letter, letter, and envelope.

(d) *Perfected requests.* MCRMC will process only perfected requests. A perfected request must meet all of the requirements of this subpart.

Christopher Nuneviller,

Associate Director, Administration and Operations, Military Compensation and Retirement Modernization Commission.

[FR Doc. 2014–25272 Filed 10–23–14; 8:45 am]

BILLING CODE P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 335 and 390

RIN 3064–AE07

Transferred OTS Regulations Regarding Securities of State Savings Associations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is adopting a final rule to rescind and remove regulations for securities of State savings associations and all references thereto, and revise regulations for securities of nonmember insured banks, to extend their applicability to State savings associations. The regulations revised in this rule were included in the regulations that were transferred to the FDIC from the Office of Thrift Supervision (OTS) on July 21, 2011, in connection with the implementation of applicable provisions of Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The FDIC received no comments on the Notice of Proposed Rulemaking published on April 21, 2014 and is adopting it as a final rule with minor technical changes. As a result, all State nonmember banks and State savings associations having securities registered pursuant to the Securities Exchange Act of 1934 (Exchange Act) will be subject to the disclosure and filing requirements in FDIC regulations.

DATES: The Final Rule is effective November 24, 2014.

FOR FURTHER INFORMATION CONTACT: Dennis Chapman, Senior Staff Accountant, Division of Risk Management Supervision, 202–898–8922 or *dchapman@fdic.gov;* Maureen Loviglio, Senior Staff Accountant, Division of Risk Management Supervision, 202–898–6777 or *mloviglio@fdic.gov;* Mark G. Flanigan, Supervisory Counsel, Legal Division 202–898–7426 or *mflanigan@fdic.gov;* or Grace Pyun, Senior Attorney, Legal Division 202–898–3609 or *gpyun@fdic.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Act

The Dodd-Frank Act, signed into law on July 21, 2010, provided for a substantial reorganization of the regulation of State and Federal savings associations and their holding companies.[1] Beginning July 21, 2011, the transfer date established by section 311 of the Dodd-Frank Act,[2] the powers, duties, and functions formerly performed by the OTS were divided among the FDIC, as to State savings associations, the Office of the Comptroller of the Currency (''OCC''), as to Federal savings associations, and the Board of Governors of the Federal Reserve System (''Federal Reserve Board''), as to savings and loan holding companies. Section 316(b) of the Dodd-Frank Act[3] provides the manner of treatment for all orders, resolutions, determinations, regulations, and advisory materials that had been issued, made, prescribed, or allowed to become effective by the OTS. The section provides that if such regulatory issuances were in effect on the day before the transfer date, they continue in effect and are enforceable by or against the appropriate successor agency until they are modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law.

Section 316(c) of the Dodd-Frank Act[4] further directed the FDIC and the OCC to consult with one another and to publish a list of the continued OTS regulations which would be enforced by each agency. On June 14, 2011, the FDIC's Board of Directors (''Board'') approved a ''List of OTS Regulations to be Enforced by the OCC and the FDIC Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' This list was published by the FDIC and

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 12 U.S.C. 5301 *et seq.* (2010).

[2] 12 U.S.C. 5411.

[3] 12 U.S.C. 5414(b).

[4] 12 U.S.C. 5414(c).

the OCC as a Joint Notice in the **Federal Register** on July 6, 2011.[5]

Although section 312(b)(2)(B)(i)(II) of the Dodd-Frank Act[6] granted the OCC rulemaking authority relating to both State and Federal savings associations, nothing in the Dodd-Frank Act affected the FDIC's existing authority to issue regulations under the FDI Act and other laws as the ''appropriate Federal banking agency'' or under similar statutory terminology. Section 312(c) of the Dodd-Frank Act amended section 3(q) of the Federal Deposit Insurance Act,[7] and designated the FDIC as the ''appropriate Federal banking agency'' for State savings associations. As a result, when the FDIC acts as the designated ''appropriate Federal banking agency'' (or under similar terminology) for State savings associations, as it does here, the FDIC is authorized to issue, modify, and rescind regulations involving such associations.

As noted, on June 14, 2011, operating pursuant to this authority, the Board reissued and redesignated certain regulations transferred from the former OTS. These transferred OTS regulations were published as new FDIC regulations in the **Federal Register** on August 5, 2011.[8] When it republished the transferred OTS regulations as new FDIC regulations, the FDIC specifically noted that its staff would evaluate the transferred OTS regulations and might later recommend incorporating the transferred OTS regulations into other FDIC rules, amending them, or rescinding them, as appropriate.

One of the regulations transferred to the FDIC was 12 CFR part 390 subpart U, which covers the former OTS requirements for the disclosure and reporting by State savings associations with securities registered pursuant to section 12(i) of the Securities Exchange Act of 1934 (''Exchange Act'').[9]

II. Proposed Rule

On April 21, 2014, the FDIC published in the **Federal Register** a notice of proposed rulemaking (NPR or Proposed Rule) regarding the removal of subpart U from 12 CFR part 390.[10] As discussed in the Proposed Rule, section 12(i) of the Exchange Act provides the FDIC with the authority to administer and enforce certain enumerated sections of the Exchange Act and the Sarbanes-Oxley Act with respect to State nonmember banks and State savings associations (collectively ''FDIC-supervised institutions'') as the appropriate Federal banking agency for such institutions. In an effort to streamline FDIC regulations for all FDIC-supervised institutions, the NPR proposed to remove part 390 subpart U from the Code of Federal Regulations and all references made therein from the FDIC rules and regulations. The FDIC also compared part 390 subpart U with part 335, a substantively similar FDIC regulation that existed before the transfer of the OTS regulations. Similar to Part 390 subpart U, part 335 governs the securities registration and reporting requirements of the Exchange Act for State nonmember banks. Although both rules implement identical provisions of the Exchange Act and SEC rules, part 335 provided more detailed guidance than subpart U by incorporating the SEC rules with greater specificity. As such, the NPR also proposed to expand the scope of part 335 to include State savings associations by inserting the term ''state savings associations'' where appropriate. The NPR also proposed to make technical changes to reflect an internal FDIC reorganization.

III. Comments

The FDIC issued the NPR with a 60-day comment period, which closed on June 20, 2014. The FDIC received no comments, and consequently, the Final Rule is adopted as proposed with minor technical changes.

IV. Explanation of the Final Rule

Under the Final Rule, 12 CFR part 335 applies to the securities of both State nonmember banks and State savings associations registered under the Exchange Act, and part 390 subpart U is removed in its entirety. Part 390 subpart U is substantively similar to part 335, and the designation of part 335 as a single authority for the securities registration and reporting requirements for all FDIC-supervised institutions will serve to streamline the FDIC's rules and eliminate unnecessary regulations. To that effect, the Final Rule removes and rescinds 12 CFR Part 390 subpart U in its entirety as well as all references to subpart U found in sections 390.321(b)(2) and 390.380(a)(3) of the FDIC rules and regulations.[11]

Consistent with the Proposed Rule, the Final Rule also revises part 335 by inserting the term ''state savings association'' where appropriate and retitling the heading of Part 335 as *Securities of State Nonmember Banks and State Savings Associations.* The rewording of ''Nonmember Insured Banks'' to ''State Nonmember Banks'' reflects more consistent use of defined terms under section 3 of the FDI Act.[12] Additionally, section 335.901, which contains the FDIC Board of Directors' Delegations of Authority related to part 335, is removed, and all references to the ''Division of Supervision and Consumer Protection (DSC)'' are deleted and replaced with the words ''Division of Risk Management Supervision (RMS)'' to reflect an internal FDIC reorganization.

V. Regulatory Analysis and Procedure

A. The Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection affected by this Final Rule is Securities of Insured Nonmember Banks, 3064–0030.[13]

The Final Rule rescinds and removes from the FDIC regulations 12 CFR part 390 subpart U. This rule also proposes to amend part 335 to incorporate State savings associations into the part. In the NPR, it was determined that the revision of part 335 to include state savings associations would add additional burden to the FDIC's information collection under OMB control number 3064–0030, Securities of Insured Nonmember Banks, as State savings associations would be required to submit the appropriate forms and financial statements to comply with the filing and disclosure requirements of part 335. The FDIC's burden estimates were updated in connection with the Proposed Rule to include State savings associations transferred from the OTS to the FDIC and no comments were received. The revised information collection is as follows:

Title: Securities of State Nonmember Banks and State Savings Associations.

OMB Number: 3064–0030.

Form Numbers: 6800/03, 6800/04, 6800/05, Form 8–A, Form 8–C, Form 8–K, Form 10, Form 10–C, Form 10–K, Form 10–Q, Form 12b–25, Form 15, Form 25, Schedule 13D, Schedule 13E–

[5] 76 FR 39247 (July 6, 2011).

[6] 12 U.S.C. 5412(b)(2)(B)(i)(II).

[7] 12 U.S.C. 1813(q).

[8] 76 FR 47652 (August 5, 2011).

[9] 15 U.S.C. 78*l*(i).

[10] 79 FR 22063 (April 21, 2014).

[11] Both sections are also part of the transferred OTS regulations pursuant to the Dodd-Frank Act. Section 390.321 (part 390 subpart R) relates to regulatory reporting standards and section 390.380 (part 390 subpart T) relates to the form and content of financial statements.

[12] 12 U.S.C. 1813(e).

[13] The information collection for Securities of Insured Nonmember Banks, OMB No. 3064–0030, was renewed by OMB on September 11, 2013, and now expires on September 30, 2016.

3, Schedule 13G, Schedule 14A, Schedule 14C, Schedule 14D–1 (Schedule TO).

Affected Public: Generally, any issuer of securities, reporting company, or shareholder of an issuer registered under the Securities Exchange Act of 1934 with respect to securities registered under 12 CFR part 335.

Estimated Number of Respondents: Form 6800/03—58; Form 6800/04—297; Form 6800/05—69; Form 8–A—2 ; Form 8–C—2; Form 8–K—21; Form 10—2; Form 10–C—1; Form 10–K—21; Form 10–Q—21, Form 12b–25—6; Form 15—2; Form 25—2; Schedule 13D—2; Schedule 13E–3—2; Schedule 13G—2; Schedule 14A—21; Schedule 14C—21; Schedule 14D–1 (Schedule TO)—2.

Estimated Time per Response: Form 6800/03—1 hour; Form 6800/04—30 minutes; Form 6800/05—1 hour; Form 8–A—3 hours; Form 8–C—2 hours; Form 8–K—2 hours; Form 10—215 hours; Form 10–C—1 hour; Form 10–K—140 hours; Form 10–Q—100 hours; Form 12b–25—3 hours; Form 15—1 hours; Form 25—1 hours; Schedule 13D—3 hours; Schedule 13E–3—3 hours; Schedule 13G—3 hours; Schedule 14A—40 hours; Schedule 14C—40 hours; Schedule 14D–1 (Schedule TO)—5 hours.

Frequency of Response: Forms 6800/05 and 10–K and Schedule 14A are filed annually. Form 10–Q is filed quarterly. All other forms are filed based on each event or transaction.

Existing annual burden: 717 hours.

New estimated additional annual burden: 10,829 hours.

Total Estimated Annual Burden: 11,546 hours.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') generally requires an agency to consider whether a final rule will have a significant economic impact on a substantial number of small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to $550 million).[14] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, and publishes its certification and a short explanatory statement in the **Federal Register** together with the rule.

Part 390 subpart U was transferred from the OTS's part 563d, which governs the public disclosure and filing requirements of State savings associations that issue securities registered pursuant to the Exchange Act. The corresponding FDIC rule for State nonmember banks is 12 CFR part 335. The Final Rule removes part 390 subpart U in its entirety and revises part 335 to incorporate State savings associations into the scope of the part.

For the purposes of the RFA analysis, savings associations with total assets of $550 million or less are considered ''small entities.'' Additionally, the Exchange Act exempts an issuer of securities from the registration and reporting requirements of the Act if it does not meet the statutory registration threshold under section 12(g) of the Exchange Act unless the issuer lists its securities on a national exchange and is subject to registration under section 12(b) of the Exchange Act. Under section 12(g), a savings association that issues securities is subject to the Exchange Act requirements if, as of the last day of its last fiscal year, it has total assets of more than $10 million and a class of equity securities (other than an exempted security) held of record by either 2,000 persons or 500 persons who are not accredited investors.[15]

Consequently, insured State savings associations that have total assets of $550 million or less and meet the registration threshold under section 12(g) are affected by this Final Rule. Based on both of the section 12(g) criteria, as of the current date, there is one insured State savings association that would be affected by the proposed rule out of a total universe of 54 insured State savings associations. The Final Rule also applies to insured State savings associations with securities listed on a national exchange; however, as of the current date, no insured State savings association has listed securities. Therefore, a substantial number of small entities are not affected.

Additionally, part 390 subpart U and part 335 are substantively similar as both State nonmember banks and State savings associations are subject to the same provisions of the Exchange Act and the SOX Act. Both parts incorporate by reference the same SEC rules such that registered State nonmember banks and State savings associations currently must comply with substantially similar forms and reporting obligations. Therefore, there is no additional compliance burden imposed on registered State savings associations that would result in a significant economic impact on small State savings associations.

For these reasons, the FDIC certifies that the Final Rule will not have a significant economic impact on a substantial number of small entities, within the meaning of those terms as used in the RFA.

C. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget has determined that the Final Rule is not a ''major rule'' within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 801 *et. seq.*

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809, requires each Federal banking agency to use plain language in all of its proposed and final rules published after January 1, 2000. As a Federal banking agency subject to the provisions of this section, the FDIC has sought to present the proposed rule to rescind part 390 subpart U and revise part 335 in a simple and straightforward manner. Although the FDIC did not receive any comments, the FDIC sought to present the Final Rule in a simple and straightforward manner.

List of Subjects

12 CFR Part 335

Banks, banking, Savings associations, Securities.

12 CFR Part 390

Savings associations, Securities.

Authority and Issuance

For the reasons stated in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends parts 335 and 390 of title 12 of the Code of Federal Regulations as follows:

PART 335—SECURITIES OF STATE NONMEMBER BANKS AND STATE SAVINGS ASSOCIATIONS

■ 1. The authority citation for part 335 is revised to read as follows:

Authority: 12 U.S.C. 1819; 15 U.S.C. 78j–1, 78l(i), 78m, 78n, 78p, 78w, 5412, 5414, 5415, 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265.

■ 2. Revise the heading of part 335 to read as set forth above:

[14] 5 U.S.C. 601 *et seq.* The U.S. Small Business Administration (SBA) issued an interim final rule, effective July 14, 2014, that raised the SBA's size thresholds for commercial banks and savings institutions from $500 million to $550 million. 79 FR 33647 (June 12, 2014).

[15] 15 U.S.C. 78*l*(g)(1)(A). Based on the statutory language of the Exchange Act, savings associations would not fall under the higher registration exemption thresholds provided to banks and bank holding companies pursuant to the Jumpstart Our Business Startups Act (''JOBS Act''), which was enacted April 5, 2012.

■ 3. In § 335.101, revise paragraph (a) to read as follows:

§ 335.101 Scope of part, authority, and OMB control number

(a) This part is issued by the Federal Deposit Insurance Corporation (the FDIC) under section 12(i) of the Securities Exchange Act of 1934, 15 U.S.C. 78 *et seq.* (the Exchange Act), and applies to all securities of FDIC–insured State nonmember banks (including foreign banks having an insured branch) and State savings associations that are subject to the registration requirements of section 12(b) or section 12(g) of the Exchange Act). The FDIC is vested with the powers, functions, and duties of the Securities and Exchange Commission (SEC) to administer and enforce sections 10A(m), 12, 13, 14(a), 14(c), 14(d), 14(f), and 16 of the Exchange Act) (15 U.S.C. 78j–1, 78*l,* 78m, 78n(a), 78n(c), 78n(d), 78n(f), and 78p), and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265) regarding State nonmember banks and State savings associations with one or more classes of securities subject to the registration provisions of sections 12(b) or 12(g) of the Exchange Act.

* * * * *

■ 4. In § 335.221, revise paragraph (b) to read as follows:

§ 335.221 Forms for registration of securities and cross reference to Regulation FD (Fair Disclosure).

* * * * *

(b) The requirements for Financial Statements can generally be found in Regulation S–X (17 CFR part 210). Banks and State savings associations may also refer to the instructions for Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income when preparing unaudited interim statements. The requirements for Management's Discussion and Analysis of Financial Condition and Results of Operations can be found at 17 CFR part 229. Additional requirements are provided at Industry Guide 3, Statistical Disclosure by Bank Holding Companies, which is found at 17 CFR part 229.

* * * * *

■ 5. In § 335.311, revise paragraph (b) to read as follows:

§ 335.311 Forms for annual, quarterly, current, and other reports of issuers.

* * * * *

(b) The requirements for Financial Statements can generally be found in Regulation S–X (17 CFR part 210). Banks and State savings associations may also refer to the instructions for FFIEC Consolidated Reports of Condition and Income when preparing unaudited interim reports. The requirements for Management's Discussion and Analysis of Financial Condition and Results of Operations can be found at 17 CFR part 229. Additional requirements are included in Industry Guide 3, Statistical Disclosure by Bank Holding Companies, which is found at 17 CFR part 229.

■ 6. In § 335.701, revise paragraphs (a) and (b) to read as follows:

§ 335.701 Filing requirements, public reference, and confidentiality.

* * * * *

(a) *Filing requirements.* Unless otherwise indicated in this part, one original and four conformed copies of all papers required to be filed with the FDIC under the Exchange Act or regulations thereunder shall be filed at its office in Washington, DC. Official filings may be filed electronically at *https://www2.fdicconnect.gov/index.asp,* except for FDIC Beneficial Ownership Forms 3, 4, and 5 for which electronic filing is mandatory as described in § 335.801(b). Paper filings should be submitted to the FDIC's office in Washington, DC, and should be addressed as follows: Accounting and Securities Disclosure Section, Division of Risk Management Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Material may be filed by delivery to the FDIC through the mails or otherwise. The date on which paper filings are actually received by the designated FDIC office shall be the date of filing.

(b) *Inspection.* Except as provided in paragraph (c) of this section, all information filed regarding a security registered with the FDIC will be available for inspection at the Federal Deposit Insurance Corporation, Accounting and Securities Disclosure Section, Division of Risk Management Supervision, 550 17th Street NW., Washington, DC. Beneficial ownership report forms and other official filings that are electronically submitted to the FDIC are available for inspection on the FDIC's Web site at *http://www2.fdic.gov/efr/*

* * * * *

■ 7. In § 335.801, revise paragraphs (b)(6)(i) introductory text, (b)(7)(iii), (d) introductory text, and (d)(1), (e)(1), (e)(2)(i) introductory text, (e)(2)(ii), and (f)(2) to read as follows:

§ 335.801 Inapplicable SEC regulations; FDIC substituted regulations; additional information.

* * * * *

(b) * * *

(6) * * *

(i) A filer may apply in writing for a continuing hardship exemption if all or part of a filing or group of filings otherwise required to be filed in electronic format cannot be so filed without undue burden or expense. Such written application shall be made at least ten business days prior to the required due date of the filing(s) or the proposed filing date, as appropriate, or within such shorter period as may be permitted. The written application shall be sent to the Accounting and Securities Disclosure Section, Division of Risk Management Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, and shall contain the information set forth in paragraph (b)(6)(ii) of this section.

* * * * *

(7) * * *

(iii) Where the FDIC's rules require a filer to furnish a national securities exchange, a national securities association, a bank, or State savings association, paper copies of a document filed with the FDIC in electronic format, signatures to such paper copies may be in typed form.

* * * * *

(d) *Indebtedness of management.* Whenever this part of cross referenced provisions of the SEC regulations require disclosure of indebtedness of management, extensions of credit to specified persons in excess of ten (10) percent of the equity capital accounts of the bank or State savings association or $5 million, whichever is less, shall be deemed material and shall be disclosed in addition to any other required disclosure. The disclosure of this material indebtedness shall include the largest aggregate amount of indebtedness (in dollar amounts, and as a percentage of total equity capital accounts at the time), including extensions of credit or overdrafts, endorsements and guarantees outstanding at any time since the beginning of the bank or State savings association's last fiscal year, and as of the latest practicable date.

(1) If aggregate extensions of credit to all specified persons as a group exceeded 20 percent of the equity capital accounts of the bank or State savings association at any time since the beginning of the last fiscal year, the aggregate amount of such extensions of credit shall also be disclosed.

* * * * *

(e) * * *

(1) Three preliminary copies of each information statement, proxy statement, form of proxy, and other item of soliciting material to be furnished to security holders concurrently therewith, shall be filed with the FDIC by the bank, State savings association, or any other person making a solicitation subject to 12 CFR 335.401 at least ten calendar days (or 15 calendar days in the case of other than routine meetings, as defined in paragraph (e)(2) of this section) prior to the date such item is first sent or given to any security holders, or such shorter date as may be authorized.

(2) * * *

(i) A meeting with respect to which no one is soliciting proxies subject to 12 CFR 335.401 other than on behalf of the bank or State savings association and at which the bank or State savings association intends to present no matters other than:

* * * * *

(ii) The bank or State savings association does not comment upon or refer to a solicitation in opposition (as defined in 17 CFR 240.14a–6) in connection with the meeting in its proxy material.

(f) * * *

(2) The FDIC may, upon the written request of the bank or State savings association, and where consistent with the protection of investors, permit the omission of one or more of the statements or disclosures herein required, or the filing in substitution therefor of appropriate statements or disclosures of comparable character.

* * * * *

§ 335.901 [Removed]

■ 8. Remove § 335.901.

PART 390—REGULATIONS TRANSFERRED FROM THE OFFICE OF THRIFT SUPERVISION

■ 9. The authority citation for part 390 is revised to read as follows:

Authority: 12 U.S.C. 1819.

Subpart B also issued under 12 U.S.C. 1818.

Subpart C also issued under 5 U.S.C. 504; 554–557; 12 U.S.C. 1464; 1467; 1468; 1817; 1818; 1820; 1829; 3349, 4717; 15 U.S.C. 78*l;* 78o–5; 78u–2; 28 U.S.C. 2461 note; 31 U.S.C. 5321; 42 U.S.C. 4012a.

Subpart D also issued under 12 U.S.C. 1817; 1818; 1820; 15 U.S.C. 78*l.*

Subpart E also issued under 12 U.S.C. 1813; 1831m; 15 U.S.C. 78.

Subpart F also issued under 5 U.S.C. 552; 559; 12 U.S.C. 2901 *et seq.*

Subpart G also issued under 12 U.S.C. 2810 *et seq.,* 2901 *et seq.;* 15 U.S.C. 1691; 42 U.S.C. 1981, 1982, 3601–3619.

Subpart I also issued under 12 U.S.C. 1831x.

Subpart J also issued under 12 U.S.C. 1831p–1.

Subpart L also issued under 12 U.S.C. 1831p–1.

Subpart M also issued under 12 U.S.C. 1818.

Subpart N also issued under 12 U.S.C. 1821.

Subpart O also issued under 12 U.S.C. 1828.

Subpart P also issued under 12 U.S.C. 1470; 1831e; 1831n; 1831p–1; 3339.

Subpart Q also issued under 12 U.S.C. 1462; 1462a; 1463; 1464.

Subpart R also issued under 12 U.S.C. 1463; 1464; 1831m; 1831n; 1831p–1.

Subpart S also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1468a; 1817; 1820; 1828; 1831e; 1831o; 1831p–1; 1881–1884; 3207; 3339; 15 U.S.C. 78b; 78*l;* 78m; 78n; 78p; 78q; 78w; 31 U.S.C. 5318; 42 U.S.C. 4106.

Subpart T also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78*l;* 78m; 78n; 78w.

Subpart V also issued under 12 U.S.C. 3201–3208.

Subpart W also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78*l;* 78m; 78n; 78p; 78w.

Subpart X also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1828; 3331 *et seq.*

Subpart Y also issued under 12 U.S.C. 1831o.

Subpart Z also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1828 (note).

Subpart U [Removed and Reserved]

■ 10. Remove and reserve part 390 subpart U consisting of §§ 390.390 through 390.395.

■ 11. In § 390.321, revise paragraph (b)(2) to read as follows:

§ 390.321 Regulatory reports.

* * * * *

(b) * * *

(2) Exceptions. Regulatory reporting requirements that are not consistent with GAAP, if any, are not required to be reflected in the audited financial statements, including financial statements contained in securities filings submitted to the FDIC pursuant to the Securities Exchange Act of 1934 or subpart W and 12 CFR part 192.

* * * * *

§ 390.380 [Amended]

■ 12. In § 390.380, remove paragraph (a)(3).

Dated at Washington, DC, this 21st day of October, 2014.

By order of the Board of Directors, Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–25336 Filed 10–23–14; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0292; Directorate Identifier 2014–CE–011–AD; Amendment 39–18001; AD 2014–15–02 R1]

RIN 2120–AA64

Airworthiness Directives; Fiberglas-Technik Rudolf Lindner GmbH & Co. KG Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for Fiberglas-Technik Rudolf Lindner GmbH & Co. KG (type certificates formerly held by GROB–WERKE GMBH & CO KG and BURKHART GROB LUFT- UND RAUMFAHRT GmbH & CO KG) Models G102 STANDARD ASTIR III, G102 CLUB ASTIR III, G102 CLUB ASTIR IIIb, G103 TWIN II, G103A TWIN II ACRO, G103C TWIN III ACRO, and G 103 C Twin III SL gliders. This AD revises AD 2014–15–02, which required inspection of the rudder control unit for installation of plastic cable pulleys and replacement of plastic cable pulleys with aluminum cable pulleys. This AD retains the actions of AD 2014–15–02 but clarifies the suffixes of serial numbers (S/Ns) in paragraph (c) Applicability. This AD was prompted by reports of plastic control cable pulleys developing cracks due to aging, which could lead to breaking of the pulley and potentially jamming the rudder control unit, possibly resulting in loss of control. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This final rule is effective October 24, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 27, 2014 (79 FR 42658, July 23, 2014).

We must receive comments on this AD by December 8, 2014.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: (202) 493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Fiberglas-Technik Rudolf Lindner GmbH & Co. KG, Steige 3, D–88487 Walpertshofen, Germany; telephone: +49 (0) 7353/22 43; fax: +49 (0) 7353/30 96; email: *info@LTB-Lindner.com;* Web site: *http://www.ltb-lindner.com/home.104.html.* 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–2014–0292; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On July 14, 2014, we issued AD 2014–15–02, Amendment 39–17904 (79 FR 42658, July 23, 2014), for GROB–WERKE GMBH & CO KG Models G102 STANDARD ASTIR III, G102 CLUB ASTIR III, and G102 CLUB ASTIR IIIb gliders and BURKHART GROB LUFT—UND RAUMFAHRT GmbH & CO KG Models G103 TWIN II, G103A TWIN II ACRO, G103C TWIN III ACRO, and G 103 C Twin III SL gliders. That AD required inspection of the rudder control unit for installation of plastic cable pulleys and replacement of plastic cable pulleys with aluminum cable pulleys. That AD resulted from reports of plastic control cable pulleys developing cracks due to aging, which could lead to breaking of the pulley and potentially jamming the rudder control unit, possibly resulting in loss of control. We issued that AD to require actions to address the unsafe condition on these products.

Actions Since AD Was Issued

Since we issued AD 2014–15–02 (79 FR 42658, July 23, 2014), it was determined that to avoid any confusion regarding applicability to a given glider, the AD should be revised to include references to certain suffixes of S/Ns in paragraph (c) Applicability.

Relevant Service Information

We reviewed Fiberglas-Technik Rudolf Lindner GmbH & Co. KG Service Bulletin SB–G05, dated January 17, 2014; and Fiberglas-Technik Rudolf Lindner GmbH & Co. KG Instructions A/I–G05, dated January 17, 2014. The service information describes procedures for inspection of the rudder control unit for installation of plastic cable pulleys and replacement of plastic cable pulleys with aluminum cable pulleys.

FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined that to avoid any confusion about applicability to a given glider, AD 2014–15–02 (79 FR 42658, July 23, 2014) should be revised to include references to certain suffixes of S/Ns in paragraph (c) Applicability.

AD Requirements

This AD requires accomplishing the actions specified in the service information described previously.

Change to Existing AD

This AD retains all requirements of AD 2014–15–02 (79 FR 42658, July 23, 2014), but revises paragraph (c) Applicability to include references to certain suffixes in referenced S/Ns of gliders.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. We received no comments on the previous AD, and this action only clarifies the applicability to a given glider and does not add any actions that increase the burden over the previous AD. Therefore, we find that notice and opportunity for prior public comment are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2014–0292 and directorate identifier 2014–CE–011–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD will affect 118 products of U.S. registry. We also estimate that it would take about .5 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $5,015, or $42.50 per product.

In addition, we estimate that any necessary follow-on actions would take about 2 work-hours and require parts costing $244, for a cost of $414 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2014–15–02 (79 FR 42658, July 23, 2014) and adding the following new AD:

2014–15–02 R1 Fiberglas-Technik Rudolf Lindner GmbH & Co. KG (type certificates formerly held by GROB–WERKE GMBH & CO KG and BURKHART GROB LUFT-UND RAUMFAHRT GmbH & CO KG): Amendment 39–18001; Docket No. FAA–2014–0292; Directorate Identifier 2014–CE–011–AD.

(a) Effective Date

This AD is effective October 24, 2014.

(b) Affected ADs

This AD revises AD 2014–15–02 (79 FR 42658, July 23, 2014) Amendment 39–17904.

(c) Applicability

This AD applies to the following model and serial number Fiberglas-Technik Rudolf Lindner GmbH & Co. KG (type certificates formerly held by GROB–WERKE GMBH & CO KG and BURKHART GROB LUFT-UND RAUMFAHRT GmbH & CO KG) gliders, certificated in any category.

(1) G102 STANDARD ASTIR III, S/N 5501 through 5652 (Suffix ''S'').

(2) G102 CLUB ASTIR III, S/N 5501 through 5652 (Suffix ''C'').

(3) G102 CLUB ASTIR IIIb, S/N 5501 through 5652 (Suffix ''Cb'').

(4) G103 TWIN II, S/N 3730 through 34078.

(5) G103A TWIN II ACRO, S/N 3730 through 34078 (Suffix ''K'').

(6) G103C TWIN III ACRO, S/N 34101 through 34203.

(7) G 103 C Twin III SL, S/N 35002 through 35051.

(d) Subject

Air Transport Association of America (ATA) Code 27: Flight Controls.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as plastic control cable pulleys developing cracks due to aging. We are issuing this AD to detect and correct plastic control cable pulleys in the rudder control unit, which could lead to breaking of the pulley and potentially jamming the rudder control unit, possibly resulting in loss of control of the glider.

(f) Actions and Compliance

Comply with this AD within the compliance times specified in paragraphs (f)(1) through (f)(3) of this AD, unless already done.

(1) *For all Models G103C TWIN III ACRO and G 103 C Twin III SL gliders:* Within 3 months after August 27, 2014 (the effective date retained from AD 2014–15–02, Amendment 39–17904 (79 FR 42658, July 23, 2014)), inspect the rudder control unit for installation of plastic cable pulleys. If plastic cable pulleys are installed, before further flight, replace the plastic cable pulleys with aluminum cable pulleys following the actions and instructions of Fiberglas-Technik Rudolf Lindner GmbH & Co. KG Service Bulletin SB–G05 and Fiberglas-Technik Rudolf Lindner GmbH & Co. KG Instructions A/I–G05, both dated January 17, 2014.

(2) *For all Models G102 STANDARD ASTIR III, G102 CLUB ASTIR III, G102 CLUB ASTIR IIIb, G103 TWIN II, and G103A TWIN II ACRO gliders:* Within 1 month after August 27, 2014 (the effective date retained from AD 2014–15–02, Amendment 39–17904 (79 FR 42658, July 23, 2014)), inspect the rudder control unit for installation of plastic cable pulleys. If plastic cable pulleys are installed, before further flight, replace the plastic cable pulleys with aluminum cable pulleys following the actions and instructions of Fiberglas-Technik Rudolf Lindner GmbH & Co. KG Service Bulletin SB–G05 and Fiberglas-Technik Rudolf Lindner GmbH & Co. KG Instructions A/I–G05, both dated January 17, 2014.

(3) As of August 27, 2014 (the effective date retained from AD 2014–15–02, Amendment 39–17904 (79 FR 42658, July 23, 2014)), do not install any plastic control cable pulley in the rudder control unit of any glider identified in paragraphs (c)(1) through (c)(7) of this AD.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to European Aviation Safety Agency (EASA) AD No.: 2014–0067, dated March 18, 2014, for related information. The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0292-0002.*

(i) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on August 27, 2014 (79 FR 42658, July 23, 2014).

(i) Fiberglas-Technik Rudolf Lindner GmbH & Co. KG Service Bulletin SB–G05, dated January 17, 2014.

(ii) Fiberglas-Technik Rudolf Lindner GmbH & Co. KG Instructions A/I–G05, dated January 17, 2014.

(4) For Fiberglas-Technik Rudolf Lindner GmbH & Co. KG service information identified in this AD, contact Fiberglas-Technik Rudolf Lindner GmbH & Co. KG, Steige 3, D–88487 Walpertshofen, Germany; telephone: +49 (0) 7353/22 43; fax: +49 (0) 7353/30 96; email: *info@LTB-Lindner.com;* Web site: *http://www.ltb-lindner.com/home.104.html.*

(5) You may view this 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.

(6) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call

202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on October 15, 2014.

Derek Morgan,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–25287 Filed 10–23–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30985; Amdt. No. 516]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: *Effective Date:* 0901 UTC, November 13, 2014.

FOR FURTHER INFORMATION CONTACT: Harry Hodges, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on October 9, 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, November 13, 2014.

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

PART 95—[AMENDED]

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT AMENDMENT 516

[Effective date November 13, 2014]

From	To	MEA	MAA
§ 95.3000 Low Altitude RNAV Routes			
§ 95.3295 RNAV Route T295 is Amended to Delete			
BANGOR, ME VORTAC	PRINCETON, ME VOR/DME	3100	17500
§ 95.3325 RNAV Route T325 is Added to Read			
BOWLING GREEN, KY VORTAC	RENRO, KY FIX	*4500	17500
*2400—MOCA			
RENRO, KY FIX	LOONE, KY FIX	*4500	17500
*2100—MOCA			
LOONE, KY FIX	APALO, IN FIX	*4500	17500
*2100—MOCA			
APALO, IN FIX	BUNKA, IN FIX	2500	17500
BUNKA, IN FIX	TERRE HAUTE, IN VORTAC	2400	17500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT AMENDMENT 516—Continued

[Effective date November 13, 2014]

From	To	MEA	MAA
§ 95.3608 RNAV Route T608 is Added to Read			
WOZEE, NY WP *2400—MOCA	U.S. CANADIAN BORDER	*3000	17500
U.S. CANADIAN BORDER *2400—MOCA	U.S. CANADIAN BORDER	*3000	17500
U.S. CANADIAN BORDER *2900—MOCA #FOR THAT AIRSPACE OVER U.S. TERRITORY	HOCKE, MI WP	#*3500	17500
§ 95.3616 RNAV Route T616 is Added to Read			
FLINT, MI VORTAC	URSSA, MI WP	2500	17500
URSSA, MI WP	HOCKE, MI WP	2800	17500
HOCKE, MI WP *2100—MOCA	U.S. CANADIAN BORDER	*6000	17500
§ 95.3781 RNAV Route T781 is Added to Read			
FLINT, MI VORTAC *2200—MOCA	KATTY, MI FIX	*3000	17500
KATTY, MI FIX *2900—MOCA	HANKY, MI FIX	*4000	17500
ADRIE, MI FIX *2800—MOCA	MARGN, MI FIX	*4000	17500
MARGN, MI FIX *2800—MOCA	BLUEZ, MI FIX	*4000	17500
BLUEZ, MI FIX *2800—MOCA	U.S. CANADIAN BORDER	*4000	17500
§ 95.4000 High Altitude RNAV Routes **§ 95.4029 RNAV Route Q29 is Amended by Adding**			
SIDAE, KY WP *18000—GNSS MEA *DME/DME/IRU MEA	CREEP, OH FIX	*18000	45000
CREEP, OH FIX *18000—GNSS MEA *DME/DME/IRU MEA	KLYNE, OH WP	*18000	45000
KLYNE, OH WP *18000—GNSS MEA *DME/DME/IRU MEA	DUTSH, OH WP	*18000	45000
DUTSH, OH WP *18000—GNSS MEA *DME/DME/IRU MEA	WWSHR, OH WP	*18000	45000
WWSHR, OH WP *18000—GNSS MEA *DME/DME/IRU MEA	DORET, OH FIX	*18000	45000
DORET, OH FIX *18000—GNSS MEA *DME/DME/IRU MEA	JAMESTOWN, NY VOR/DME	*18000	45000
JAMESTOWN, NY VOR/DME *18000—GNSS MEA *DME/DME/IRU MEA	HANKK, NY FIX	*18000	45000
HANKK, NY FIX *18000—GNSS MEA *DME/DME/IRU MEA	GONZZ, NY WP	*18000	45000
GONZZ, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	KRAZZ, NY WP	*18000	45000
KRAZZ, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	NIPPY, NY FIX	*18000	45000
NIPPY, NY FIX *18000—GNSS MEA *DME/DME/IRU MEA	CABCI, VT WP	*18000	45000
CABCI, VT WP *18000—GNSS MEA *DME/DME/IRU MEA	EBONY, ME FIX	*18000	45000
EBONY, ME FIX *18000—GNSS MEA	DUNOM, ME WP	*18000	45000

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT AMENDMENT 516—Continued

[Effective date November 13, 2014]

From	To	MEA	MAA
*DME/DME/IRU MEA			
§ 95.4029 RNAV Route Q29			
DUNOM, ME WP *18000—GNSS MEA *DME/DME/IRU MEA	U.S. CANADIAN BORDER	*18000	45000
Is Amended to Read in Part			
HARES, LA WP *18000—GNSS MEA *DME/DME/IRU MEA	BAKRE, MS WP	*20000	45000
BAKRE, MS WP *18000—GNSS MEA *DME/DME/IRU MEA	MEMPHIS, TN VORTAC	*20000	45000
MEMPHIS, TN VORTAC *18000—GNSS MEA *DME/DME/IRU MEA	OMDUE, TN WP	*20000	45000
OMDUE, TN WP *18000—GNSS MEA *DME/DME/IRU MEA	SIDAE, KY WP	*20000	45000
§ 95.4039 RNAV Route Q39 is Amended to Read in Part			
CLAWD, NC WP *18000—GNSS MEA *DME/DME/IRU MEA	WISTA, WV WP	*18000	45000
§ 95.4067 RNAV Route Q67 is Amended by Adding			
TONIO, KY FIX *18000—GNSS MEA *DME/DME/IRU MEA	JONEN, KY WP	*18000	45000
JONEN, KY WP *18000—GNSS MEA *DME/DME/IRU MEA	COLTZ, OH FIX	*18000	45000
§ 95.4069 RNAV Route Q69 is Amended by Adding			
EWESS, WV WP *18000—GNSS MEA *DME/DME/IRU MEA	RICCS, WV FIX	*18000	45000
§ 95.4071 RNAV Route Q71 is Amended by Adding			
GEFFS, WV FIX *18000—GNSS MEA *DME/DME/IRU MEA	EMNEM, WV WP	*18000	45000
EMNEM, WV WP *18000—GNSS MEA *DME/DME/IRU MEA	PSYKO, PA WP	*18000	45000
PSYKO, PA WP *18000—GNSS MEA *DME/DME/IRU MEA	PHILIPSBURG, PA VORTAC	*18000	45000
§ 95.4082 RNAV Route Q82 is Added to Read			
WWSHR, OH WP *18000—GNSS MEA *DME/DME/IRU MEA	DORET, OH FIX	*18000	45000
DORET, OH FIX *18000—GNSS MEA *DME/DME/IRU MEA	JAMESTOWN, NY VOR/DME	*18000	45000
JAMESTOWN, NY VOR/DME *18000—GNSS MEA *DME/DME/IRU MEA	WAYLA, NY WP	*18000	45000
WAYLA, NY WP *18000—GNSS MEA *DME/DME/IRU MEA JHW, PSB,SLT,SYR	VIEEW, NY FIX	*18000	45000
VIEEW, NY FIX	MEMMS, NY FIX	*18000	45000

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT AMENDMENT 516—Continued

[Effective date November 13, 2014]

From	To	MEA	MAA
*18000—GNSS MEA *DME/DME/IRU MEA			
MEMMS, NY FIX	LOXXE, NY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
LOXXE, NY FIX	PONCT, NY WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
§ 95.4084 RNAV Route Q84 is Added to Read			
JAMESTOWN, NY VOR/DME	AUDIL, NY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
AUDIL, NY FIX	PUPPY, NY WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
PUPPY, NY WP	PAYGE, NY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
PAYGE, NY FIX	CAMBRIDGE, NY VOR/DME	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
§ 95.4103 RNAV Route Q103 is Added to Read			
PULASKI, VA VORTAC	ASBUR, WV FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
ASBUR, WV FIX	OAKLE, WV FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
OAKLE, WV FIX	PERRI, WV FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
PERRI, WV FIX	PERKS, WV FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
PERKS, WV FIX	RICCS, WV FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
RICCS, WV FIX	EMNEM, WV WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
EMNEM, WV WP	AIRRA, PA WP	#*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
§ 95.4120 RNAV Route Q120 is Amended by Adding			
ORRCA, CA WP	BETBE, NV WP	*24000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
BETBE, NV WP	ZORUN, NV WP	*24000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
ZORUN, NV WP	GALLI, NV WP	*31000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
GALLI, NV WP	JAJAY, NV WP	*31000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
JAJAY, NV WP	TRAKY, NV WP	*31000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
TRAKY, NV WP	PROXI, UT WP	*29000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
PROXI, UT WP	BIG PINEY, WY VOR/DME	*25000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT AMENDMENT 516—Continued

[Effective date November 13, 2014]

From	To	MEA	MAA
BIG PINEY, WY VOR/DME *18000—GNSS MEA *DME/DME/IRU MEA	JUGIV, WY WP	*23000	45000
HIKOX, WY FIX *18000—GNSS MEA *DME/DME/IRU MEA	JASTI, SD WP	*23000	45000
JASTI, SD WP *18000—GNSS MEA *DME/DME/IRU MEA	UFFDA, MN WP	*19000	45000
Is Amended to Read in Part			
GALLI, NV WP *18000—GNSS MEA *DME/DME/IRU MEA	JAJAY, NV WP	*23000	45000
JUGIV, WY WP *18000—GNSS MEA *DME/DME/IRU MEA	HIKOX, WY FIX	*23000	45000
§ 95.4128 RNAV Route Q128 is Amended by Adding			
SYRAH, CA WP *18000—GNSS MEA *DME/DME/IRU MEA	JSICA, NV WP	*27000	45000
VEGUC, OK WP *1800—GNSS MEA *DME/DME/IRU MEA	VLUST, AR WP	*18000	45000
VLUST, AR WP *18000—GNSS MEA *DME/DME/IRU MEA	ECIGE, AR WP	*18000	45000
ECIGE, AR WP *18000—GNSS MEA *DME/DME/IRU MEA	MUDHO, MS WP	*18000	45000
MUDHO, MS WP *18000—GNSS MEA *DME/DME/IRU MEA	JILLS, AL WP	*18000	45000
Is Amended to Read in Part			
JSICA, NV WP *18000—GNSS MEA *DME/DME/IRU MEA	TABLL, UT WP	*25000	45000
TABLL, UT WP *18000—GNSS MEA *DME/DME/IRU MEA	EDLES, UT FIX	*25000	45000
EDLES, UT FIX *18000—GNSS MEA *DME/DME/IRU MEA	FLOOD, CO FIX	*24000	45000
FLOOD, CO FIX *18000—GNSS MEA *DME/DME/IRU MEA	ZAROS, CO WP	*22000	45000
ZAROS, CO WP *18000—GNSS MEA *DME/DME/IRU MEA	VEGUC, OK WP	*20000	45000
§ 95.4130 RNAV Route Q130 is Amended to Delete			
LINDEN, CA VORTAC *18000—GNSS MEA *DME/DME/IRU MEA	JSICA, NV WP	*18000	45000
Is Amended by Adding			
SYRAH, CA WP *18000—GNSS MEA *DME/DME/IRU MEA	JSICA, NV WP	*27000	45000
Is Amended to Read in Part			
JSICA, NV WP *18000—GNSS MEA	REANA, NV WP	*27000	45000

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT AMENDMENT 516—Continued

[Effective date November 13, 2014]

From	To	MEA	MAA
*DME/DME/IRU MEA			
REANA, NV WP	ROCCY, UT WP	*27000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
ROCCY, UT WP	HASSL, UT WP	*27000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
HASSL, UT WP	TAHIB, CO WP	*22000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
TAHIB, CO WP	DIXAN, NM FIX	*22000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4138 RNAV Route Q138 is Amended by Adding			
DKOTA, SD WP	WELOK, MN WP	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
GEP, FSD, RWF.			
WELOK, MN WP	CESNA, WI WP	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
GEP, ODI, RWF.			
CESNA, WI WP	GUUME, WI WP	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
GUUME, WI WP	SNARG, WI WP	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
SNARG, WI WP	SAULT STE MARIE, MI VOR/DME	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
Is Amended to Read in Part			
MOTLY, SD WP	DKOTA, SD WP	*24000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4140 RNAV Route Q140 is Amended by Adding			
EEGEE, WI WP	DAYYY, MI WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
DAYYY, MI WP	U.S. CANADIAN BORDER	#*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
#FOR THAT AIRSPACE OVER U.S. TERRITORY			
U.S. CANADIAN BORDER	AHPAH, NY F WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
AHPAH, NY WP	HANKK, NY FIX	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
HANKK, NY FIX	BEEPS, NY FIX	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
BEEPS, NY FIX	EXTOL, NY FIX	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
EXTOL, NY FIX	MEMMS, NY FIX	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
MEMMS, NY FIX	KODEY, NY FIX	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
KODEY, NY FIX	ARKKK, NY WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
ARKKK, NY WP	RODYY, NY WP	*18000	45000

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From	To	MEA	MAA
*18000—GNSS MEA *DME/DME/IRU MEA			
RODYY, NY WP	YODAA, NY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
Is Amended to Read in Part			
CESNA, WI WP	WISCN, WI WP	*19000	45000
*18000—GNSS MEA *DME/DME/IRU MEA GRB, ODI			
WISCN, WI WP	EEGEE, WI WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
§ 95.4145 RNAV Route Q145 is Added to Read			
KONGO, KY FIX	CHARLESTON, WV VORTAC	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
CHARLESTON, WV VORTAC	CLNTN, OH WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
CLNTN, OH WP	FOXEE, PA WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
§ 95.4158 RNAV Route Q158 is Amended by Adding			
NTELL, CA WP	PPARK, CA WP	*24000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
PPARK, CA WP	TRTIS, CA WP	*24000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
TRTIS, CA WP	BIKKR, CA WP	*24000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
BIKKR, CA WP	MYCAL, NV FIX	*24000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
MYCAL, NV FIX	JEDNA, NV WP	*24000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
§ 95.4160 RNAV Route Q160 is Amended by Adding			
SHVVR, CA WP	FAANG, CA FIX	*36000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
FAANG, CA FIX	RIVVO, CA WP	*36000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
RIVVO, CA WP	BIKKR, CA WP	*25000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
§ 95.4162 RNAV Route Q162 is Amended by Adding			
NTELL, CA WP	CABAB, CA WP	*26000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
CABAB, CA WP	VIKSN, CA WP	*28000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
VIKSN, CA WP	KENNO, NV WP	*28000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
KENNO, NV WP	ESSAA, NV WP	*28000	45000
*18000—GNSS MEA			

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From	To	MEA	MAA
*DME/DME/IRU MEA			
ESSAA, NV WP	TUMBE, NV WP	*28000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
TUMBE, NV WP	MYCAL, NV FIX	*28000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4164 RNAV Route Q164 is Amended by Adding			
NTELL, CA WP	CABAB, CA WP	*26000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
CABAB, CA WP	KICHI, NV WP	*26000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
KICHI, NV WP	KATTS, NV WP	*26000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
KATTS, NV WP	KITTN, NV WP	*27000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
KITTN, NV WP	ROCCY, UT WP	*27000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4166 RNAV Route Q166 is Added to Read			
VIKSN, CA WP	UHILL, CA WP	*23000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
UHILL, CA WP	BIKKR, CA WP	*23000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4438 RNAV Route Q438 is Amended to Read in Part			
RUBYY, MI WP	BERYS, MI WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4440 RNAV Route Q440 is Amended by Adding			
HUFFR, MN WP	IDIOM, WI WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
IDIOM, WI WP	DEANI, MI FIX	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
Is Amended to Read in Part			
DEANI, MI FIX	SLLAP, MI WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
SLLAP, MI WP	BERYS, MI WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4501 RNAV Route Q501 is Amended to Delete			
SOBME, SD WP	GOPHER, MN VORTAC	*24000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
GOPHER, MN VORTAC	VIXIS, CANADA FIX	*24000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4502 RNAV Route Q502 is Amended to Delete			
SOBME, SD WP	GOPHER, MN VORTAC	*24000	45000
*18000—GNSS MEA			

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From	To	MEA	MAA
*DME/DME/IRU MEA			
GOPHER, MN VORTAC	KENPA, CANADA FIX	*24000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4504 RNAV Route Q504 is Amended to Delete			
HEMDI, SD WP DI, SD WP	CESNA, WI WP	*24000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
CESNA, WI WP	NOTAP, CANADA WP	*24000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4505 RNAV Route Q505 is Amended to Delete			
HEMDI, SD WP	CESNA, WI WP	*24000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
CESNA, WI WP SNA, WI WP	RIMBE, MI WP	*24000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
RIMBE, MI WP	OMAGA, CANADA FIX	*24000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4806 RNAV Route Q806 is Added to Read			
U.S. CANADIAN BORDER	MILLINOCKET, ME VOR/DME	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
MILLINOCKET, ME VOR/DME	CANME, ME WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
CANME, ME WP	U.S. CANADIAN BORDER	#*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4812 RNAV Route Q812 is Added to Read			
TIMMR, ND FIX	WELOK, MN WP	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
WELOK, MN WP	CEWDA, WI WP	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
CEWDA, WI WP	ZOHAN, MI WP	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
GRB, PMM, SAW, TVC ZOHAN, MI WP	U.S. CANADIAN BORDER	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
PMM, SSM, TVC U.S. CANADIAN BORDER	KELTI, NY WP	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
KELTI, NY WP	AHPAH, NY WP	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
AHPAH, NY WP	GOATR, NY WP	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
GOATR, NY WP	SYRACUSE, NY VORTAC	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
SYRACUSE, NY VORTAC	FABEN, NY WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
FABEN, NY WP	LOXXE, NY FIX	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
LOXXE, NY FIX	ARKKK, NY WP	*18000	45000

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From	To	MEA	MAA
*18000—GNSS MEA *DME/DME/IRU MEA			
ARKKK, NY WP	STOMP, NY WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
SAX, SLT, SYR STOMP, NY WP	MSLIN, NY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
MSLIN, NY FIX	GAYEL, NY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
§ 95.4816	**RNAV Route Q816 is Added to Read**		
HOCKE, MI WP	U.S. CANADIAN BORDER	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
U.S. CANADIAN BORDER	U.S. CANADIAN BORDER	#*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA #FOR THAT AIRSPACE OVER U.S. TERRITORY			
U.S. CANADIAN BORDER	KELTI, NY WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
KELTI, NY WP	AHPAH, NY WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
AHPAH, NY WP	GOATR, NY WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
GOATR, NY WP	ARNII, NY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
ARNII, NY FIX	HANAA, NY WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
§ 95.4818	**RNAV Route Q818 is Added to Read**		
FLINT, MI VORTAC	U.S. CANADIAN BORDER	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
U.S. CANADIAN BORDER	WOZEE, NY WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
WOZEE, NY WP	KELIE, NY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
KELIE, NY FIX	VIEEW, NY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
VIEEW, NY FIX	BINGHAMTON, NY VORTAC	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
BINGHAMTON, NY VORTAC	BUFFY, PA FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
BUFFY, PA FIX	STOMP, NY WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
STOMP, NY WP	MSLIN, NY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
MSLIN, NY FIX	GAYEL, NY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
§ 95.4822	**RNAV Route Q822 is Added to Read**		
FLINT, MI VORTAC	U.S. CANADIAN BORDER	*18000	45000
*18000—GNSS MEA			

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From	To	MEA	MAA
*DME/DME/IRU MEA			
U.S. CANADIAN BORDER	HOZIR, NY WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
HOZIR, NY WP	GONZZ, NY WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
GONZZ, NY WP	PUPPY, NY WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
PUPPY, NY WP	PAYGE, NY FIX	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
PAYGE, NY FIX	CAMBRIDGE, NY VOR/DME	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
CAMBRIDGE, NY VOR/DME	KENNEBUNK, ME VOR/DME	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
KENNEBUNK, ME VOR/DME	AJJAY, ME WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
AJJAY, ME WP	ALLEX, OA WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4824	**RNAV Route Q824 is Added to Read**		
FLINT, MI VORTAC	HOCKE, MI WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
HOCKE, MI WP	U.S. CANADIAN BORDER	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4844	**RNAV Route Q844 is Added to Read**		
SYRACUSE, NY VORTAC	U.S. CANADIAN BORDER	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4848	**RNAV Route Q848 is Added to Read**		
SLLAP, MI WP	HHIPP, MI WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
HHIPP, MI WP	KARIT, CA WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
KARIT, CA WP	U.S. CANADIAN BORDER	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4905	**RNAV Route Q905 is Added to Read**		
HOCKE, MI WP	U.S. CANADIAN BORDER	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4907	**RNAV Route Q907 is Added to Read**		
POSTS, MI WP	PADDE, MI WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
PADDE, MI WP	SALEM, MI VORTAC	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
SALEM, MI VORTAC	U.S. CANADIAN BORDER	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
U.S. CANADIAN BORDER	U.S. CANADIAN BORDER	#*18000	45000

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From	To	MEA	MAA
*18000—GNSS MEA *DME/DME/IRU MEA #FOR THAT AIRSPACE OVER U.S. TERRITORY. GNSS REQUIRED			
§ 95.4913	**RNAV Route Q913 is Added to Read**		
U.S. CANADIAN BORDER *18000—GNSS MEA *DME/DME/IRU MEA	CABCI, VT WP	*18000	45000
SLK, SYR CABCI, VT WP *18000—GNSS MEA *DME/DME/IRU MEA	TOPPS, ME FIX	*18000	45000
§ 95.4917	**RNAV Route Q917 is Added to Read**		
SAULT STE MARIE, MI VOR/DME *18000—GNSS MEA *DME/DME/IRU MEA	U.S. CANADIAN BORDER	*18000	45000
U.S. CANADIAN BORDER *18000—GNSS MEA *DME/DME/IRU MEA	HOZIR, NY WP	*18000	45000
HOZIR, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	WOZEE, NY WP	*18000	45000
§ 95.4923	**RNAV Route Q923 is Added to Read**		
HOCKE, MI WP *18000—GNSS MEA *DME/DME/IRU MEA	KARIT, CA WP	*18000	45000
KARIT, CA WP *18000—GNSS MEA *DME/DME/IRU MEA	U.S. CANADIAN BORDER	*18000	45000
§ 95.4935	**RNAV Route Q935 is Added to Read**		
MONEE, MI FIX *18000—GNSS MEA *DME/DME/IRU MEA	HOCKE, MI WP	*18000	45000
HOCKE, MI WP *18000—GNSS MEA *DME/DME/IRU MEA	U.S. CANADIAN BORDER	*18000	45000
U.S. CANADIAN BORDER *18000—GNSS MEA *DME/DME/IRU MEA	WOZEE, NY WP	*18000	45000
WOZEE, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	HANKK, NY FIX	*18000	45000
HANKK, NY FIX *18000—GNSS MEA *DME/DME/IRU MEA	JOSSY, NY WP	*18000	45000
JOSSY, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	AUDIL, NY FIX	*18000	45000
AUDIL, NY FIX *18000—GNSS MEA *DME/DME/IRU MEA	FABEN, NY WP	*18000	45000
FABEN, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	PONCT, NY WP	*18000	45000
PONCT, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	GARDNER, MA VOR/DME	*18000	45000
GARDNER, MA VOR/DME *18000—GNSS MEA *DME/DME/IRU MEA #FOR THAT AIRSPACE OVER U.S. TERRITORY.	BOSTON, MA VOR/DME	#*18000	45000
§ 95.4937	**RNAV Route Q937 is Added to Read**		
U.S. CANADIAN BORDER	WAYGO, NY WP	*18000	45000

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From	To	MEA	MAA
*18000—GNSS MEA *DME/DME/IRU MEA WAYGO, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	KRAZZ, NY WP	*18000	45000
§ 95.4947 RNAV Route Q947 is Added to Read			
U.S. CANADIAN BORDER *18000—GNSS MEA *DME/DME/IRU MEA	REVEN, CA WP	*18000	45000
REVEN, CA WP *18000—GNSS MEA *DME/DME/IRU MEA	TOPPS, ME FIX	*18000	45000
TOPPS, ME FIX *18000—GNSS MEA *DME/DME/IRU MEA	CUZWA, ME WP	*18000	45000
CUZWA, ME WP *18000—GNSS MEA *DME/DME/IRU MEA	U.S. CANADIAN BORDER	*18000	45000
§ 95.4951 RNAV Route Q951 is Added to Read			
POSTS, MI WP *18000—GNSS MEA *DME/DME/IRU MEA	PADDE, MI WP	*18000	45000
PADDE, MI WP *18000—GNSS MEA *DME/DME/IRU MEA	SALEM, MI VORTAC	*18000	45000
SALEM, MI VORTAC *18000—GNSS MEA *DME/DME/IRU MEA	U.S. CANADIAN BORDER	*18000	45000
U.S. CANADIAN BORDER *18000—GNSS MEA *DME/DME/IRU MEA	DAVDA, NY WP	*18000	45000
DAVDA, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	SAVAL, NY WP	*18000	45000
SAVAL, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	TALNO, CA WP	*18000	45000
TALNO, CA WP *18000—GNSS MEA *DME/DME/IRU MEA #FOR THAT AIRSPACE OVER U.S. TERRITORY.	U.S. CANADIAN BORDER	#*18000	45000
U.S. CANADIAN BORDER *18000—GNSS MEA *DME/DME/IRU MEA #FOR THAT AIRSPACE OVER U.S. TERRITORY.	U.S. CANADIAN BORDER	#*18000	45000

From	To	MEA
§ 95.6001 Victor Routes–U.S. **§ 95.6006 VOR Federal Airway V6 is Amended to Delete**		
WATERVILLE, OH VOR/DME SANDUSKY, OH VOR/DME	SANDUSKY, OH VOR/DME DRYER, OH VOR/DME	3000 3000
§ 95.6007 VOR Federal Airway V7 is Amended to Read in Part		
MONTGOMERY, AL VORTAC	VULCAN, AL VORTAC	3000
§ 95.6030 VOR Federal Airway V30 is Amended to Delete		
WATERVILLE, OH VOR/DME SANDUSKY, OH VOR/DME	SANDUSKY, OH VOR/DME DRYER, OH VOR/DME	3000 3000
§ 95.6034 VOR Federal Airway V34 is Amended to Read in Part		
HANCOCK, NY VOR/DME	WEETS, NY FIX	6400

From	To	MEA
§ 95.6044 VOR Federal Airway V44 is Amended to Delete		
SAMSVILLE, IL VOR/DME	NABB, IN VORTAC	3000
NABB, IN VORTAC	FALMOUTH, KY VOR/DME	2700
§ 95.6047 VOR Federal Airway V47 is Amended to Delete		
POCKET CITY, IN VORTAC	HOLAN, IN FIX	2600
HOLAN, IN FIX *2100—MOCA *3000—GNSS MEA	SACKO, IN FIX	*3500
SACKO, IN FIX *2300—MOCA *3000—GNSS MEA	MAIZE, IN FIX	*6000
MAIZE, IN FIX *2400—MOCA *3000—GNSS MEA	NABB, IN VORTAC	*3500
NABB, IN VORTAC	CINCINNATI, KY VORTAC	2700
§ 95.6049 VOR Federal Airway V49 is Amended to Delete		
MYSTIC, KY VOR	NABB, IN VORTAC	3000
§ 95.60451 VOR Federal Airway V51 is Amended to Delete		
LOUISVILLE, KY VORTAC *2300—MOCA	NABB, IN VORTAC	*10000
NABB, IN VORTAC *2300—MOCA	SHELBYVILLE, IN VORTAC	*3000
§ 95.6065 VOR Federal Airway V65 is Amended to Delete		
DRYER, OH VOR/DME *2100—MOCA	SANDUSKY, OH VOR/DME	*3000
SANDUSKY, OH VOR/DME *2400—MOCA	CARLETON, MI VORTAC	*3000
§ 95.6077 VOR Federal Airway V77 is Amended to Read in Part		
DES MOINES, IA VORTAC *5000—MRA	*MIXIN, IA FIX	3100
§ 95.6084 VOR Federal Airway V84 is Amended to Delete		
FLINT, MI VORTAC	PECK, MI VORTAC	2800
PECK, MI VORTAC *2900—MOCA	U.S. CANADIAN BORDER	*3500
U.S. CANADIAN BORDER *2400—MOCA *3000—GNSS MEA #BUFFALO R–282 UNUSABLE BELOW 6000	BUFFALO, NY VOR/DME	#*6000
§ 95.6091 VOR Federal Airway V91 is Amended to Delete		
BURLINGTON, VT VOR/DME	PLATTSBURGH, NY VORTAC	2600
PLATTSBURGH, NY VORTAC *3200—MOCA *3500—GNSS MEA	U.S. CANADIAN BORDER	*6000
§ 95.6093 VOR Federal Airway V93 is Amended to Read in Part		
BRNNS, ME FIX	BANGOR, ME VORTAC	3000
§ 95.6112 VOR Federal Airway V112 is Amended to Read in Part		
KLICKITAT, OR VOR/DME *6000—MRA	*OGPAY, OR FIX	5400
*OGPAY, OR FIX *6000—MRA **6000—MRA	**LOAMS, OR FIX	5400
*LOAMS, OR FIX *6000—MRA **6000—MRA	**ECHOD, OR FIX	4100
*ECHOD, OR FIX *6000—MRA	PENDLETON, OR VORTAC	4100

From	To	MEA
§ 95.6115 VOR Federal Airway V115 is Amended to Read in Part		
MONTGOMERY, AL VORTAC	VULCAN, AL VORTAC	3000
§ 95.6126 VOR Federal Airway V126 is Amended to Delete		
WATERVILLE, OH VOR/DME	SANDUSKY, OH VOR/DME	3000
SANDUSKY, OH VOR/DME	DRYER, OH VOR/DME	3000
§ 95.6133 VOR Federal Airway V133 is Amended to Delete		
MANSFIELD, OH VORTAC	SANDUSKY, OH VOR/DME	3000
SANDUSKY, OH VOR/DME	GEMNI, OH FIX	*3000
*2000—MOCA		
GEMNI, OH FIX	U.S. CANADIAN BORDER	3400
U.S. CANADIAN BORDER	DETROIT, MI VOR/DME	*3400
*2300—MOCA		
DETROIT, MI VOR/DME	SALEM, MI VORTAC	2900
§ 95.6187 VOR Federal Airway V187 is Amended to Read in Part		
NEZ PERCE, ID VOR/DME	POTOR, WA FIX	*6000
*5400—MOCA		
POTOR, WA FIX	*DATES, WA FIX	7200
*4500—MCA DATES, WA FIX, E BND		
PASCO, WA VOR/DME	NIALS, WA FIX	2900
NIALS, WA FIX	FEBUS, WA FIX	4400
§ 95.6203 VOR Federal Airway V203 is Amended to Delete		
MASSENA, NY VORTAC	U.S. CANADIAN BORDER	*14000
*1500—MOCA		
*2000—GNSS MEA		
§ 95.6204 VOR Federal Airway V204 is Amended to Read in Part		
YAKIMA, WA VORTAC	*PAIDS, WA FIX	6000
*5300—MCA PAIDS, WA FIX, W BND		
WATSY, WA FIX	SPOKANE, WA VORTAC	5000
§ 95.6208 VOR Federal Airway V208 is Amended to Read in Part		
JULIAN, CA VORTAC	THERMAL, CA VORTAC	9000
§ 95.6216 VOR Federal Airway V216 is Amended to Delete		
JANESVILLE, WI VOR/DME	WIPED, WI FIX	#
#UNUSABLE		
WIPED, WI FIX	PETTY, WI FIX	#
#UNUSABLE		
PETTY, WI FIX	SQUIB, MI FIX	#
#UNUSABLE		
SQUIB, MI FIX	MUSKEGON, MI VORTAC	#
#UNUSABLE		
MUSKEGON, MI VORTAC	SAGINAW, MI VOR/DME	3000
SAGINAW, MI VOR/DME	PECK, MI VORTAC	3000
PECK, MI VORTAC	U.S. CANADIAN BORDER	*5000
*2200—MOCA		
§ 95.6243 VOR Federal Airway V243 is Amended to Delete		
BOWLING GREEN, KY VORTAC	RENRO, KY FIX	*3000
*2400—MOCA		
RENRO, KY FIX	*APALO, IN FIX	**4500
*4500—MRA		
**2100—MOCA		
APALO, IN FIX	HUNTINGBURG, IN VOR/DME	*4500
*2100—MOCA		
HUNTINGBURG, IN VOR/DME	TERRE HAUTE, IN VORTAC	*2400
*2000—MOCA		
§ 95.6274 VOR Federal Airway V274 is Amended to Read in Part		
PULLMAN, MI VOR/DME	VICTORY, MI VOR/DME	3000
VICTORY, MI VOR/DME	SAGINAW, MI VOR/DME	2600

From	To	MEA
§ 95.6285 VOR Federal Airway V285 is Amended to Read in Part		
KALAMAZOO, MI VOR/DME	VICTORY, MI VOR/DME	3000
VICTORY, MI VOR/DME	CLOCK, MI FIX	2800
§ 95.6298 VOR Federal Airway V298 is Amended to Read in Part		
YAKIMA, WA VORTAC *5500—MRA **4300—MOCA	*SUNED, WA FIX	**5000
*SUNED, WA FIX *5500—MRA **4300—MOCA	BENTY, WA FIX	**5000
BENTY, WA FIX *3500—MOCA	PASCO, WA VOR/DME	*4000
PASCO, WA VOR/DME	PENDLETON, OR VORTAC	4000
§ 95.6314 VOR Federal Airway V314 is Amended to Delete		
MILLINOCKET, ME VOR/DME	PRINCETON, ME VOR/DME	2900
PRINCETON, ME VOR/DME *1800—MOCA	MOWND, FIX	*2500
§ 95.6320 VOR Federal Airway V320 is Amended to Delete		
SAGINAW, MI VOR/DME	PECK, MI VORTAC	3000
PECK, MI VORTAC *2000—MOCA	U.S. CANADIAN BORDER	*6000
§ 95.6337 VOR Federal Airway V337 is Amended to Delete		
CUTTA, OH FIX	AKRON, OH VOR/DME	3000
AKRON, OH VOR/DME	U.S. CANADIAN BORDER	5000
U.S. CANADIAN BORDER *2700—MOCA	PECK, MI VORTAC	*7000
PECK, MI VORTAC	SAGINAW, MI VOR/DME	3000
SAGINAW, MI VOR/DME	MOUNT PLEASANT, MI VOR/DME	2600
MOUNT PLEASANT, MI VOR/DME *2400—MOCA	WHITE CLOUD, MI VOR/DME	*3000
§ 95.6357 VOR Federal Airway V357 is Amended to Read in Part		
TOLGA, OR FIX *5300—MCA WALLA WALLA, WA VOR/DME, SE BND	*WALLA WALLA, WA VOR/DME	6700
§ 95.6423 VOR Federal Airway V423 is Amended to Delete		
SYRACUSE, NY VORTAC *1800—MOCA	PAGER, NY FIX	*2400
PAGER, NY FIX *2000—MOCA	WATERTOWN, NY VORTAC	*2600
WATERTOWN, NY VORTAC *1800—MOCA	U.S. CANADIAN BORDER	*3000
§ 95.6471 VOR Federal Airway V471 is Amended to Delete		
BARHA, ME FIX *2500—MOCA	BANGOR, ME VORTAC	*3000
§ 95.6510 VOR Federal Airway V510 is Amended to Read in Part		
MUSKEGON, MI VORTAC	VICTORY, MI VOR/DME	2700
VICTORY, MI VOR/DME	LANSING, MI VORTAC	2700
§ 95.6514 VOR Federal Airway V514 is Amended to Read in Part		
JULIAN, CA VORTAC	THERMAL, CA VORTAC	9000
§ 95.6520 VOR Federal Airway V520 is Amended to Read in Part		
PASCO, WA VOR/DME *5800—MCA WALLA WALLA, WA VOR/DME, NE BND	*WALLA WALLA, WA VOR/DME	3200

From	To	MEA	MAA
§ 95.7001 Jet Routes			
§ 95.7016 Jet Route J16 is Amended to Delete			
BADGER, WI VORTAC	PECK, MI VORTAC	18000	45000
PECK, MI VORTAC	U.S. CANADIAN BORDER	18000	45000
BUFFALO, NY VOR/DME	ALBANY, NY VORTAC	18000	45000
ALBANY, NY VORTAC	BOSTON, MA VOR/DME	18000	45000
§ 95.7029 Jet Route J29 is Amended to Delete			
POCKET CITY, IN VORTAC	ROSEWOOD, OH VORTAC	18000	45000
ROSEWOOD, OH VORTAC	DRYER, OH VOR/DME	18000	45000
DRYER, OH VOR/DME	JAMESTOWN, NY VOR/DME	18000	45000
JAMESTOWN, NY VOR/DME	SYRACUSE, NY VORTAC	18000	45000
SYRACUSE, NY VORTAC	PLATTSBURGH, NY VORTAC	18000	45000
PLATTSBURGH, NY VORTAC	BANGOR, ME VORTAC	18000	45000
BANGOR, ME VORTAC	U.S. CANADIAN BORDER	18000	45000
§ 95.7034 Jet Route J34 is Amended to Read in Part			
BADGER, WI VORTAC	VICTORY, MI VOR/DME	18000	45000
VICTORY, MI VOR/DME	CARLETON, MI VORTAC	18000	45000
§ 95.7038 Jet Route J38 is Amended to Delete			
DULUTH, MN VORTAC	GREEN BAY, WI VORTAC	18000	45000
GREEN BAY, WI VORTAC	PECK, MI VORTAC	18000	45000
§ 95.7043 Jet Route J43 is Amended to Delete			
CARLETON, MI VORTAC	SAULT STE MARIE, MI VOR/DME	18000	45000
§ 95.7053 Jet Route J53 is Amended to Delete			
PULASKI, VA VORTAC	RICCS, WV FIX	21000	45000
RICCS, WV FIX	ELLWOOD CITY, PA VORTAC	18000	45000
§ 95.7061 Jet Route J61 is Amended to Delete			
PHILIPSBURG, PA VORTAC	BUFFALO, NY VOR/DME	18000	45000
§ 95.763 Jet Route J63 is Amended to Delete			
KENNEDY, NY VOR/DME	HUGUENOT, NY VOR/DME	18000	45000
HUGUENOT, NY VOR/DME	SYRACUSE, NY VORTAC	18000	45000
SYRACUSE, NY VORTAC	U.S. CANADIAN BORDER	18000	45000
U.S. CANADIAN BORDER	AU SABLE, MI VOR/DME	18000	45000
AU SABLE, MI VOR/DME	TRAVERSE CITY, MI VORTAC	18000	45000
§ 95.7078 Jet Route J78 is Amended to Delete			
CHARLESTON, WV VORTAC	PHILIPSBURG, PA VORTAC	18000	45000
PHILIPSBURG, PA VORTAC	MILTON, PA VORTAC	18000	45000
§ 95.7082 Jet Route J82 is Amended to Delete			
GOSHEN, IN VORTAC	DRYER, OH VOR/DME	18000	45000
DRYER, OH VOR/DME	JAMESTOWN, NY VOR/DME	18000	45000
JAMESTOWN, NY VOR/DME	ALBANY, NY VORTAC	18000	40000
§ 95.7091 Jet Route J91 is Amended to Delete			
HENDERSON, WV VORTAC	BELLAIRE, OH VOR/DME	18000	45000
§ 95.7094 Jet Route J94 is Amended to Delete			
FLINT, MI VORTAC	PECK, MI VORTAC	18000	45000
PECK, MI VORTAC	U.S. CANADIAN BORDER	18000	45000
U.S. CANADIAN BORDER	BUFFALO, NY VOR/DME	18000	45000
BUFFALO, NY VOR/DME	ALBANY, NY VORTAC	18000	45000
ALBANY, NY VORTAC	BOSTON, MA VOR/DME	18000	45000
§ 95.7095 Jet Route J95 is Amended to Delete			
BINGHAMTON, NY VORTAC	BUFFALO, NY VOR/DME	18000	45000

From	To	MEA	MAA
BUFFALO, NY VOR/DME	U.S. CANADIAN BORDER	18000	45000
§ 95.7106 Jet Route J106 is Amended to Delete			
GOPHER, MN VORTAC	GREEN BAY, WI VORTAC	18000	45000
GREEN BAY, WI VORTAC	FLINT, MI VORTAC	18000	45000
FLINT, MI VORTAC	U.S. CANADIAN BORDER	18000	45000
U.S. CANADIAN BORDER	JAMESTOWN, NY VOR/DME	18000	45000
§ 95.7109 Jet Route J109 is Amended to Delete			
LINDEN, VA VORTAC	BUFFALO, NY VOR/DME	18000	45000
§ 95.7145 Jet Route J145 is Amended to Delete			
CHARLESTON, WV VORTAC	ELLWOOD CITY, PA VORTAC	18000	45000
§ 95.7185 Jet Route J185 is Amended to Delete			
FLINT, MI VORTAC	TRAVERSE CITY, MI VORTAC	18000	45000
§ 95.7213 Jet Route J213 is Amended to Read in Part			
BECKLEY, WV VORTAC *18000—GNSS MEA	ARMEL, VA VOR/DME	*18000	45000
§ 95.7220 Jet Route J220 is Amended to Delete			
STONYFORK, PA VOR/DME	WELLSVILLE, NY VORTAC	18000	45000
WELLSVILLE, NY VORTAC	BUFFALO, NY VOR/DME	18000	39000
§ 95.7488 Jet Route J488 is Amended to Delete			
WATERTOWN, NY VORTAC	U.S. CANADIAN BORDER	18000	45000
§ 95.7500 Jet Route J500 is Amended to Delete			
U.S. CANADIAN BORDER	SAULT STE MARIE, MI VOR/DME	18000	45000
SAULT STE MARIE, MI VOR/DME	U.S. CANADIAN BORDER	18000	45000
U.S. CANADIAN BORDER	MILLINOCKET, ME VOR/DME	18000	45000
MILLINOCKET, ME VOR/DME	U.S. CANADIAN BORDER	18000	45000
§ 95.7509 Jet Route J509 is Amended to Delete			
U.S. CANADIAN BORDER	HOULTON, ME VOR/DME	18000	45000
HOULTON, ME VOR/DME	U.S. CANADIAN BORDER	18000	45000
§ 95.7522 Jet Route J522 is Amended to Delete			
BRAINERD, MN VORTAC	GREEN BAY, WI VORTAC	18000	45000
GREEN BAY, WI VORTAC	TRAVERSE CITY, MI VOR/DME	18000	45000
TRAVERSE CITY, MI VOR/DME	AU SABLE, MI VOR/DME	18000	45000
AU SABLE, MI VOR/DME	U.S. CANADIAN BORDER	18000	45000
U.S. CANADIAN BORDER #GNSS REQUIRED ABOVE FL350.	ROCHESTER, NY VOR/DME	18000	35000
ROCHESTER, NY VOR/DME	HANCOCK, NY VOR/DME	18000	45000
HANCOCK, NY VOR/DME	KINGSTON, NY VOR/DME	18000	45000
§ 95.7524 Jet Route J524 is Amended to Delete			
BUGSY, NY FIX	U.S. CANADIAN BORDER	18000	45000
§ 95.7531 Jet Route J531 is Amended to Delete			
BUFFALO, NY VOR/DME #FOR THAT AIRSPACE OVER U.S. TERRITORY.	SAULT STE MARIE, MI VOR/DME	#18000	45000
§ 95.7545 Jet Route J545 is Amended to Delete			
DRYER, OH VOR/DME	U.S. CANADIAN BORDER	18000	45000
§ 95.7546 Jet Route J546 is Amended to Delete			
PECK, MI VORTAC	U.S. CANADIAN BORDER	18000	45000

From	To	MEA	MAA
§ 95.7547	**Jet Route J547 is Amended to Delete**		
FLINT, MI VORTAC	U.S. CANADIAN BORDER	18000	45000
U.S. CANADIAN BORDER	BUFFALO, NY VOR/DME	18000	45000
SYRACUSE, NY VORTAC	CAMBRIDGE, NY VOR/DME	18000	45000
CAMBRIDGE, NY VOR/DME	KENNEBUNK, ME VOR/DME	18000	45000
§ 95.7548	**Jet Route J548 is Amended to Delete**		
TRAVERSE CITY, MI VOR/DME	SAULT STE MARIE, MI VOR/DME	18000	45000
SAULT STE MARIE, MI VOR/DME	U.S. CANADIAN BORDER	18000	45000
§ 95.7551	**Jet Route J551 is Amended to Delete**		
PECK, MI VORTAC	U.S. CANADIAN BORDER	18000	45000
§ 95.7553	**Jet Route J553 is Amended to Delete**		
PECK, MI VORTAC	U.S. CANADIAN BORDER	18000	45000
§ 95.7559	**Jet Route J559 is Amended to Delete**		
SYRACUSE, NY VORTAC	WATERTOWN, NY VORTAC	18000	45000
WATERTOWN, NY VORTAC	U.S. CANADIAN BORDER	18000	45000
§ 95.7560	**Jet Route J560 is Amended to Delete**		
PLATTSBURGH, NY VORTAC	U.S. CANADIAN BORDER	18000	45000
§ 95.7564	**Jet Route J564 is Amended to Delete**		
U.S. CANADIAN BORDER	PRESQUE ISLE, ME VOR/DME	18000	45000
PRESQUE ISLE, ME VOR/DME	U.S. CANADIAN BORDER	18000	45000
§ 95.7566	**Jet Route J566 is Amended to Delete**		
MASSENA, NY VORTAC	U.S. CANADIAN BORDER	#18000	45000
§ 95.7567	**Jet Route J567 is Amended to Delete**		
PLATTSBURGH, NY VORTAC	U.S. CANADIAN BORDER	#18000	45000
§ 95.7581	**Jet Route J581 is Amended to Delete**		
PUTNAM, CT VOR/DME	KENNEBUNK, ME VOR/DME	18000	45000
KENNEBUNK, ME VOR/DME	BANGOR, ME VORTAC	18000	45000
BANGOR, ME VORTAC	U.S. CANADIAN BORDER	18000	45000
§ 95.7586	**Jet Route J586 is Amended to Delete**		
CARLETON, MI VORTAC #FOR THAT AIRSPACE OVER U.S. TERRITORY.	LONDON, CANADA VOR/DME	#18000	45000
REEDO, CANADA FIX	MASSENA, NY VORTAC	18000	45000
MASSENA, NY VORTAC #FOR THAT AIRSPACE OVER U.S. TERRITORY.	KELVI, CANADA FIX	#18000	45000
§ 95.7587	**Jet Route J587 is Amended to Delete**		
THUNDER BAY, CANADA VORTAC #FOR THAT AIRSPACE OVER U.S. TERRITORY.	WAWA, CANADA VOR/DME	#18000	45000
§ 95.7588	**Jet Route J588 is Amended to Delete**		
SAULT STE MARIE, MI VOR/DME	U.S. CANADIAN BORDER	18000	45000
§ 95.7594	**Jet Route J594 is Amended to Delete**		
MASSENA, NY VORTAC	U.S. CANADIAN BORDER	18000	45000
§ 95.7595	**Jet Route J595 is Amended to Delete**		
U.S. CANADIAN BORDER	WATERTOWN, NY VORTAC	18000	45000
WATERTOWN, NY VORTAC	PLATTSBURGH, NY VORTAC	18000	45000
PLATTSBURGH, NY VORTAC	BANGOR, ME VORTAC	18000	45000
BANGOR, ME VORTAC	SAINT JOHN, CANADA NDB	18000	45000

From	To	MEA	MAA
#FOR THAT AIRSPACE OVER U.S. TERRITORY			

Airway segment		Changeover points	
From	To	From	To
§ 95.8003 VOR Federal Airway Changeover Point			
V47 is Amended to Delete Changeover Point			
POCKET CITY, IN VORTAC	NABB, IN VORTAC	53	POCKET CITY
V51 is Amended to Delete Changeover Point			
SHELBYVILLE, IN VORTAC	BOILER, IN VORTAC	50	SHELBYVILLE
V216 is Amended to Delete Changeover Point			
SAGINAW, MI VOR/DME	MUSKEGON, MI VORTAC	48	SAGINAW
§ 95.8005 Jet Routes Changeover Points			
J82 is Amended to Delete Changeover Point			
GOSHEN, IN VORTAC	DRYER, OH VOR/DME	90	GOSHEN
JAMESTOWN, NY VOR/DME	ALBANY, NY VORTAC	145	JAMESTOWN
J522 is Amended to Delete Changeover Point			
ROCHESTER, NY VOR/DME	HANCOCK, NY VOR/DME	54	ROCHESTER
HANCOCK, NY VOR/DME	KINGSTON, NY VOR/DME	41	HANCOCK

[FR Doc. 2014–25330 Filed 10–23–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30978; Amdt. No. 3608]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 24, 2014. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 24, 2014.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim

publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on August 29, 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
16–Oct–14	IN	Angola	Tri-State Steuben County	4/0713	08/25/14	RNAV (GPS) RWY 5, Orig-B
16–Oct–14	IN	Angola	Tri-State Steuben County	4/0714	08/25/14	NDB RWY 5, Amdt 7A
16–Oct–14	IN	Angola	Tri-State Steuben County	4/0715	08/25/14	RNAV (GPS) RWY 23, Orig-A
16–Oct–14	IN	Goshen	Goshen Muni	4/0972	08/26/14	VOR RWY 9, Amdt 12A
16–Oct–14	IN	Goshen	Goshen Muni	4/0977	08/26/14	RNAV (GPS) RWY 9, Orig
16–Oct–14	KS	Topeka	Philip Billard Muni	4/1021	08/26/14	RNAV (GPS) RWY 13, Amdt 1
16–Oct–14	KS	Topeka	Philip Billard Muni	4/1025	08/26/14	RNAV (GPS) RWY 31, Amdt 1
16–Oct–14	KS	Topeka	Philip Billard Muni	4/1035	08/26/14	RNAV (GPS) RWY 36, Amdt 1
16–Oct–14	KS	Topeka	Philip Billard Muni	4/1036	08/26/14	RNAV (GPS) RWY 18, Amdt 2
16–Oct–14	KS	Topeka	Philip Billard Muni	4/1040	08/26/14	LOC BC RWY 31, Amdt 19A
16–Oct–14	IN	Terre Haute	Terre Haute Intl-Hulman Field.	4/1053	08/26/14	RNAV (GPS) RWY 23, Amdt 1
16–Oct–14	IN	Terre Haute	Terre Haute Intl-Hulman Field.	4/1062	08/26/14	LOC BC RWY 23, Amdt 19A
16–Oct–14	IN	Terre Haute	Terre Haute Intl-Hulman Field.	4/1079	08/26/14	VOR RWY 23, Amdt 20B
16–Oct–14	RI	Providence	Theodore Francis Green State.	4/1192	08/25/14	RNAV (GPS) RWY 16, Orig-B
16–Oct–14	NY	Monticello	Sullivan County Intl	4/1196	08/25/14	NDB RWY 15, Amdt 7A
16–Oct–14	NY	Monticello	Sullivan County Intl	4/1198	08/25/14	ILS OR LOC RWY 15, Amdt 5D

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
16–Oct–14	TX	Caddo Mills	Caddo Mills Muni	4/1216	08/25/14	Takeoff Minimums and (Obstacle) DP, Orig
16–Oct–14	TX	Caddo Mills	Caddo Mills Muni	4/1217	08/25/14	RNAV (GPS) RWY 36, Orig
16–Oct–14	TX	Caddo Mills	Caddo Mills Muni	4/1218	08/25/14	NDB RWY 36, Amdt 2B
16–Oct–14	TN	Fayetteville	Fayetteville Muni	4/1299	08/25/14	VOR/DME RWY 2, Orig-D
16–Oct–14	TN	Fayetteville	Fayetteville Muni	4/1300	08/25/14	NDB RWY 20, Amdt 5
16–Oct–14	VA	Warrenton	Warrenton-Fauquier	4/1305	08/22/14	RNAV (GPS) RWY 15, Amdt 1
16–Oct–14	VA	Warrenton	Warrenton-Fauquier	4/1306	08/22/14	VOR RWY 15, Amdt 4B
16–Oct–14	VA	Warrenton	Warrenton-Fauquier	4/1309	08/22/14	LOC/DME RWY 15, Orig
16–Oct–14	PA	Greenville	Greenville Muni	4/1312	08/25/14	VOR OR GPS A, Amdt 1
16–Oct–14	VA	Warrenton	Warrenton-Fauquier	4/1313	08/22/14	RNAV (GPS) RWY 33, Orig
16–Oct–14	PA	Philadelphia	Philadelphia Intl	4/1344	08/26/14	RNAV (GPS) RWY 26, Amdt 1A
16–Oct–14	PA	Philadelphia	Philadelphia Intl	4/1345	08/26/14	ILS OR LOC RWY 26, Amdt 4A
16–Oct–14	PA	Philadelphia	Philadelphia Intl	4/1349	08/26/14	RNAV (GPS) RWY 27L, Amdt 1A
16–Oct–14	PA	Philadelphia	Philadelphia Intl	4/1350	08/26/14	ILS OR LOC RWY 27L, Amdt 12B
16–Oct–14	AL	Bessemer	Bessemer	4/1539	08/25/14	VOR RWY 5, Amdt 6
16–Oct–14	PA	Bradford	Bradford Rgnl	4/1834	08/22/14	RNAV (GPS) RWY 14, Amdt 1A
16–Oct–14	PA	Bradford	Bradford Rgnl	4/1839	08/22/14	ILS OR LOC RWY 32, Amdt 12A
16–Oct–14	PA	Bradford	Bradford Rgnl	4/1840	08/22/14	RNAV (GPS) RWY 32, Amdt 1B
16–Oct–14	GA	Donalsonville	Donalsonville Muni	4/2294	08/22/14	RNAV (GPS) RWY 36, Amdt 1
16–Oct–14	TX	Waco	TSTC Waco	4/2340	08/26/14	ILS OR LOC RWY 17L, Amdt 13
16–Oct–14	CT	Danielson	Danielson	4/2471	08/26/14	VOR A, Amdt 6D
16–Oct–14	NC	Asheboro	Asheboro Rgnl	4/2518	08/25/14	VOR A, Amdt 3
16–Oct–14	IA	Burlington	Southeast Iowa Rgnl	4/2723	08/22/14	RNAV (GPS) RWY 30, Amdt 1
16–Oct–14	KY	Madisonville	Madisonville Muni	4/2790	08/26/14	RNAV (GPS) RWY 5, Orig
16–Oct–14	KY	Madisonville	Madisonville Muni	4/2792	08/26/14	RNAV (GPS) RWY 23, Orig
16–Oct–14	KY	Madisonville	Madisonville Muni	4/2793	08/26/14	VOR RWY 23, Amdt 14
16–Oct–14	NY	Shirley	Brookhaven	4/2904	08/26/14	RNAV (GPS) Y RWY 24, Amdt 1
16–Oct–14	VA	Hot Springs	Ingalls Field	4/2910	08/26/14	ILS OR LOC RWY 25, Amdt 4
16–Oct–14	MA	Mansfield	Mansfield Muni	4/2911	08/22/14	RNAV (GPS) RWY 32, Orig-A
16–Oct–14	PA	Harrisburg	Capital City	4/2942	08/26/14	RNAV (GPS) RWY 26, Orig-A
16–Oct–14	TX	El Paso	El Paso Intl	4/3641	08/22/14	RNAV (RNP) Z RWY 26L, Amdt 1
16–Oct–14	TX	El Paso	El Paso Intl	4/3642	08/22/14	RNAV (RNP) Z RWY 22, Amdt 1
16–Oct–14	TX	El Paso	El Paso Intl	4/3643	08/22/14	RNAV (GPS) X RWY 4, Orig-B
16–Oct–14	TX	El Paso	El Paso Intl	4/3650	08/22/14	RNAV (RNP) Y RWY 4, Orig-C
16–Oct–14	TX	El Paso	El Paso Intl	4/3654	08/22/14	RNAV (RNP) Z RWY 4, Orig-B
16–Oct–14	TX	El Paso	El Paso Intl	4/3655	08/22/14	RNAV (GPS) Y RWY 26L, Amdt 1A
16–Oct–14	TX	El Paso	El Paso Intl	4/3656	08/22/14	VOR RWY 26L, Amdt 32
16–Oct–14	LA	Monroe	Monroe Rgnl	4/3691	08/22/14	VOR/DME RWY 32, Amdt 4
16–Oct–14	LA	Monroe	Monroe Rgnl	4/3692	08/22/14	VOR/DME RWY 22, Amdt 9
16–Oct–14	LA	Monroe	Monroe Rgnl	4/3693	08/22/14	ILS OR LOC RWY 22, Amdt 4
16–Oct–14	LA	Monroe	Monroe Rgnl	4/3694	08/22/14	ILS OR LOC RWY 4, Amdt 23
16–Oct–14	LA	Monroe	Monroe Rgnl	4/3695	08/22/14	RNAV (GPS) RWY 32, Orig-A
16–Oct–14	LA	Monroe	Monroe Rgnl	4/3696	08/22/14	VOR RWY 4, Amdt 18

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
16–Oct–14	LA	Monroe	Monroe Rgnl	4/3697	08/22/14	RNAV (GPS) RWY 4, Amdt 1
16–Oct–14	LA	Monroe	Monroe Rgnl	4/3699	08/22/14	VOR RWY 22, Amdt 5
16–Oct–14	LA	Monroe	Monroe Rgnl	4/3700	08/22/14	RNAV (GPS) RWY 22, Amdt 1
16–Oct–14	LA	Monroe	Monroe Rgnl	4/3701	08/22/14	VOR/DME RWY 4, Amdt 3
16–Oct–14	MI	Detroit	Coleman A. Young Muni	4/3766	08/22/14	ILS OR LOC RWY 15, Amdt 10
16–Oct–14	MO	St Louis	Lambert-St Louis Intl	4/3794	08/26/14	RNAV (RNP) Z RWY 29, Orig
16–Oct–14	MO	St Louis	Lambert-St Louis Intl	4/3795	08/26/14	RNAV (RNP) Z RWY 11, Orig
16–Oct–14	MO	St Louis	Lambert-St Louis Intl	4/3796	08/26/14	RNAV (GPS) RWY 24, Amdt 1A
16–Oct–14	MO	St Louis	Lambert-St Louis Intl	4/3798	08/26/14	RNAV (RNP) Z RWY 30R, Orig
16–Oct–14	MO	St Louis	Lambert-St Louis Intl	4/3799	08/26/14	RNAV (RNP) Z RWY 12L, Orig
16–Oct–14	MO	St Louis	Lambert-St Louis Intl	4/3800	08/26/14	RNAV (GPS) RWY 6, Amdt 1A
16–Oct–14	IA	Burlington	Southeast Iowa Rgnl	4/3857	08/22/14	VOR RWY 30, Amdt 13A
16–Oct–14	PA	Perkasie	Pennridge	4/3952	08/26/14	RNAV (GPS) RWY 26, Orig-A
16–Oct–14	PA	Perkasie	Pennridge	4/3953	08/26/14	RNAV (GPS) RWY 8, Amdt 1A
16–Oct–14	NC	Raleigh/Durham	Raleigh-Durham Intl	4/3969	08/26/14	VOR RWY 23L, Amdt 14D
16–Oct–14	HI	Hilo	Hilo Intl	4/4084	08/26/14	RNAV (GPS) RWY 26, Orig-B
16–Oct–14	AZ	Mesa	Falcon Fld	4/4135	08/26/14	RNAV (GPS) RWY 4R, Amdt 1B
16–Oct–14	NY	Plattsburgh	Plattsburgh Intl	4/5059	08/26/14	RNAV (GPS) RWY 17, Amdt 1A
16–Oct–14	CA	Paso Robles	Paso Robles Muni	4/5348	08/25/14	VOR/DME RWY 19, Amdt 4A
16–Oct–14	MS	Columbus/W Point/ Starkville.	Golden Triangle Rgnl	4/5592	08/22/14	ILS OR LOC RWY 18, Amdt 8
16–Oct–14	GA	Griffin	Griffin-Spalding County	4/5743	08/25/14	RNAV (GPS) RWY 32, Orig-A
16–Oct–14	GA	Griffin	Griffin-Spalding County	4/5744	08/25/14	RNAV (GPS) RWY 14, Orig-B
16–Oct–14	FL	Venice	Venice Muni	4/6070	08/25/14	RNAV (GPS) RWY 5, Orig-A
16–Oct–14	FL	Venice	Venice Muni	4/6091	08/25/14	RNAV (GPS) RWY 31, Amdt 1A
16–Oct–14	FL	Venice	Venice Muni	4/6093	08/25/14	RNAV (GPS) RWY 23, Orig-A
16–Oct–14	FL	Venice	Venice Muni	4/6105	08/25/14	RNAV (GPS) RWY 13, Amdt 1A
16–Oct–14	FL	Venice	Venice Muni	4/6110	08/25/14	NDB RWY 31, Amdt 2A
16–Oct–14	TX	Brownsville	Brownsville/South Padre Island Intl.	4/7288	08/22/14	ILS OR LOC RWY 13R, Amdt 1A
16–Oct–14	TX	Ballinger	Bruce Field	4/7291	08/22/14	RNAV (GPS) RWY 17, Orig
16–Oct–14	TX	Brownsville	Brownsville/South Padre Island Intl.	4/7295	08/22/14	RNAV (GPS) RWY 13R, Amdt 2
16–Oct–14	TX	Amarillo	Tradewind	4/7297	08/22/14	RNAV (GPS) RWY 35, Orig
16–Oct–14	TX	Austin	Austin-Bergstrom Intl	4/7303	08/26/14	RNAV (GPS) RWY 35R, Amdt 1
16–Oct–14	TX	Austin	Austin-Bergstrom Intl	4/7317	08/26/14	ILS OR LOC RWY 35R, Amdt 2
16–Oct–14	TX	Austin	Austin-Bergstrom Intl	4/7318	08/26/14	RNAV (GPS) RWY 35L, Amdt 1
16–Oct–14	TX	Austin	Austin-Bergstrom Intl	4/7319	08/26/14	ILS OR LOC RWY 35L, Amdt 5A
16–Oct–14	TX	Big Spring	Big Spring Mc Mahon-Wrinkle.	4/7320	08/22/14	RNAV (GPS) RWY 6, Orig
16–Oct–14	TX	Bonham	Jones Field	4/7321	08/22/14	RNAV (GPS) RWY 35, Amdt 1
16–Oct–14	TX	Breckenridge	Stephens County	4/7322	08/22/14	RNAV (GPS) RWY 17, Orig
16–Oct–14	TX	Brenham	Brenham Muni	4/7323	08/22/14	RNAV (GPS) RWY 34, Amdt 2

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
16–Oct–14	TX	Caldwell	Caldwell Muni	4/7324	08/22/14	RNAV (GPS) RWY 33, Orig
16–Oct–14	TX	Bryan	Coulter Field	4/7325	08/22/14	RNAV (GPS) RWY 15, Amdt 1
16–Oct–14	ND	Rugby	Rugby Muni	4/7562	08/26/14	RNAV (GPS) RWY 30, Orig
16–Oct–14	KS	Meade	Meade Muni	4/7576	08/22/14	RNAV (GPS) RWY 35, Orig
16–Oct–14	KS	Ottawa	Ottawa Muni	4/7579	08/22/14	RNAV (GPS) RWY 35, Amdt 1
16–Oct–14	KS	Paola	Miami County	4/7580	08/22/14	RNAV (GPS) RWY 3, Amdt 1
16–Oct–14	KS	Pittsburg	Atkinson Muni	4/7587	08/26/14	RNAV (GPS) RWY 34, Amdt 2A
16–Oct–14	KS	Marysville	Marysville Muni	4/7588	08/22/14	RNAV (GPS) RWY 16, Orig
16–Oct–14	KS	Pittsburg	Atkinson Muni	4/7589	08/26/14	RNAV (GPS) RWY 22, Amdt 1A
16–Oct–14	KS	Marysville	Marysville Muni	4/7590	08/22/14	RNAV (GPS) RWY 34, Orig
16–Oct–14	ND	Rugby	Rugby Muni	4/7611	08/26/14	RNAV (GPS) RWY 12, Orig
16–Oct–14	OR	Ontario	Ontario Muni	4/7954	08/25/14	NDB RWY 32, Amdt 5A
16–Oct–14	SD	Wagner	Wagner Muni	4/8915	08/22/14	RNAV (GPS) RWY 9, Orig
16–Oct–14	OH	Batavia	Clermont County	4/9454	08/25/14	RNAV (GPS) RWY 22, Amdt 1A
16–Oct–14	TX	Waco	TSTC Waco	4/9625	08/26/14	RNAV (GPS) RWY 17L, Amdt 1

[FR Doc. 2014–25016 Filed 10–23–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30977 Amdt. No. 3607]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 24, 2014. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 24, 2014.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125). Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the

Federal Register expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on August 29, 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

** * * Effective 13 November 2014*

Klawock, AK, Klawock, RNAV (GPS) RWY 2, Orig-C
Petaluma, CA, Petaluma Muni, Takeoff Minimums and Obstacle DP, Amdt 2
Ukiah, CA, Ukiah Muni, Takeoff Minimums and Obstacle DP, Amdt 2
St Petersburg, FL, Albert Whitted, VOR RWY 18, Amdt 9
Tampa, FL, Peter O Knight, NDB RWY 4, Amdt 12A, CANCELED
Sandersville, GA, Kaolin Field, NDB RWY 13, Amdt 1, CANCELED
Mapleton, IA, James G. Whiting Memorial Field, NDB RWY 20, Amdt 5, CANCELED
Marshalltown, IA, Marshalltown Muni, RNAV (GPS) RWY 13, Amdt 1
Marshalltown, IA, Marshalltown Muni, RNAV (GPS) RWY 31, Amdt 1
Muscatine, IA, Muscatine Muni, RNAV (GPS) RWY 12, Orig
Muscatine, IA, Muscatine Muni, RNAV (GPS) RWY 30, Orig
Washington, IN, Daviess County, RNAV (GPS) RWY 18, Amdt 1
Frankfort, KY, Capital City, RNAV (GPS) RWY 25, Amdt 3
Bois Blanc Island, MI, Bois Blanc Island, RNAV (GPS) RWY 10, Orig
Bois Blanc Island, MI, Bois Blanc Island, RNAV (GPS) RWY 28, Orig
Bois Blanc Island, MI, Bois Blanc Island, Takeoff Minimums and Obstacle DP, Orig
Flint, MI, Bishop Intl, RNAV (GPS) RWY 18, Amdt 1A
Sparta, MI, Paul C. Miller-Sparta, VOR–A, Amdt 4A
Baker, MT, Baker Muni, GPS RWY 31, Orig-B, CANCELED
Baker, MT, Baker Muni, NDB RWY 13, Orig-C
Baker, MT, Baker Muni, NDB RWY 31, Orig-C
Baker, MT, Baker Muni, RNAV (GPS) RWY 31, Orig
Baker, MT, Baker Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Kinston, NC, Kinston Rgnl Jetport at Stallings Fld, ILS OR LOC RWY 5, Amdt 12
Winston Salem, NC, Smith Reynolds, RNAV (GPS) RWY 15, Amdt 1A
Lexington, NE, Jim Kelly Field, VOR RWY 14, Amdt 4, CANCELED
Akron, OH, Akron Fulton Intl, NDB RWY 25, Amdt 14
Akron, OH, Akron Fulton Intl, RNAV (GPS) RWY 25, Orig
Akron, OH, Akron Fulton Intl, Takeoff Minimums and Obstacle DP, Amdt 2
Cleveland, OH, Cuyahoga County, LOC/DME BC RWY 6, Amdt 13
Columbus, OH, Port Columbus Intl, ILS OR LOC RWY 28R, Amdt 4A
Columbus, OH, Port Columbus Intl, RNAV (GPS) Y RWY 28R, Amdt 2A
Fremont, OH, Sandusky County Rgnl, RNAV (GPS) RWY 24, Amdt 1
Fremont, OH, Sandusky County Rgnl, VOR/DME RWY 24, Amdt 1, CANCELED
Astoria, OR, Astoria Rgnl, ILS RWY 26, Amdt 3
Connellsville, PA, Joseph A. Hardy Connellsville, RNAV (GPS) RWY 5, Orig-A
Indiana, PA, Indiana County/Jimmy Stewart Fld/, GPS RWY 28, Amdt 1, CANCELED
Indiana, PA, Indiana County/Jimmy Stewart Fld/, LOC RWY 28, Orig-B, CANCELED
Hohenwald, TN, John A Baker Fld, NDB RWY 2, Orig-B, CANCELED
Abingdon, VA, Virginia Highlands, LOC RWY 24, Amdt 5
Orange, VA, Orange County, GPS RWY 8, Orig-C, CANCELED
Phillips, WI, Price County, RNAV (GPS) RWY 1, Orig-B

[FR Doc. 2014–25020 Filed 10–23–14; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30979 Amdt. No. 3609]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 24, 2014. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 24, 2014.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule '' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26,1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on September 12, 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14,

Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 16 October 2014

Evansville, IN, Evansville Rgnl, Takeoff Minimums and Obstacle DP, Amdt 9
Seymour, IN, Freeman Muni, LOC/NDB RWY 5, Orig, CANCELED
Seymour, IN, Freeman Muni, NDB RWY 5, Amdt 4, CANCELED
Seymour, IN, Freeman Muni, RNAV (GPS) RWY 5, Amdt 1
Seymour, IN, Freeman Muni, RNAV (GPS) RWY 14, Amdt 1
Seymour, IN, Freeman Muni, RNAV (GPS) RWY 23, Amdt 2
Seymour, IN, Freeman Muni, RNAV (GPS) RWY 32, Amdt 1
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, RNAV (GPS) RWY 4, Orig-A, CANCELED
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, RNAV (GPS) RWY 22, Amdt 1, CANCELED
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, RNAV (GPS) Y RWY 15R, Amdt 2
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, RNAV (RNP) Z RWY 15R, Amdt 1
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, VOR/DME RWY 4, Amdt 3A, CANCELED
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshall, VOR/DME RWY22, Amdt 11, CANCELED
Lincoln, ME, Lincoln Rgnl, RNAV (GPS) RWY 35, Amdt 1
Detroit, MI, Detroit Metropolitan Wayne County, ILS OR LOC RWY 22L, ILS RWY 22L (SA CAT I), ILS RWY 22L (SA CAT II), Amdt 30B
Detroit, MI, Detroit Metropolitan Wayne County, ILS PRM RWY 22L (SIMULTANEOUS CLOSE PARALLEL), Orig-E
Lumberton, NC, Lumberton Rgnl, Takeoff Minimums and Obstacle DP, Amdt 3

Effective 13 November 2014

Cold Bay, AK, Cold Bay, RNAV (GPS) RWY 26, Amdt 2A
Mobile, AL, Mobile Downtown, ILS OR LOC RWY 32, Amdt 3
Mobile, AL, Mobile Downtown, RNAV (GPS) RWY 14, Amdt 2
Mobile, AL, Mobile Downtown, RNAV (GPS) RWY 18, Amdt 2
Mobile, AL, Mobile Downtown, RNAV (GPS) RWY 32, Amdt 2
Mobile, AL, Mobile Downtown, RNAV (GPS) RWY 36, Amdt 2
Big Bear City, CA, Big Bear City, RNAV (GPS) RWY 26, Amdt 2
Palm Coast, FL, Flagler County, RNAV (GPS) RWY 6, Amdt 1B
Palm Coast, FL, Flagler County, RNAV (GPS) RWY 11, Amdt 1A
Palm Coast, FL, Flagler County, RNAV (GPS) RWY 24, Orig-C
Palm Coast, FL, Flagler County, RNAV (GPS) RWY 29, Orig-C
Palm Coast, FL, Flagler County, Takeoff Minimums and Obstacle DP, Amdt 1
Council Bluffs, IA, Council Bluffs Muni, ILS OR LOC RWY 36, Amdt 1
Council Bluffs, IA, Council Bluffs Muni, RNAV (GPS) RWY 18, Amdt 1
Council Bluffs, IA, Council Bluffs Muni, RNAV (GPS) RWY 36, Amdt 2
Spencer, IA, Spencer Muni, VOR/DME RWY 12, Amdt 3A
Spencer, IA, Spencer Muni, VOR/DME RWY 30, Amdt 3B
Bedford, IN, Virgil I Grissom Muni, RNAV (GPS) RWY 31, Amdt 1
Gardner, KS, Gardner Muni, NDB OR GPS–D, Amdt 2A, CANCELED
Gardner, KS, Gardner Muni, Takeoff Minimums and Obstacle DP, Orig-A, CANCELED
South Haven, MI, South Haven Area Rgnl, RNAV (GPS) RWY 5, Amdt 1B
South Haven, MI, South Haven Area Rgnl, RNAV (GPS) RWY 23, Amdt 1B
South Haven, MI, South Haven Area Rgnl, VOR RWY 23, Amdt 11A
Sauk Centre, MN, Sauk Centre Muni, RNAV (GPS) RWY 14, Orig
Sauk Centre, MN, Sauk Centre Muni, RNAV (GPS) RWY 32, Amdt 1
Elkin, NC, Elkin Muni, NDB–A, Orig
Elkin, NC, Elkin Muni, NDB OR GPS RWY 25, Amdt 1A, CANCELED
Elkin, NC, Elkin Muni, RNAV (GPS) RWY 7, Orig
Elkin, NC, Elkin Muni, RNAV (GPS) RWY 25, Orig
Elkin, NC, Elkin Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Wilmington, NC, Wilmington Intl, RADAR–1, Amdt 7
Bassett, NE., Rock County, NDB RWY 31, Amdt 4, CANCELED
Hobbs, NM, Lea County Rgnl, ILS OR LOC RWY 3, Amdt 7A
Hobbs, NM, Lea County Rgnl, LOC/DME BC RWY 21, Amdt 6A
Hobbs, NM, Lea County Rgnl, RNAV (GPS) RWY 3, Amdt 2
Hobbs, NM, Lea County Rgnl, RNAV (GPS) RWY 21, Amdt 1
Hobbs, NM, Lea County Rgnl, RNAV (GPS) RWY 30, Amdt 1
Hobbs, NM, Lea County Rgnl, VOR/DME OR TACAN RWY 21, Amdt 9A
Hobbs, NM, Lea County Rgnl, VOR OR TACAN RWY 3, Amdt 21A
Canandaigua, NY, Canandaigua, RNAV (GPS) RWY 13, Amdt 2
Canandaigua, NY, Takeoff Minimums and Obstacle DP, Amdt 1
Circleville, OH, Pickaway County Memorial, Takeoff Minimums and Obstacle DP, Orig
Pendleton, OR, Eastern Oregon Rgnl At Pendleton, ILS OR LOC/DME RWY 25, Amdt 25A
Jacksboro, TN, Campbell County, RNAV (GPS) RWY 23, Amdt 1
Winchester, TN, Winchester Muni, Takeoff Minimums and Obstacle DP, Amdt 2
Morrisville, VT, Morrisville-Stowe State, RNAV (GPS) Y RWY 19, Amdt 1
Morrisville, VT, Morrisville-Stowe State, RNAV (GPS) Z RWY 19, Amdt 1
Pasco, WA, Tri-Cities, ILS OR LOC/DME RWY 21R, Amdt 13
Pasco, WA, Tri-Cities, RNAV (GPS) Y RWY 3L, Amdt 2
Pasco, WA, Tri-Cities, RNAV (GPS) Y RWY 12, Amdt 2
Pasco, WA, Tri-Cities, RNAV (GPS) Y RWY 21R, Amdt 2
Pasco, WA, Tri-Cities, RNAV (GPS) Y RWY 30, Amdt 3
Pasco, WA, Tri-Cities, RNAV (RNP) Z RWY 3L, Amdt 1
Pasco, WA, Tri-Cities, RNAV (RNP) Z RWY 12, Amdt 1
Pasco, WA, Tri-Cities, RNAV (RNP) Z RWY 21R, Amdt 1
Pasco, WA, Tri-Cities, RNAV (RNP) Z RWY 30, Amdt 1
Pasco, WA, Tri-Cities, Takeoff Minimums and Obstacle DP, Amdt 8
Pasco, WA, Tri-Cities, VOR/DME RWY 21R, Amdt 7
Pasco, WA, Tri-Cities, VOR/DME RWY 30, Amdt 5
Walla Walla, WA, Walla Walla Rgnl, ILS Y OR LOC RWY 20, Amdt 10
Walla Walla, WA, Walla Walla Rgnl, ILS Z OR LOC/DME RWY 20, Amdt 1
Walla Walla, WA, Walla Walla Rgnl, RNAV (GPS) RWY 2, Amdt 2
Walla Walla, WA, Walla Walla Rgnl, RNAV (GPS) RWY 20, Amdt 1
Beloit, WI, Beloit, Takeoff Minimums and Obstacle DP, Orig

[FR Doc. 2014–25012 Filed 10–23–14; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30980; Amdt. No. 3610]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria,

or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 24, 2014. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of October 24, 2014.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located;
3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. 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.*

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420)Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequentand routine amendments are necessary to keep them operationally current. It, therefore— (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on September 12, 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
16-Oct-14	HI	Hilo	Hilo Intl	4/4084	08/26/14	This NOTAM, published in TL 14–21, is hereby rescinded in its entirety.
16-Oct-14	WY	Newcastle	Mondell Field	4/0424	09/02/14	VOR RWY 32, Amdt 4.
16-Oct-14	CA	Carlsbad	Mc Clellan-Palomar	4/0487	09/03/14	RNAV (GPS) X RWY 24, Orig-A.
16-Oct-14	CA	Carlsbad	Mc Clellan-Palomar	4/0494	09/03/14	ILS OR LOC/DME RWY 24, Amdt 9B.
16-Oct-14	CA	Carlsbad	Mc Clellan-Palomar	4/0495	09/03/14	RNAV (GPS) Y RWY 24, Amdt 3A.
16-Oct-14	CA	Rio Vista	Rio Vista Muni	4/0516	09/03/14	RNAV (GPS) RWY 25, Amdt 3A.
16-Oct-14	NY	Binghamton	Greater Binghamton/ Edwin A Link Field.	4/1814	09/02/14	VOR/DME RWY 28, Amdt 11.
16-Oct-14	NC	New Bern	Coastal Carolina Regional	4/2279	09/02/14	RNAV (GPS) RWY 4, Orig-A.
16-Oct-14	WA	Port Angeles	William R Fairchild Intl	4/2926	09/02/14	RNAV (GPS) RWY 8, Orig-B.
16-Oct-14	WA	Port Angeles	William R Fairchild Intl	4/2927	09/02/14	RNAV (GPS) RWY 26, Orig-A.
16-Oct-14	WA	Port Angeles	William R Fairchild Intl	4/2930	09/02/14	ILS OR LOC RWY 8, Amdt 2B.
16-Oct-14	NJ	Atlantic City	Atlantic City Intl	4/3845	08/28/14	VOR RWY 13, Amdt 4A.
16-Oct-14	NJ	Atlantic City	Atlantic City Intl	4/3847	08/28/14	ILS OR LOC/DME RWY 31, Orig-B.
16-Oct-14	NJ	Atlantic City	Atlantic City Intl	4/3849	08/28/14	VOR RWY 4, Amdt 15A.
16-Oct-14	NJ	Atlantic City	Atlantic City Intl	4/3850	08/28/14	VOR RWY 31, Amdt 1A.
16-Oct-14	NJ	Atlantic City	Atlantic City Intl	4/3851	08/28/14	VOR/DME RWY 22, Amdt 6B.
16-Oct-14	AL	Tuscaloosa	Tuscaloosa Rgnl	4/4666	09/03/14	ILS RWY 4, Amdt 14D.
16-Oct-14	AL	Tuscaloosa	Tuscaloosa Rgnl	4/4669	09/03/14	VOR OR TACAN RWY 4, Amdt 11C.
16-Oct-14	AL	Tuscaloosa	Tuscaloosa Rgnl	4/4672	09/03/14	RNAV (GPS) RWY 22, Amdt 1.
16-Oct-14	AL	Tuscaloosa	Tuscaloosa Rgnl	4/4673	09/03/14	RNAV (GPS) RWY 29, Orig.
16-Oct-14	AL	Tuscaloosa	Tuscaloosa Rgnl	4/4674	09/03/14	RNAV (GPS) RWY 4, Orig.
16-Oct-14	NY	Saratoga Springs	Saratoga County	4/5667	09/03/14	RNAV (GPS) RWY 23, Amdt 1A.
16-Oct-14	NY	Saratoga Springs	Saratoga County	4/5668	09/03/14	VOR/DME A, Amdt 1A.
16-Oct-14	NY	Saratoga Springs	Saratoga County	4/5673	09/03/14	RNAV (GPS) RWY 5, Amdt 1B.
16-Oct-14	MA	Worcester	Worcester Rgnl	4/5722	08/28/14	ILS OR LOC RWY 29, Amdt 4B.
16-Oct-14	WA	Moses Lake	Grant Co Intl	4/5842	08/27/14	VOR RWY 22, Amdt 5B.
16-Oct-14	UT	Heber	Heber City Muni—Russ McDonald Field.	4/5860	08/27/14	RNAV (GPS) A, Amdt 2.
16-Oct-14	FL	Immokalee	Immokalee Rgnl	4/6163	08/28/14	RNAV (GPS) RWY 36, Orig-B.
16-Oct-14	NY	Elmira/Corning	Elmira/Corning Rgnl	4/6177	08/28/14	RNAV (GPS) RWY 28, Amdt 3A.
16-Oct-14	NC	Ahoskie	Tri-County	4/6231	08/28/14	VOR/DME OR GPS A, Amdt 5A.
16-Oct-14	KY	Frankfort	Capital City	4/6884	09/03/14	VOR RWY 25, Amdt 3.
16-Oct-14	KY	Frankfort	Capital City	4/6885	09/03/14	RNAV (GPS) RWY 7, Amdt 2A.
16-Oct-14	KY	Frankfort	Capital City	4/6887	09/03/14	LOC RWY 25, Amdt 3A.
16-Oct-14	MT	Forsyth	Tillitt Field	4/6954	08/27/14	RNAV (GPS) RWY 26, Orig-C.
16-Oct-14	MT	Forsyth	Tillitt Field	4/6955	08/27/14	NDB RWY 26, Amdt 3B.
16-Oct-14	CA	Palm Springs	Jacqueline Cochran Rgnl	4/6995	08/27/14	VOR/DME RWY 30, Amdt 1.
16-Oct-14	CA	Palm Springs	Jacqueline Cochran Rgnl	4/6997	08/27/14	RNAV (GPS) RWY 30, Orig.
16-Oct-14	CA	Palm Springs	Jacqueline Cochran Rgnl	4/6998	08/27/14	RNAV (GPS) RWY 35, Orig.
16-Oct-14	FL	Daytona Beach	Daytona Beach Intl	4/7173	08/28/14	RADAR–1, Amdt 8C.
16-Oct-14	VA	Danville	Danville Rgnl	4/7232	09/03/14	VOR RWY 20, Amdt 2.
16-Oct-14	VA	Danville	Danville Rgnl	4/7239	09/03/14	ILS OR LOC RWY 2, Amdt 4A.
16-Oct-14	VA	Danville	Danville Rgnl	4/7242	09/03/14	RNAV (GPS) RWY 20, Orig-A.
16-Oct-14	VA	Danville	Danville Rgnl	4/7243	09/03/14	VOR RWY 2, Amdt 14.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
16-Oct-14	VA	Danville	Danville Rgnl	4/7244	09/03/14	RNAV (GPS) RWY 2, Orig.
16-Oct-14	KS	Independence	Independence Muni	4/7880	08/28/14	ILS OR LOC RWY 35, Amdt 1B.
16-Oct-14	WA	Pullman/Moscow,ID	Pullman/Moscow Rgnl	4/9288	09/03/14	RNAV (GPS) Y RWY 6, Amdt 2B.
16-Oct-14	WA	Pullman/Moscow,ID	Pullman/Moscow Rgnl	4/9292	09/03/14	RNAV (GPS) RWY 24, Amdt 1A.
16-Oct-14	WA	Pullman/Moscow,ID	Pullman/Moscow Rgnl	4/9294	09/03/14	RNAV (RNP) Z RWY 6, Orig.
16-Oct-14	WA	Pullman/Moscow,ID	Pullman/Moscow Rgnl	4/9299	09/03/14	VOR RWY 6, Amdt 9.

[FR Doc. 2014–25021 Filed 10–23–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0922]

RIN 1625–AA00

Safety Zone: Semisubmersible Loading Operation Safety Zone, South San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of South San Francisco Bay in support of the Semisubmersible Loading Operation taking place between October 14 and 23, 2014 for a 24-hour period. This safety zone is established to ensure the safety of workers, mariners, and other vessels transiting the area from the dangers associated with the loading operations. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or their designated representative.

DATES: This rule is effective without actual notice from 12:01 a.m. to 11:59 p.m. on October 24, 2014. For the purposes of enforcement, actual notice will be used from October 14, 2014, until October 24, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0922. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Joshua V. Dykman, U.S. Coast Guard Sector San Francisco; telephone (415) 399–3585 or email at *D11–PF-MarineEvents@uscg.mil.* If you have questions on viewing or submitting material to the docket, call the Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NOAA National Oceanic and Atmospheric Administration
PATCOM U.S. Coast Guard Patrol Commander
ULCV Ultra Large Container Vessel

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.'' Notice and comment procedures would be impracticable as the Coast Guard received the final information about the date and time of the Semisubmersible Loading Operation on October 1, 2014, and the operation would occur before the rulemaking process would be completed. Because of the dangers posed by this operation, the safety zone is necessary to provide for the safety of the workers, mariners, and other vessels transiting the area.

For similar reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

B. Basis and Purpose

The legal basis for the rule is 33 U.S.C 1231; 46 U.S.C Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish safety zones.

The Port of San Francisco will sponsor the Semisubmersible Loading Operation Safety Zone taking place between October 14 and 23, 2014, for a 24-hour period, in South San Francisco Bay, CA as depicted in National Oceanic and Atmospheric Administration (NOAA) Charts 18649 and 18651. This safety zone establishes a temporary restricted area on the waters within 500 feet of the anchored semisubmersible and all support vessels engaged in the loading operation at Anchorage 9 in approximate position 37°46′09″ N, 122°21′31″ W (NAD83). This restricted area around the vessels engaged in the loading operation is necessary to provide for the safety of workers, mariners, and other vessels transiting the area from the hazards associated with the loading operation.

C. Discussion of the Final Rule

The Coast Guard will enforce a safety zone in navigable waters around and under the semisubmersible and all support vessels within 500 feet in South San Francisco Bay during the loading operation taking place between October 14 and 23, 2014 for a 24-hour period. Upon the conclusion of the loading operation the safety zone shall terminate.

The effect of the temporary safety zone will be to restrict navigation in the vicinity of the loading operation until the conclusion of the operation. Except

for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. These regulations are needed to keep vessels away from the vessels engaged in the loading operation to ensure the freedom of movement of workers and ensure the safety of mariners transiting the area.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

We expect the economic impact of this rule will not rise to the level of necessitating a full Regulatory Evaluation. The safety zone is limited in duration, and is limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

2. Impact on Small Entities

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

This rule may affect owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing. This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for a limited duration. When the safety zone is activated, vessel traffic may coordinate movements around the safety zone by contacting PATCOM on VHF channel 16. The maritime public will be advised in advance of this safety zone via Broadcast Notice to Mariners.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited size and duration. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3707; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–670 to read as follows:

§ 165.T11–670 Safety zone; Semisubmersible Loading Operation Safety Zone, South San Francisco Bay, San Francisco, CA.

(a) *Location.* This temporary safety zone is established in the navigable waters of South San Francisco Bay within 500 feet of the anchored semisubmersible and all support vessels engaged in the loading operation at Anchorage 9 in approximate position 37°46′09″ N, 122°21′31″ W (NAD83).

(b) *Enforcement Period.* The zone described in paragraph (a) of this section will be enforced for a 24-hour period between October 14 and 23, 2014. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP pursuant to a Memorandum of Understanding with that agency, to assist in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general regulations in 33 CFR Part 165, Subpart C, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zone by contacting the Coast Guard Patrol Commander on VHF channel 23A.

Dated: October 9, 2014.

Gregory G. Stump,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2014–25383 Filed 10–23–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0646; FRL–9918–38–Region 9]

Findings of Failure To Submit State Implementation Plan; California; Interstate Transport Requirements for 2006 24-Hour Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is making a finding that California has not submitted a State Implementation Plan (SIP) revision for the Clean Air Act (CAA or Act) provisions that require the SIP to contain adequate provisions to address the transport of air pollution to other states. Specifically, these requirements pertain to significant contribution to nonattainment, or interference with maintenance, of the 2006 24-hour fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) in any other state. EPA refers to such submittals as ''interstate transport'' SIPs and often refers to the specific requirements addressed in this final rule as ''prongs 1 and 2'' since they address the first two of several interstate transport requirements. This finding of failure to submit establishes a deadline of 24 months after the effective date of this final rule for EPA to promulgate a Federal Implementation Plan (FIP) to address these two interstate transport requirements for California for the 2006 24-hour $PM_{2.5}$ NAAQS unless, prior to that time, the state submits, and EPA approves, a submittal that meets these requirements.

DATES: *Effective Date:* This final rule is effective on *November 24, 2014.*

ADDRESSES: EPA has established a docket for this action, identified by Docket ID Number EPA–R09–OAR–2014–0646. The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Rory Mays, Air Planning Office (AIR–2), EPA Region IX, (415) 972–3227, *mays.rory@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA.

Section 553 of the Administrative Procedures Act, 5 United States Code (U.S.C.) 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for

comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submittals, or incomplete submittals, to meet the requirement by the statutory date. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

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I. Background
II. Final Action
III. Statutory and Executive Order Reviews

I. Background

CAA section 110(a)(1) requires states to submit SIP revisions that provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a)(2) sets the content requirements of such a plan, which generally relate to the information and authorities, compliance assurances, procedural requirements, and control measures that constitute the ''infrastructure'' of a state's air quality management program. A SIP revision addressing these requirements is referred to as an ''infrastructure SIP.'' Within these requirements, section 110(a)(2)(D)(i) contains requirements to address interstate transport of NAAQS pollutants. A SIP revision submitted for this sub-section is referred to as an ''interstate transport SIP.'' In turn, section 110(a)(2)(D)(i)(I) requires that such a plan contain adequate provisions to prohibit emissions from the state that will contribute significantly to nonattainment of the NAAQS in any other state (''prong 1'') or interfere with maintenance of the NAAQS in any other state (''prong 2''). Interstate transport prongs 1 and 2 are the SIP content requirements relevant to this findings notice.

On September 21, 2006, EPA promulgated a final rule revising the existing 1997 24-hour $PM_{2.5}$ NAAQS from 65 micrograms per cubic meter (μg/m^3) to 35 μg/m^3 and retained the 1997 annual $PM_{2.5}$ NAAQS of 15 μg/m^3.[1] This set an infrastructure SIP submittal deadline of September 21, 2009 for the 2006 $PM_{2.5}$ NAAQS, including the interstate transport requirements. EPA issued guidance for satisfying the interstate transport requirements for the 2006 24-hour $PM_{2.5}$ NAAQS on September 25, 2009 (''EPA's 2009 Guidance''), including guidance on interstate transport prongs 1 and 2.[2]

Prior to issuance of this guidance, California Air Resources Board (ARB) submitted an infrastructure SIP certification letter for the 2006 $PM_{2.5}$ NAAQS on July 7, 2009 (''2009 Submittal'').[3] This submittal referred to an interim draft of EPA's 2009 Guidance and largely relied on California's earlier infrastructure SIP submittal of November 16, 2007 for the 1997 $PM_{2.5}$ NAAQS, including reliance on that earlier submittal's response to the requirements for interstate transport prongs 1 and 2. On the basis of California's 2009 Submittal, California was not included in EPA's 2010 notice that made findings of failure to submit SIP revisions for such requirements for the 2006 24-hour $PM_{2.5}$ NAAQS for 29 states and territories.[4]

Sierra Club sued EPA on December 21, 2012, alleging that EPA had failed to take action on infrastructure SIP submittals for the 2006 $PM_{2.5}$ NAAQS from several states, including California.[5] In the same filing, Sierra Club also alleged that EPA had failed to promulgate FIPs for several other states addressing CAA section 110(a)(2)(D)(i)(I) (i.e., interstate transport prongs 1 and 2) for the 2006 $PM_{2.5}$ NAAQS. That lawsuit was stayed by the U.S. District Court for the Northern District of California on March 29, 2013 as it related to on-going litigation in *EME Homer City v. EPA* (pertaining to EPA's Cross State Air Pollution Rule (CSAPR), which EPA promulgated to address interstate transport prongs 1 and 2 in the eastern portion of the U.S.).[6]

On March 6, 2014, California submitted a multi-pollutant infrastructure SIP revision for several NAAQS (''2014 Submittal'') that includes a SIP revision for the 2006 $PM_{2.5}$ NAAQS, except for the requirements of CAA section 110(a)(2)(D)(i)(I).[7] With respect to interstate transport prongs 1 and 2, the submittal stated that California was not addressing these requirements pursuant to the U.S. Court of Appeals for the D.C. Circuit Court ruling in *EME Homer City* v. *EPA,* which ARB read as concluding that ''states do not need to address Prong 1 and Prong 2 until U.S. EPA quantifies each state's transport obligation.''[8] Shortly thereafter, the U.S. Supreme Court reversed this part of the judgment of the U.S. Court of Appeals for the D.C. Circuit Court.[9] Thus, California's submittal of an interstate transport SIP for prongs 1 and 2 for the 2006 24-hour $PM_{2.5}$ NAAQS, or any other NAAQS, is not contingent on EPA first defining California's CAA section 110(a)(2)(D)(i)(I) obligations for the 2006 $PM_{2.5}$ NAAQS.

On July 18, 2014, California withdrew its 2009 Submittal, stating that ARB would submit a SIP revision to address the outstanding requirements.[10] The effect of this withdrawal letter is that California does not have an approved or pending submittal addressing the interstate transport prongs for the 2006 $PM_{2.5}$ NAAQS. We must therefore make a finding that California has failed to submit a SIP revision to address the requirements of interstate transport prongs 1 and 2 by the applicable deadline of September 21, 2009.

II. Final Action

This action reflects EPA's determination with respect to the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS for California only, as discussed in section I of this findings notice. EPA is making a finding of failure to submit for California for the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. This finding establishes a deadline of 24 months after the effective date of this final rule for EPA to promulgate a FIP, in accordance with section 110(c)(1), unless prior to that time California submits, and EPA approves, a submittal that addresses these interstate transport requirements. This finding of failure to submit does not impose sanctions, and does not set deadlines for imposing sanctions as described in section 179,

[1] 71 FR 61144, October 17, 2006. Note that only new or revised standards trigger the requirement for states to submit infrastructure SIPs and interstate transport SIPs, pursuant to CAA section 110(a)(1), while retained standards, such as the 2006 annual $PM_{2.5}$ NAAQS, do not trigger that requirement.

[2] Memorandum from William T. Harnett, Director, Air Quality Policy Division, OAQPS, ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particulate Matter National Ambient Air Quality Standards,'' September 25, 2009, pp. 3–4.

[3] Letter from Lynn Terry, Deputy Executive Officer, California Air Resources Board to Laura Yoshii, Acting Regional Administrator, U.S. EPA Region IX, July 7, 2009.

[4] 75 FR 32673, June 9, 2010.

[5] *Sierra Club* v. *EPA,* No. 12–6472, U.S. District Court for the Northern District of California, December 21, 2012.

[6] *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302, U.S. Court of Appeals for the D.C. Circuit Court, August 21, 2012.

[7] ''California Infrastructure SIP,'' March 6, 2014, p. 1.

[8] 2014 Submittal, p. 18.

[9] *EME Homer City Generation, L.P.* v. *EPA,* No. 12–1182, U.S. Supreme Court, certiorari to the U.S. Court of Appeals for the D.C. Circuit, April 29, 2014.

[10] Letter from Lynn Terry, Deputy Executive Officer, California Air Resources Board to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, July 18, 2014.

because it does not pertain to the elements of a CAA title I, part D plan for nonattainment areas as required under section 110(a)(2)(I), and because this action is not a SIP call pursuant to section 110(k)(5).

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden. This rule relates to the requirement in the CAA for states to submit SIPs under section 110(a) to satisfy certain requirements pertaining to interstate transport of air pollution under section 110(a)(2) of the CAA for the 2006 $PM_{2.5}$ NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfy the requirements of section 110(a)(2), including the interstate transport requirements of section 110(a)(2)(D)(i)(I), within 3 years of promulgation of such standard, or shorter period as EPA may provide. This final rule does not establish any new information collection requirement apart from that already required by law. The OMB control numbers for EPA's regulations in the CFR are listed in 40 CFR Part 9.

C. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any action subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the action will not have a significant economic impact on a substantial number of small entities.

For the purpose of assessing the impacts of this final action on small entities, small entity is defined as: (1) A small business that is a small industry entity as defined in the U.S. Small Business Administration size standards (*See* 13 CFR 121); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which independently owned and operated is not dominate in its field.

After considering the economic impacts of this final action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action relates to the requirement in the CAA for states to submit SIPs under section 110(a) to satisfy certain requirements pertaining to interstate transport of air pollution under section 110(a)(2) of the CAA for the 2006 $PM_{2.5}$ NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfy the requirements of section 110(a)(2), including the interstate transport requirements of section 110(a)(2)(D)(i)(I), within 3 years of promulgation of such standard, or shorter period as EPA may provide.

D. Unfunded Mandates Reform Act of 1995 (UMRA)

This action contains no federal mandate under the provisions of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538 for state, local, and tribal governments and the private sector. The action does not impose any new enforceable duty on any state, local or private sector. Therefore, this action is not subject to the requirements of section 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action relates to the requirement in the CAA for states to submit SIPs under section 110(a) to satisfy certain requirements pertaining to interstate transport of air pollution under section 110(a)(2) of the CAA for the 2006 $PM_{2.5}$ NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfy the requirements of section 110(a)(2), including the interstate transport requirements of section 110(a)(2)(D)(i)(I), within 3 years of promulgation of such standard, or shorter period as EPA may provide.

E. Executive Order 13132: Federalism

This action 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. The CAA establishes the scheme whereby states take the lead in developing plans to meet the NAAQS. This action will not modify the relationship of the states and EPA for purposes of developing programs to implement the NAAQS. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249). It does not have a substantial direct effect on one or more Indian Tribes, because no Tribe has implemented an air quality management program related to the 2006 $PM_{2.5}$ NAAQS. Furthermore, this action does not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the Tribal Air Rule establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is making a finding as to whether or not California has submitted a complete SIP for the interstate transport requirements specified in CAA section 110(a)(2)(D)(i)(I) necessary to implement the 2006 $PM_{2.5}$ NAAQS. This finding of failure to submit for these interstate transport requirements establishes a deadline of 24 months after the effective date of this final rule for EPA to a promulgate FIP to address the outstanding SIP elements unless, prior to that time, California submits, and EPA approves, the required SIP.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply,

distribution, or use of energy. At the time of proposal of the implementation rule for the prior 1997 $PM_{2.5}$ standard, information on the methodology and data regarding the assessment of potential energy impacts regarding implementation of the 2006 $PM_{2.5}$ standard was not addressed because the 2006 $PM_{2.5}$ NAAQS is not a significant energy action. This is based on the fact that no impacts are specifically ascribed to the standard only. Potential energy impacts are ascribed during the implementation phase by the states. An energy impact analysis, as part of a regulatory impact analysis or other assessment for the $PM_{2.5}$ NAAQS rule, was prepared by the Office of Air Quality Planning and Standards, Research Triangle Park, NC, April 24, 2003. (71 FR 60853, October 17, 2006)

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 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 final action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not directly affect the level of protection provided to human health or the environment. This notice is making a finding concerning whether California has submitted or failed to submit a complete SIP for the interstate transport requirements specified in CAA section 110(a)(2)(D)(i)(I) necessary to implement the 2006 $PM_{2.5}$ NAAQS.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the action 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). This action will be effective November 24, 2014.

L. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit: (i) When the EPA action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

The Administrator is determining that this action making a finding of failure to submit SIPs related to the section 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS is of nationwide scope and effect for the purposes of section 307(b)(1). This is particularly appropriate because in the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that an action is of ''nationwide scope or effect'' would be appropriate for any action that has ''scope or effect beyond a single judicial circuit.'' H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N.1402–03. Here, the scope and effect of this rulemaking extends to numerous judicial circuits since the finding of failure to submit a SIP applies to a rulemaking of national scope and effect. In these circumstances, section 307(b)(1) and its legislative history call for the Administrator to find the rule to be of ''nationwide scope or effect'' and for venue to be in the District of Columbia Circuit.

Thus, any petitions for review of this action related to a finding of failure to submit SIPs related to the requirements of section 110(a)(2)(D)(i)(I) of the CAA must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

List of Subjects in 40 CFR Part 52

Approval and promulgation of implementation plans, Environmental protection, Administrative practice and procedures, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, and Reporting and recordkeeping requirements.

Dated: September 29, 2014.

Jared Blumenfeld,

Regional Administrator, U.S. EPA, Region IX.

[FR Doc. 2014–25279 Filed 10–23–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

Mandatory Greenhouse Gas Reporting

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 96 to 99, revised as of July 1, 2013, on page 765, in § 98.226, paragraph (c) is reinstated to read as follows:

§ 98.226 Data reporting requirements.

* * * * *

(c) Annual nitric acid production from each nitric acid train (tons, 100 percent acid basis).

* * * * *

[FR Doc. 2014–25390 Filed 10–23–14; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1983–0002; FRL–9918–37–Region 8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the California Gulch Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 announces the deletion of the Operable Unit 4 (OU4), Upper California Gulch; Operable Unit 5 (OU5), ASARCO Smelters/Slag/Mill Sites; and Operable Unit 7 (OU7), Apache Tailing Impoundment, of the California Gulch Superfund Site (Site) located in Lake County, Colorado, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This partial deletion pertains to the Operable Unit 4, Upper California Gulch (media of concern—waste rock and fluvial tailing piles); Operable Unit 5, ASARCO Smelters/Slag/Mill Sites (media of concern—slag and soil); and Operable Unit 7, Apache Tailing Impoundment (media of concern—tailing and soil), of the California Gulch Superfund Site (Site). Operable Unit 2, Malta Gulch; Operable Unit 8, Lower California Gulch; Operable Unit 9, Residential Populated Areas; and Operable Unit 10, Oregon Gulch were partially deleted by previous rules. Operable Unit 1, the Yak Tunnel/Water Treatment Plant; Operable Unit 3, the Denver & Rio Grande Western Railroad Company Slag Piles/Railroad Easement/Railroad Yard; Operable Unit 6, Starr Ditch/Penrose Dump/Stray Horse Gulch/Evans Gulch; Operable Unit 11, the Arkansas River Floodplain; and Operable Unit 12 (OU12), Site-wide Water Quality will remain on the NPL and is/are not being considered for deletion as part of this action. The EPA and the State of Colorado, through the Colorado Department of Public Health and the Environment, have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, the deletion of these parcels does not preclude future actions under Superfund.

DATES: This action is effective October 24, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–HQ–SFUND–1983–0002. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy:

- By calling EPA Region 8 at (303) 312–7279 and leaving a message, or
- At the Lake County Public Library, 1115 Harrison Avenue, Leadville, CO 80461, (719) 486–0569, Monday and Wednesday from 10:00 a.m.–8:00 p.m., Tuesday and Thursday from 10:00 a.m.–5:00 p.m., and Friday and Saturday 1:00 p.m.–5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Linda Kiefer, Remedial Project Manager, Environmental Protection Agency, Region 8, Mail Code 8EPR–SR, 1595 Wynkoop Street, Denver, CO 80202–1129, (303) 312–6689, email: *kiefer.linda@epa.gov.*

SUPPLEMENTARY INFORMATION: The portion of the site to be deleted from the NPL is: Operable Unit 4, Upper California Gulch; Operable Unit 5, ASARCO Smelters/Slag/Mill Sites; and Operable Unit 7, Apache Tailing Impoundment, of the California Gulch Superfund Site (Site) in Lake County, Colorado. A Notice of Intent for Partial Deletion for this Site was published in the **Federal Register** (79 FR 47043) on August 12, 2014.

The closing date for comments on the Notice of Intent for Partial Deletion was September 11, 2014. Two public comments were received. One comment supported the partial deletion. The other comment requested that the OU4, OU5 and OU7 not be partially deleted due to concerns over water quality. In response, water quality has greatly improved since the NPL listing in 1983. The Upper Arkansas was recently designated a Colorado Parks and Wildlife Gold Medal Fishing area. The media covered in OU4, OU5 and OU7 are wastes from mining, milling and smelting activities. The general remedial action objectives of OU4, OU5, and OU7 were to contain and control sources of contamination. Surface water and ground water quality were not specifically addressed in the remedies for these operable units. Site-wide water quality is specifically addressed in OU12, which is an active operable unit. Under OU12, response action can be conducted anywhere on the Site if needed to address releases that impact or may impact water quality goals in the Arkansas River. In OU4, OU5 and OU7, all responses actions have been completed and institutional controls are in place. A responsiveness summary was prepared and placed in both the docket, EPA–HQ–SFUND–1983–0002, on *www.regulations.gov,* and in the local repository listed above.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion of a site from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of portions of a site from the NPL does not affect responsible party liability, in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O.12580, 52 FR 2923, 3 CFR 1987 Comp., p. 193.

Dated: October 9, 2014.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2014–25286 Filed 10–23–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 204 and 206

[Docket ID FEMA–2013–0004]

RIN 1660–AA78

Disaster Assistance; Fire Management Assistance Grant (FMAG) Program—Deadline Extensions and Administrative Correction

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Under the authority of Section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, the Federal Emergency Management Agency (FEMA) provides grants for the mitigation, management, and control of any fire or fire complex on public or private forest land or grassland that threatens such destruction as would constitute a major disaster. This rule finalizes, without change, a proposed rule to revise the Fire Management Assistance Grant (FMAG) program regulations to lengthen the potential extension for the grantee's submission of its grant application to FEMA from up to 3 months to up to 6 months. This rule also finalizes, without change, the proposed regulation to lengthen the potential extension for a subgrantee to submit a project worksheet from up to 3 months to up to 6 months. The rule finalizes additional minor administrative changes to the rule.

DATES: This rule is effective November 24, 2014.

FOR FURTHER INFORMATION CONTACT: William Roche, Director, Public Assistance Division, Federal Emergency Management Agency, 500 C Street SW., Washington DC, 20472–3100, (phone) 202–212–2340, or (email) *William.Roche@dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Fire Management Assistance Grant (FMAG) Program is authorized by section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [1] (Stafford Act). Section 420 authorizes the President to provide assistance, including grants, equipment, supplies, and personnel to any State or local government [2] or Indian Tribal government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.[3]

In order to receive funding for an FMAG, only a State [4] may submit a request for an FMAG declaration and the request must be submitted to the Regional Administrator (RA) while the fire is burning uncontrolled. *See* 44 CFR 204.22. If FEMA approves the request and issues the declaration, the grantee [5] may begin preparing a grant application package for submission to the FEMA RA. State agencies, Tribal governments, and local governments interested in applying for FMAG subgrants must submit a Request for Fire Management Assistance Subgrant to the grantee. *See* 44 CFR 204.41(a). Once FEMA determines that the subgrantee meets the eligibility criteria, FEMA Regional staff begins to work with the grantee and local staff to prepare project worksheets. *See* 44 CFR 204.52(b). The project worksheet identifies actual costs incurred by the subgrantee or grantee as a result of firefighting activities, and is the mechanism by which FEMA reimburses eligible costs.

Under the FMAG program, certain administrative costs are reimbursable. Grantees and subgrantees may claim direct costs (i.e., those costs directly attributable to a particular project) associated with requesting, obtaining, and administering a grant for a declared fire, including regular and overtime pay and travel expenses for permanent, reassigned, temporary, and contract employees who assist in administering the fire management assistance grant. Other direct administrative costs incurred by the grantee or subgrantee, such as equipment and supply purchases, may be eligible, but must be reviewed by the grantee and FEMA RA. Indirect costs incurred by the grantee during the administration of a grant are allowed in accordance with the provisions of 44 CFR part 13 and OMB Circular A–87; subgrantees may not claim indirect administrative costs.

Because FEMA will not approve project worksheets under $1000, administrative costs reported on project worksheets must total $1,000 or more to be eligible for Public Assistance reimbursement. *See* 44 CFR 204.52(c)(5).

Subgrantees must submit all of their project worksheets to the grantee for review. The grantee determines the deadline for subgrantees to submit completed project worksheets, but the deadline must be no later than 6 months from the close of the incident period.[6] At the request of the grantee, the FEMA RA may grant an extension of up to 3 months for the submission of the project worksheet. The grantee must include a justification in its request for an extension. *See* 44 CFR 204.52(c).

The grantee submits the subgrantee project worksheets to the FEMA RA as part of its grant application. *See* 44 CFR 204.51(b)(4) and 204.52(c). The grantee should submit its grant application within 9 months of the FMAG declaration. *See* 44 CFR 204.51(a)(2). Upon receipt of a written request from the grantee, the Regional Administrator may grant an extension for up to 3 months. The grantee's request must include a justification for the extension. *See* 44 CFR 204.51(a).

II. The Proposed Rule

On March 7, 2013, FEMA published a Notice of Proposed Rulemaking (78 FR 14740), which proposed to lengthen the potential extension for the grantee's submission of its grant application to FEMA from up to 3 months to up to 6 months of the declaration. The proposed rule also proposed to lengthen the potential extension for a subgrantee to submit a project worksheet from up to 3 months to up to 6 months. These proposed deadline extensions provide increased flexibility to applicants who may benefit from additional time to prepare the documentation necessary to support a grant application and may reduce or eliminate financial losses due to delayed invoices by third parties that exceed the maximum 3-month deadline extension. In addition, FEMA proposed to exempt project worksheets claiming only administrative costs from the $1,000 minimum. This would allow entities with only a small amount of administrative costs to be reimbursed for those costs.

FEMA also proposed to make additional minor administrative changes to its FMAG regulations to reflect current statutory and regulatory requirements and clarify grant application procedures. These administrative changes included:

a. Changing the regulatory text to clarify the current regulatory language that suggests that FMAG grants are approved before local governments submit their project worksheets. Local governments submit their project worksheets to the State and the State submits all the project worksheets to FEMA as part of the grant application package. *See* 44 CFR 204.51 and 205.52.

b. Changing the regulatory text from stating that grantees ''should'' submit their grant

[1] Disaster Relief Act of 1974, Public Law 93–288, section 417, 88 Stat. 158 (1974), redesignated as section 420 by the Stafford Act, Public Law 100–707, section 106(j), 102 Stat. 4705 (1988); *codified* as amended at 42 U.S.C. 5187.

[2] Disaster Mitigation Act of 2000, Public Law 106–390, section 303, 42 U.S.C. 5121, added ''local government'' to section 420 of the Stafford Act.

[3] A major disaster under the Stafford Act is any natural catastrophe or, regardless of cause, any fire, flood, or explosion which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

[4] Pursuant to FEMA regulations at 44 CFR 204.22, only the Governor of a State or the Governor's Authorized Representative can request an FMAG declaration.

[5] The grantee is usually a State; however, an Indian Tribal government may also be the grantee, in which case it takes on the same responsibilities as the State. *See* 44 CFR 204.3.

[6] The incident period is the time interval during which the declared fire occurs.

application within 9 months of the fire incident to stating they ''must'' submit the grant application within 9 months of the fire incident. *See* 44 CFR 204.51(a)(2). FEMA proposed this change because the deadline has never been optional.

c. Adding to the regulatory text to state explicitly that the request for extensions and justifications for project worksheets must be in writing. This is a non-substantive change that mirrors the requirement in 44 CFR 204.51 that the grantee must provide justifications in writing for its request for a time extension to submit grant applications. Further, the current regulations already require subgrantees to request an extension and provide a justification in its request for an extension but FEMA did not state that the request be in writing when it promulgated the current regulations. *See* 44 CFR 204.52(c)(3).

d. Clarifying that project worksheets will not be accepted after the regulatory deadline, or after the extension if the grantee or subgrantee asked for an extension

e. Clarifying that FMAG administrative costs are not part of management costs. *See* 44 CFR 204.63. FEMA reimburses FMAG direct and indirect administrative costs in accordance with 44 CFR part 13 rather than 44 CFR part 207 which addresses management costs.

f. Removing references to OMB forms, the definition of ''we, our, us'' and making format changes

g. Removing the word ''including,'' this was a typographical error, from the list of reimbursable equipment costs.

h. Removing Part 206, subpart L, Fire Suppression Assistance, because the FMAG program replaced the Fire Suppression Assistance Program.

FEMA proposed these administrative changes and changes in nomenclature to clarify its FMAG regulations.

III. Discussion of Public Comments

FEMA received six comments on the proposed rule; five were favorable and one was unrelated to the proposed rule.

A. General

The comments were generally supportive of the proposed rule, finding the proposed changes were ''timely'' and ''welcome,'' and that the addition of 3 months to the extension process and the elimination of the $1,000 minimum for administrative costs were both good improvements.

1. FEMA's Dissemination of Information

One commenter requested that FEMA review its method of disseminating information to the public. This commenter stated that there was very little knowledge of FEMA's proposed revisions among State forestry agencies throughout the United States.

FEMA takes note of this comment and will include Other Federal Agencies (OFA) in future communications. In addition, FEMA will query OFAs involved with the program to determine the best ways to notify State forestry agencies of FMAG activities and communications. FEMA has also ensured a robust external affairs roll out to notify stakeholders prior to publication of the final rule.

In another comment, the commenter stated that the cost thresholds for the FMAG program are rarely updated in an efficient manner and are difficult to locate, which leads to additional work in submitting a request for assistance for potential applicants. FEMA notes that the individual and cumulative cost thresholds are adjusted for inflation annually in January using the Consumer Price Index for All Urban Consumers published by the United States Department of Labor. FEMA sends the individual and cumulative cost thresholds via electronic communication to every FMAG program contact in the FEMA regions, usually at the end of January or beginning of February, for wider dissemination to its stakeholders. In addition, FEMA has updated its Web site to make this information more available and accessible. A link to the FMAG cost thresholds for Fiscal Year (FY) 2014 can be found on the FEMA Web site at: *http://www.fema.gov/policies-and-publications.*

2. Request To Modify Forms and Required Data

One commenter suggested that FEMA consider modifying its data requirements and forms associated with submitting a request for an FMAG declaration. The commenter stated that request for an FMAG declaration is currently structured to accommodate a western fire where the impact is concentrated over a large single geographic area, rather than in the context of multiple fires in multiple regions of a State and varied impacts and environments.

FEMA's forms, and the associated data necessary to complete FEMA's forms, address one fire. FEMA acknowledges that gathering the necessary data to support a FMAG request for multiple fires within the regulatory timeframe can be a challenge. FEMA will look into this further, and if it decides to pursue the issue, will do so in a separate mechanism. FMAG declarations operate on a 24-hour real-time basis and are frequently conducted over the telephone with written follow-up. The Governor of a State or the Governor's Authorized Representative submits a request for a fire management assistance declaration to the FEMA RA while the fire is burning uncontrolled and threatening such destruction as would constitute a major disaster. *See* 44 CFR 204.22. The RA gathers the State's information, and calls upon a Principal Advisor for a technical assessment of the fire. *See* 44 CFR 204.23. Using all available data and information, the RA develops a Regional summary and recommendation, and makes a decision to approve or deny the declaration request. *See* 44 CFR 204.24. The request is approved or denied based on the conditions that existed at the time of the request and whether the fire or fire complex threatens such destruction as would constitute a major disaster. *See* 44 CFR 204.21 and 44 CFR 204.24.

3. Definition of ''Fire Complex''

Another comment suggested that FEMA revise the FMAG fire complex definition to accommodate a variety of organizational frameworks that fulfill the objective of effectively managing fire(s). FEMA understands the position that multiple smaller fires may pose the same or equivalent threat of a major disaster that a single large fire presents. The FMAG Program currently provides assistance for a single large fire or a fire complex that is managed by a single incident commander. The scenario of multiple smaller fires in a wide geographic area being regionally managed has not been brought forward to FEMA's knowledge. FEMA uses four criteria to evaluate the threat posed by a fire or fire complex. These criteria include: (1) Threat to lives and improved property, including threats to critical facilities/infrastructure, and critical watershed areas; (2) availability of State and local [7] firefighting resources; (3) high fire danger conditions, as indicated by nationally accepted indices such as the National Fire Danger Ratings System; and (4) potential major economic impact. *See* 44 CFR 204.21. This recommendation is outside the scope of this rulemaking, but FEMA will take it under consideration in any future revisions to the FMAG program.

One commenter requested that the FMAG process provide better allowance for the use of a ''fire complex'' structure of management in which multiple fires on a local level are managed collectively by a central incident management organization based out of a regionally located office. Again, this comment is

[7] Sandy Recovery Improvement Act of 2013, Public Law 113–2, section 103, 42 U.S.C. 5123, states that any reference in this Act to 'State and local,' 'State or local,' 'State, and local,' 'State, or local,' or 'State, local' (including plurals) with respect to governments or officials is deemed to refer also to Indian tribal governments and officials, as appropriate.

outside the scope of this rulemaking, but FEMA will take the comment under consideration to determine if the current definition of a fire complex is appropriate.

4. Better Recognition of State Forest Fire Suppression

One comment suggested that the FMAG Program better recognize the organization structure of State forestry fire suppression throughout the eastern United States. FEMA understands that fire suppression organizational structures in the eastern part of the country vary from other organizational structures in mountainous areas in much of the western United States and vary from fire suppression structures needed in the large grassland areas in the Midwest. Based on FEMA data, FEMA believes the FMAG Program, in its current form, adequately recognizes and is responsive to all fire suppression organization structures. From 2006 to 2013, there were over 500 FMAG declared fires in the United States. In that same period of time there were 9 major disaster declarations for wild land fires. Since FMAGs are limited to those fires that threaten a major disaster, this data shows that the FMAG Program is successful how it is currently structured and administered. Unless presented with additional information, we do not anticipate modifying the existing program structure.

B. Deadline Extensions

In the proposed rule, FEMA proposed to revise 44 CFR 204.52(c)(3) to allow the FEMA RA to grant up to a 6-month extension for a subgrantee to submit the project worksheet. The current regulations allow for a maximum 3-month extension. In addition, FEMA proposed to lengthen the 3-month deadline extension for the grantee's submission of its grant application to FEMA in 44 CFR 204.51(a)(2) to a maximum 6-month extension.

1. General Support

Commenters supported this change, citing various reasons. One commenter supported the change because of limited staffing in States that experience the majority of fires, and the additional time would allow the reporting of all costs, especially after large, lengthy or multiple fires. Another commenter noted that the additional 3-month extensions for grantees and subgrantees were especially needed during a ''significant'' fire season. Another commenter noted that the change would ease the burden on local governments to submit all the necessary information on time to maintain eligibility for FMAG funds.

2. Consistency of FMAG and Public Assistance

One commenter stated that while the extended time period was positive, the general framework of the FMAG and Public Assistance programs should be consistent and cost effective. While outside the scope of this rulemaking, FEMA notes that it does agree with this comment and when possible the FMAG program and other Public Assistance programs are aligned and use the same or similar policies. For example, the purchase of supplies and equipment that are necessary to respond to the declared fire may be an eligible FMAG cost. The grantee or subgrantee, however, may be required to compensate FEMA for the fair market value of the equipment and supplies when the items are no longer needed for fire suppression activities. This is consistent with Public Assistance eligibility criteria found in FEMA Policy No. 9525.12, *Disposition of Equipment, Supplies and Salvaged Materials,* which provides guidance at *http://www.fema.gov/pdf/government/grant/pa/9525_12.pdf.* However, due to the different nature of wildfires from other disasters, the FMAG program has its own regulations. *See* 44 CFR Part 204. There are different time requirements as specified in those regulations.

3. Common Practice

One commenter stated that the proposed time extensions have already been a common FEMA practice. FEMA notes that this rulemaking codifies current practice, which FEMA has been implementing since 2002. FEMA's goal for these changes is to create a regulatory mechanism for granting extensions and avoid the need to routinely grant extensions beyond the regulatory limit, which is a significant administrative burden not only to the applicant but to FEMA and the State or Indian Tribal government. By extending the deadlines, the regulations better reflect reality and the actual time needed to submit an FMAG application or project worksheet.

4. Additional Time Extensions

One commenter suggested that FEMA incorporate a provision to allow the FEMA RA to grant additional time extensions if necessary as a result of delayed third party billings from Federal agencies. Another commenter raised the concern that even with the proposed changes many local governments will need additional extensions to take into account delays experienced by local jurisdictions in obtaining cost/invoices for air assets provided to the local jurisdiction to the incident under contract with Federal agencies. FEMA understands that delayed third party billings are an issue with some grants, especially with OFA. The United States Forest Service has recently implemented a software upgrade program (Financial Management Modernization Initiative) that is intended to expedite billings. FEMA expects this to eliminate delayed billings so this should not be an issue once fully implemented. In addition, when FEMA drafted its proposed rulemaking, FEMA looked into this option as an alternative to the proposed changes. However, to ensure consistent time extension determinations, FEMA set a time frame for the extensions.

C. Elimination of the $1,000 Project Worksheet Minimum for Administrative Costs

FEMA currently does not allow reimbursement for a project worksheet that totals less than $1,000. In the proposed rule, FEMA proposed to revise 44 CFR 204.52(c)(5) to indicate that the $1,000 project worksheet minimum does not apply to project worksheets that are limited to allowable administrative costs as defined in 44 CFR 204.63. This is a substantive change, and ensures that grantees and subgrantees are reimbursed for all eligible administrative expenses.

Three commenters supported this proposed change. One commenter stated that due to current rule limitations and without this revision, many small entities are unable to recover these costs. This revision would allow small entities to be reimbursed for their administrative efforts regardless of the amount. Another commenter acknowledged that this proposed change would allow for full reimbursement of all eligible administrative costs. Finally, a commenter welcomed this change for FMAG as many of the smaller jurisdictions have not been able to obtain reimbursement for their direct administrative costs since the costs tend to fall well below $1,000.

IV. Regulatory Analysis

A. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

Executive Orders 13563 and 12866 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 and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this rule.

Summary

This rule does not impose mandatory costs on grantees and subgrantees. This rule does provide the RA with increased flexibility to assist grantees and subgrantees who submit FMAG applications and whose circumstances warrant an extension. In addition, the exemption from the $1,000 project worksheet minimum will allow grantees and subgrantees not previously reimbursed for eligible program administrative expenses to receive additional compensation from FEMA and the Disaster Relief Fund. FEMA estimates this exemption will transfer between $10,000 and $50,000 in administrative costs over the next 10 years (undiscounted) from grantees and subgrantees to FEMA.

Total Costs and Benefits of This Rule

There are no direct monetary costs associated with the increased extensions identified in the rule. The cost of existing requirements (i.e., grant application submission) has the potential to be shifted, but not changed, by this rule. However, an extension may indirectly impact a grantee's or subgrantee's cash flow. For instance, if funds needed to reimburse fire suppression services (per a mutual aid fiscal agreement) are delayed due to an extension, then a grantee will have to use alternative means to avoid a budgetary shortfall. Regardless, it is the grantee's choice whether or not to apply for an extension and the grantee will need to consider if it is more beneficial to expend extra efforts to submit its FMAG application without an extension or to find alternative means to cover any associated shortfalls. Based on previous FMAG application submittals, FEMA expects approximately twenty 6-month grantee extensions to be granted over the next 10 years. As is current practice (44 CFR 204.52(c)(3)), subgrantee extensions are at the request of the grantee. Our estimate of grantee extensions includes any subgrantee extension requests that may be included as part of the grantee's request. A grantee request may cover multiple subgrantee extensions.

The exemption from the $1,000 project worksheet minimum for those project worksheets submitted only to claim administrative costs will transfer eligible administrative costs from grantees and subgrantees to FEMA and the Disaster Relief Fund. This will allow grantees and subgrantees not previously reimbursed for eligible program administrative expenses to receive compensation. FEMA subject matter experts from FEMA's Recovery Directorate estimate an average of one to five such project worksheets will be submitted each year. FEMA assumes for this analysis that the cost of such project worksheets will be $1,000. The resulting total additional transfer to grantees and subgrantees, over 10 years, ranges between $10,000 and $50,000 (undiscounted).

Benefits of the rule include increased flexibility to grantees and subgrantees for submitting their respective applications. A longer application period may also allow applicants to use lengthier but more cost efficient grant application preparation methods. The rule will also more accurately reflect the operational and administrative demands of the FMAG grant process. In addition, the rule's nonsubstantive modifications will improve regulatory clarity.

Retrospective Review

To facilitate the periodic review of existing regulations, Executive Order 13563 requires agencies to consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. The Executive Order requires agencies to issue a retrospective review plan, consistent with law and the agency's resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives. Review of FEMA's existing FMAG regulations revealed that they could be modified to provide for greater flexibility for FEMA to account for extenuating circumstances that may delay applications. Therefore, FEMA is increasing available extension times by 3 months for both grantee and subgrantee FMAG submissions. In addition, FEMA has decided to expand coverage of administrative costs by exempting the $1,000 project worksheet minimum for those project worksheets submitted only to claim eligible program administrative costs.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires Federal agencies to consider the potential impact of regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules. As this rule imposes no direct monetary cost, FEMA certifies that this rule will not have a significant economic impact on a substantial number of small entities. FEMA notes that public comment on the proposed rule suggested this rule could especially benefit small entities. Commenters stated that small entities and smaller jurisdictions would now be able to recover full reimbursement for all eligible administrative costs as their direct administrative costs tended to fall below the previous $1,000 threshold.

C. Paperwork Reduction Act of 1995

As required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13 (44 U.S.C. 3501 *et seq.*), as amended, 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.

This rule contains collections of information that are subject to review by OMB under the PRA. The information collections included in this rule are approved by OMB under control numbers 1660–0058, Fire Management Assistance Grant Program, which expires on October 31, 2014, and 1660–0025, FEMA Emergency Preparedness and Response Directorate Grants Administration Forms, which expires on September 30, 2017. There is no new information collections included in this rule.

D. Executive Order 13132, Federalism

Executive Order 13132, Federalism, 64 FR 43255 (Aug. 10, 1999), sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that 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. Federal agencies must closely examine the statutory authority supporting any action that would limit the

policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action. This rule involves no policies that have federalism implications under Executive Order 13132.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48 (Mar. 22, 1995) (2 U.S.C. 1501 *et seq.*), requires Federal agencies to assess the effects of their discretionary regulatory 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. The Unfunded Mandates Reform Act, however, does not apply to regulations that provide for emergency assistance or relief at the request of any State, local, or Tribal government or any official of a State, local, or Tribal government (2 U.S.C. 1503). FMAGs are provided upon the request of the State. In addition, FEMA has determined that this rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, nor by the private sector, of $100 million or more in any one year as a result of a Federal mandate, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

F. Executive Order 12898, Environmental Justice

Under Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629 (Feb. 16, 1994), as amended by Executive Order 12948, 60 FR 6381 (Feb. 1, 1995), FEMA incorporates environmental justice into its policies and programs. The Executive Order requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in our programs, denying persons the benefits of our programs, or subjecting persons to discrimination because of their race, color, or national origin.

No action that FEMA can anticipate under this rule will have a disproportionately high or adverse human health and environmental effect on any segment of the population. Accordingly, the requirements of Executive Order 12898 do not apply to this rule.

H. Executive Order 12988, Civil Justice Reform

FEMA has reviewed this rule under Executive Order 12988, Civil Justice Reform, 61 FR 4729 (Feb. 7, 1996). This rule meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden.

I. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 65 FR 67249 (Nov. 9, 2000), applies to agency regulations that have Tribal implications, that is, regulations that have substantial direct effects 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. Under this Executive Order, to the extent practicable and permitted by law, no agency shall promulgate any regulation that has Tribal implications, that imposes substantial direct compliance costs on Indian Tribal governments, and that is not required by statute, unless funds necessary to pay the direct costs incurred by the Indian Tribal government or the Tribe in complying with the regulation are provided by the Federal Government, or the agency consults with Tribal officials. FEMA has determined that this rule does not have Tribal implications and does not impose substantial direct compliance costs on Indian Tribal governments. The FMAG program is a voluntary grant program in which Indian Tribes may participate as grantees or subgrantees; the program provides monetary assistance to Indian Tribes, and does not affect the relationship between the Federal Government and Indian Tribes or the distribution of power and responsibilities between the Federal Government and Indian Tribes.

J. National Environmental Policy Act

FEMA did not prepare an environmental assessment as defined by the National Environmental Policy Act of 1969, Public Law 91–190, 83 Stat. 852 (Jan. 1, 1970)(42 U.S.C. 4321 *et seq.*), as amended, because a categorical exclusion applies to this rulemaking action. This rule deals with the FMAG program, which is categorically excluded from the preparation of an environmental impact statement under 44 CFR 10.8(d)(2)(xix)(N). Further, no extraordinary circumstances exist requiring the need to develop an environmental assessment or environmental impact statement. *See* 44 CFR 10.8(d)(3).

L. Congressional Review of Agency Rulemaking.

FEMA has sent this final rule to the Congress and to the Government Accountability Office under the Congressional Review of Agency Rulemaking Act, (''Congressional Review Act''), Public Law 104–121, 110 Stat. 873 (Mar. 29, 1996) (5 U.S.C. 804). This rule is not a ''major rule'' within the meaning of the Congressional Review Act.

List of Subjects

44 CFR Part 204

Administrative practice and procedure, Fire prevention, Grant programs, Reporting and recordkeeping requirements.

44 CFR Part 206

Administrative practice and procedure, Coastal zone, Community facilities, Disaster assistance, Fire prevention, Grant programs-housing and community development, Housing, Insurance, Intergovernmental relations, Loan programs-housing and community development, Natural resources, Penalties, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Federal Emergency Management Agency amends 44 CFR parts 204 and 206 as follows:

PART 204—FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM

■ 1. Revise the authority citation for part 204 to read as follows:

Authority: 42 U.S.C. 5121 through 5207; 6 U.S.C. 101 *et seq.;* Department of Homeland Security Delegation 9001.1.

§ 204.1 [Amended]

■ 2. Remove the words ''We (FEMA)'' and add, in their place, the word ''FEMA''.

■ 3. In § 204.3—

■ a. In the definition of ''Applicant'', remove the word ''us'' and add, in its place, the word ''FEMA'';

■ b. In the definition of ''Hazard mitigation plan'', remove the words ''We address'', and add, in their place, the words ''FEMA addresses'';

■ c. In the definition of ''Performance period'', remove ''(Standard Form 424)'' and ''in block 13'';

■ d. In the definition of ''Project worksheet'', remove the words ''FEMA Form 90–91, which identifies'', and add,

in their place, the words ''The form which identifies'';

■ e. Remove the definitions of ''FEMA Form 90–91'', ''Request for Federal Assistance'', ''Standard Form (SF) 424'', and ''We, our, us''; and

■ f. Add a definition of ''Application for Federal Assistance'' in alphabetical order to read as follows:

§ 204.3 Definitions used throughout this part.

* * * * *

Application for Federal Assistance. The form the State submits to apply for a grant under a fire management assistance declaration.

* * * * *

§ 204.21 [Amended]

■ 4. In § 204.21—

■ a. In paragraphs (a) and (b) introductory text, remove the word ''We'' and add, in its place, the word ''FEMA''; and

■ b. In paragraph (a), after the word ''complex'', add the words ''on public or private forest land or grassland''.

§ 204.22 [Amended]

■ 5. In § 204.22, remove the word ''we'' and add, in its place, the word ''FEMA''; and remove ''(FEMA Form 90–58)''.

§ 204.25 [Amended]

■ 6. In § 204.25(b), remove the word ''we'' and add, in its place, the word ''FEMA''.

§ 204.42 [Amended]

■ 7. In § 204.42—

■ a. In paragraph (b)(1), after the word ''safety'', remove the comma and add, in its place, a period, and remove ''including:'';

■ b. In paragraphs (b)(5) and (f), remove the word ''We'' and add, in its place, the word ''FEMA''; and

■ c. In paragraph (b)(5), remove the words ''we determine'' and add, in their place, the words ''FEMA determines''.

§ 204.51 [Amended]

■ 8. In § 204.51—

■ a. In paragraph (a), remove the space after the word ''Administrator''; and remove the phrase ''SF 424 (Request for Federal Assistance) and FEMA Form 20–16a (Summary of Assurances—Non-construction Programs)'' and add, in its place, the phrase ''Application for Federal Assistance and Summary of Assurances—Non-construction Programs'';

■ b. In paragraph (a)(2), remove the word ''should'' and add, in its place, the word ''must''; and remove the number ''3'' and add, in its place, the number ''6'';

■ c. In paragraphs (b)(1) and (b)(5), remove the word ''We'' and add, in its place, the word ''FEMA'';

■ d. In paragraphs (b)(1) and (d), remove the word ''we'' and add, in its place, the word ''FEMA'';

■ e. In paragraph (b)(1), remove the word ''determine'', and add, in its place, the word ''determines'', and

■ f. In paragraph (d), after the words ''Regional Administrator'', remove the space wherever they appear; and remove the word ''approve'', and add, in its place, the word ''approves''.

■ 9. In § 204.52—

■ a. In paragraph (b)(1), remove ''(FEMA Form 90–91)'';

■ b. In paragraph (c)(1), remove the words ''amendments to'' and add, in their place, the words ''part of''; and

■ c. Revise paragraphs (a)(1) and (c)(3), (4), and (5) to read as follows:

§ 204.52 Application and approval procedures for a subgrant under a fire management assistance grant.

(a) *Request for Fire Management Assistance.* (1) State, local, and tribal governments interested in applying for fire management assistance subgrants must submit a Request for Fire Management Assistance subgrant to the Grantee in accordance with State procedures and within timelines set by the Grantee, but no longer than 30 days after the close of the incident period.

* * * * *

(c) * * *

(3) At the request of the Grantee, the Regional Administrator may extend the time limitations in this section for up to 6 months when the Grantee justifies and makes a request in writing.

(4) Project Worksheets will not be accepted after the deadline in paragraph (c)(2) of this section has expired, or, if applicable, after an extension specified by the Regional Administrator in paragraph (c)(3) of this section has expired.

(5) *$1,000 Project Worksheet minimum.* When the costs reported are less than $1,000, that work is not eligible and FEMA will not approve that Project Worksheet. This minimum threshold does not apply to Project Worksheets submitted for the direct and indirect costs of administration of a fire grant, as defined in § 204.63.

§ 204.53 [Amended]

■ 10. In § 204.53(a), remove the word ''us'' and add, in its place, the word ''FEMA''.

§ 204.54 [Amended]

■ 11. In § 204.54—

■ a. In the introductory paragraph, remove the words ''we make'' and add, in their place, the words ''FEMA makes''; and

■ b. In paragraph (a), after the words ''Regional Administrator'', remove the space wherever it appears.

§ 204.62 [Amended]

■ 12. In § 204.62—

■ a. In paragraphs (a), (b), (c), and (d), remove the word ''We'' wherever it appears and add, in its place, the word ''FEMA'';

■ b. In paragraph (a), remove the word ''provide'' and add, in its place, the word ''provides'';

■ c. In paragraph (c), remove the word ''consider'' and add, in its place, the word ''considers'';

■ d. In paragraph (d), remove the word ''incur'' and add, in its place, the word ''incurs'';

■ e. In paragraphs (c) and (d), remove the word ''we'' and add, in its place, the word ''FEMA''; and

■ f. In paragraphs (a), (b), and (d), remove the word ''us'' wherever it appears and add, in its place, the word ''FEMA''.

■ 13. In § 204.63—

■ a. In paragraphs (a) and (b), remove the word ''We'' and add, in its place, the word ''FEMA'';

■ b. Add a new paragraph (c) to read as follows:

§ 204.63 Allowable costs.

* * * * *

(c) Management costs as defined in 44 CFR part 207 do not apply to this section.

§ 204.64 [Amended]

■ 14. In § 204.64(a), remove ''(FEMA Form 20–10)''.

PART 206—FEDERAL DISASTER ASSISTANCE

■ 15. The authority citation for part 206 continues to read as follows:

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 through 5207; Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.;* Department of Homeland Security Delegation 9001.1; sec. 1105, Pub. L. 113–2, 127 Stat. 43 (42 U.S.C. 5189a note).

Subpart L—[Removed and Reserved]

■ 16. Remove and reserve subpart L, consisting of §§ 206.390 through 206.399.

Dated: October 9, 2014.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–24802 Filed 10–23–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 1, 10, 11, 12, 13, 14, and 15

[Docket No. USCG–2014–0016]

Policy Implementing the Standards of Training, Certification, and Watchkeeping

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability.

SUMMARY: The Coast Guard announces the availability of five Navigation and Vessel Inspection Circulars (NVICs), which are the third set of a series of NVICs to implement the Final Rule that aligned Coast Guard regulations with amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and made changes to national endorsements. These NVICs will provide guidance to mariners concerning new regulations governing merchant mariner certificates and endorsements to Merchant Mariner Credentials (MMC).

DATES: These NVICs are effective on October 24, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or email Luke B. Harden, Mariner Credentialing Program Policy Division (CG–CVC–4), U.S. Coast Guard; telephone 202–372–2357, or *MMCPolicy@uscg.mil.* If you have questions on viewing material in the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Viewing Documents

The five NVICs listed below are available and can be viewed by going to *http://www.uscg.mil/nmc* and clicking on ''STCW Rule Information,'' then click on ''STCW Rule NVICs.''

Discussion

On December 24, 2014, the Coast Guard published a Final Rule in the **Federal Register** (78 FR 77796) amending Title 46, Code of Federal Regulations, to implement the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, as amended 1978 (STCW Convention), including the 2010 amendments to the STCW Convention, and the Seafarers' Training, Certification and Watchkeeping Code. The final rule also made changes to reorganize, clarify, and update regulations for credentialing merchant mariners. In the future, the Coast Guard will issue additional NVICs to provide further guidance on the implementation of the new regulations regarding endorsements to Merchant Mariner Credentials (MMCs). The five NVICs listed below represent the third phase of this effort:

1. Guidelines for Qualification for High-Speed Craft Type-Rating Endorsements (NVIC 20–14). This NVIC describes policy for merchant mariners to qualify for and renew endorsements for service on vessels designed and operated in accordance with the International Code of Safety for High-Speed Craft, 2000.

2. Guidelines on Qualification for Endorsements for Vessel Security Officers, Vessel Personnel with Designated Security Duties, and Security Awareness (NVIC 21–14). This NVIC describes policy for merchant mariners to qualify for and renew STCW endorsements for Vessel Security Officers, Vessel Personnel with Designated Security Duties, and for Security Awareness.

3. Guidelines on Qualification for STCW Endorsements for Officers and Ratings on Oil, Chemical, and Liquefied Gas Tank Vessels (NVIC 22–14). This NVIC describes policy for merchant mariners to qualify for and renew STCW endorsements for service on tank vessels.

4. Guidelines on Qualification for STCW Endorsements as Electro-Technical Officer on Vessels Powered by Main Propulsion Machinery of 750 kW/1,000 HP or More (NVIC 23–14). This NVIC describes policy for merchant mariners to qualify for and renew endorsements as Electro-Technical Officer on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more.

5. Guidelines on Qualification for STCW Endorsements as Electro-Technical Rating on Vessels Powered by Main Propulsion Machinery of 750 kW/1,000 HP or More(NVIC 24–14). This NVIC describes policy for merchant mariners to qualify for and renew endorsements as Electro-Technical Rating on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more.

Authority

This notice is issued under the authority of 5 U.S.C. 552(a).

Dated: October 10, 2014.

J.C. Burton,

Captain, U.S. Coast Guard, Director, Inspection & Compliance.

[FR Doc. 2014–24869 Filed 10–23–14; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 12–3; FCC 14–141]

Sports Blackout Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission eliminates the sports blackout rules for cable operators, satellite carriers, and open video systems. Elimination of the sports blackout rules will remove unnecessary and outdated regulations and remove regulatory reinforcement (and the Commission's implicit endorsement) of the NFL's private blackout policy, which deprives consumers of the ability to view on television the teams that they have subsidized through publicly-funded stadiums and other tax benefits. Elimination of the sports blackout rules may not end all sports blackouts. To the extent that the NFL (or any other sports league) chooses to continue its private blackout policy, it will no longer entitled to the protections of the sports blackout rules. Instead, it must rely on the same avenues available to any other entity that wishes to protect its distribution rights in the private marketplace.

DATES: Effective November 24, 2014.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Kathy Berthot, *Kathy.Berthot@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–7454.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* FCC 14–141, adopted and released on September 30, 2014. The full text is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat. The complete text may be purchased from the Commission's copy contractor, 445 12th

Street SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

This document contains no new or modified information collection requirements.

Summary of the Report and Order

I. Introduction

1. In this *Report and Order*, we eliminate our sports blackout rules, which prohibit cable operators, satellite carriers, and open video systems from retransmitting, within a protected local blackout zone, the signal of a distant broadcast station carrying a sporting event if the event is not available live on a local television broadcast station. The sports blackout rules have reinforced the sports leagues' private blackout policies since 1975, with the objective of helping to ensure that sports telecasts are available to the public. The sports industry has evolved dramatically over the last 40 years, however. The sports blackout rules have little relevance today for sports other than professional football. With respect to professional football, television revenues have replaced gate receipts as the primary source of revenue for NFL teams. For this reason, among others, we conclude that the sports blackout rules are no longer needed to ensure that sports programming is widely available to television viewers.

2. Eliminating the sports blackout rules will also remove unnecessary and outdated regulations. Additionally, eliminating the rules will remove regulatory reinforcement (and the FCC's implicit endorsement) of the NFL's private blackout policy, which prevents consumers—many of whom cannot attend games because they are elderly or disabled or are fans who have been priced out of attending games due to increased costs for tickets, parking, and concessions, yet have subsidized NFL teams with their tax dollars through publicly-financed stadiums and other tax benefits—from watching their teams' games on local television. For these reasons, we find that eliminating our sports blackout rules will serve the public interest. We acknowledge that elimination of our sports blackout rules may not end local blackouts of sports events because the NFL and other sports leagues may choose to continue their private blackout policies. Nevertheless, to the extent that the NFL or any other sports league decides to continue its blackout policies, it will no longer be entitled to additional protections under our sports blackout rules, but instead must rely on the same processes available to any other entities that wish to protect their distribution rights in the private marketplace.

II. Background

3. In the *Notice of Proposed Rulemaking* (*NPRM*), the Commission provided extensive background on the history of the sports blackout rules, which we incorporate by reference and do not repeat here. The sports blackout rules bar cable operators, satellite carriers, and open video systems from retransmitting, within a 35-mile zone of protection, a distant broadcast station carrying a sports event that is not available live on a television broadcast station licensed to the community in which the event is taking place. The Commission first adopted a sports blackout rule for cable operators in 1975, when game ticket sales were the primary source of revenue for sports leagues. This rule was intended to ensure that the potential loss of gate receipts resulting from cable system importation of distant stations did not lead sports clubs to refuse to sell their rights to sports events to distant stations, which would reduce the overall availability of sports programming to television viewers. The Commission's objective in adopting the cable sports blackout rule was not to ensure the profitability of organized sports, but rather to ensure the overall availability of sports telecasts to the general public. Indeed, in 1975, had sports teams refused to allow sports events to be televised on distant broadcast stations, their games likely would not have been televised at all or perhaps only carried on cable systems to which few Americans subscribed. At the direction of Congress, the Commission later applied the cable sports blackout rule to open video systems and then to satellite carriers to provide parity between cable and newer video distributors.

4. Sports leagues' blackout policies determine which games are blacked out on local television stations. These policies are implemented primarily through contracts negotiated between the leagues or individual teams that hold the distribution rights to the games and the entities to which they grant those rights, including television networks, local television broadcast stations, Regional Sports Networks (RSNs), and multichannel video programming distributors (MVPDs). The Commission's rules supplement these contractual relationships by barring MVPDs from retransmitting, within the local blackout zone, games that the sports leagues or individual teams require local television stations to black out.

5. In November 2011, the Sports Fan Coalition, Inc., National Consumers League, Public Knowledge, League of Fans, and Media Access Project filed a joint Petition for Rulemaking arguing that the Commission should no longer facilitate the sports leagues' ''anti-consumer'' blackout policies and urging the Commission to eliminate the sports blackout rules. On January 12, 2012, the Media Bureau issued a Public Notice seeking comment on the Petition. The record compiled in response to the Public Notice suggested that, given the dramatic changes in the sports industry in the 40 years since the sports blackout rules were originally adopted, the sports blackout rules may no longer be necessary to ensure that sports programming is widely available to television viewers and, in fact, may be reinforcing a private policy that promotes just the opposite (i.e., more restrictive access for consumers to televised games with little, if any, countervailing public interest benefit). On December 18, 2013, the Commission released an *NPRM* proposing to eliminate the sports blackout rules. The *NPRM* sought comment on whether the sports blackout rules have become outdated due to marketplace changes since their adoption and whether modification or elimination of those rules is appropriate. It tentatively concluded that the Commission has the authority to repeal the cable sports blackout rule and sought comment on whether the Commission also has the authority to repeal the sports blackout rules for satellite and OVS. In addition, the *NPRM* requested comment on whether the economic rationale underlying the sports blackout rules remains valid. Finally, the *NPRM* sought comment on the potential benefits and harms of eliminating the rules on interested parties, including sports leagues, broadcasters, and consumers.

III. Discussion

6. For the reasons set forth below, we eliminate the sports blackout rules. First, we conclude that the Commission has the authority to eliminate the sports blackout rules for cable operators, satellite carriers, and open video systems. Second, we review the changes in the sports industry since the cable sports blackout rule was first adopted nearly 40 years ago and conclude that, in light of these substantial changes, the sports blackout rules are no longer

needed to ensure that sports programming is widely available to television viewers. We further conclude that elimination of the sports blackout rules will serve the public interest by removing unnecessary regulation and removing regulatory reinforcement of the NFL's blackout policy, which prevents many consumers who have subsidized the NFL through publicly-funded stadiums and other tax benefits from watching locally blacked out games. To the extent that the NFL (or any other sports league) chooses to continue its blackout policies through private contractual arrangements, it will no longer be entitled to additional protections under our sports blackout rules, but instead must rely on the same processes available to any other entities that wish to protect their distribution rights in the private marketplace. Finally, we conclude that repeal of the sports blackout rules will not adversely impact broadcasters, consumers, or local businesses.

A. Authority To Eliminate Sports Blackout Rules

7. We conclude that the Commission has the authority to eliminate the sports blackout rules for cable operators, satellite carriers, and open video systems. While there is no statutory provision mandating that the Commission adopt a sports blackout rule for cable, the Commission premised its adoption of the cable sports blackout rule in large part on the policy established by Congress in the Sports Broadcasting Act of 1961, which exempts from the antitrust laws joint agreements among individual teams engaged in professional football, baseball, basketball, or hockey that permit the leagues to pool the individual teams' television rights and sell those rights as a package and expressly permits these four professional sports leagues to black out television broadcasts of home games within the home territory of a member team. Subsequent legislation directed the Commission to apply the cable sports blackout rule to open video services and satellite television operators. Thus, Section 653(b)(1)(D) of the Act, as added by the 1996 Act, directed the Commission to extend to open video systems ''the Commission's regulations concerning sports exclusivity (47 CFR 76.67).'' Similarly, Section 339(b) of the Act, as added by SHVIA in 1999, directed the Commission to ''apply . . . sports blackout protection (47 CFR 76.67) to the retransmission of the signals of nationally distributed superstations by satellite carriers'' and, ''to the extent technically feasible and not economically prohibitive, apply sports blackout protection (47 CFR 76.67) to the retransmission of the signals of network stations by satellite carriers.''

8. We find that elimination of the cable sports blackout rule is authorized under the Commission's general rulemaking power, which grants the Commission the authority to revisit its rules and modify or repeal them if it finds that such action is warranted. As discussed above, Congress never required the Commission to adopt a sports blackout rule for cable. Further, when it directed the Commission to apply the sports blackout protection in 47 CFR 76.67 to DBS and OVS, Congress left intact the Commission's general rulemaking authority with respect to the cable sports blackout rule, including the authority to modify or repeal this rule should it find that such action is appropriate. We also note that no commenter disputes our authority to eliminate the cable sports blackout rule.

9. Additionally, we conclude that we have the authority to eliminate the sports blackout rules for DBS and OVS. We find unpersuasive assertions in the record that the Commission may not eliminate the sports blackout rules for DBS and OVS absent congressional repeal of Sections 339(b) and 653(b)(1)(D) of the Act. The NFL argues that, since these statutory provisions provide that the Commission ''shall'' apply the cable sports blackout rule to DBS and OVS, the Commission has no discretion to eliminate the sports blackout rules for DBS and OVS. We disagree. In enacting Sections 339(b) and 653(b)(1)(D), Congress did not enact sports blackout protection for DBS or OVS but rather directed the Commission to apply to DBS and OVS the same sports blackout protection that the Commission applied to cable. Thus, the use of ''shall'' in Sections 339(b) and 653(b)(1)(D) merely instructed the Commission to apply to DBS and OVS the same sports blackout protection that is applicable to cable. The Commission discharged its statutory obligation through adoption of sports blackout rules for OVS in 1996 (47 CFR 76.1506(m)) and for DBS in 2000 (47 CFR 76.127). Nowhere did Congress require the Commission to maintain these rules in perpetuity, and Congress was aware that the Commission has general rulemaking power to revisit its rules and modify or repeal them if it finds that such action is appropriate. Sections 339(b) and 653(b)(1)(D) do not limit the Commission's authority to repeal or modify its cable sports blackout rule at some future time, nor is there any indication in the legislative history that Congress intended to withdraw this authority. Accordingly, we conclude that, by expressly tying these statutory provisions to the cable sports blackout rule, Congress demonstrated its intent that the Commission accord the same regulatory treatment to DBS and OVS as it does to cable with respect to sports blackouts, including modification or repeal of the sports blackout rules for these services if it determines that modification or repeal of the cable sports blackout rule is warranted.

10. The legislative history of the Satellite Home Viewer Improvement Act of 1999 supports this conclusion. The legislative history makes clear that Congress sought to place satellite carriers on an equal footing with cable operators with respect to the availability of broadcast programming. Specifically, the legislative history indicates that the sports blackout rules for satellite carriers ''should be as similar as possible to that applicable to cable services.'' Congress's clear intent to create regulatory parity between cable and satellite, and its preservation of Commission authority to modify or repeal the cable sports blackout rule, thus further support our interpretation that Congress intended that the Commission would retain its authority to repeal the sports blackout rules for OVS and DBS if necessary to maintain regulatory parity with cable in the future.

11. We reject the Baseball Commissioner's assertion that the Satellite Home Viewer Extension and Reauthorization Act of 2004 (SHVERA) evidences Congress's intent that the Commission do no more than provide to Congress ''recommendations'' as to whether the sports blackout rules for DBS and OVS should be altered, and that any changes based on those recommendations were to be made by Congress. SHVERA directed the Commission to complete an inquiry and submit a report to Congress ''regarding the impact on competition in the multichannel video programming distribution market of the current retransmission consent, network non-duplication, syndicated exclusivity, and sports blackout rules, including the impact of those rules on the ability of rural cable operators to compete with direct broadcast satellite ('DBS') industry in the provision of digital broadcast television signals to consumers.'' SHVERA further directed the Commission to ''include such recommendations for changes in any statutory provisions relating to such rules as the Commission deems appropriate.'' Contrary to the Baseball

Commissioner's suggestion, we do not believe this latter directive can reasonably be interpreted to reflect an intent on the part of Congress to limit the Commission only to making recommendations about the sports blackout rules for DBS and OVS. As noted above, the purpose of the SHVERA inquiry and report was to evaluate the impact of the specified rules on competition in the MVPD market, including their impact on the ability of rural cable operators to compete with DBS in the provision of digital broadcast television signals. If Congress had intended to suspend or limit the Commission's general rulemaking powers under the Communications Act with respect to the sports blackout rules for DBS and OVS, Congress would have done so rather than direct that ''such report shall include such recommendations for changes in any statutory provisions relating to such rules as the Commission deems appropriate.'' There is nothing in the SHVERA directive that indicates that Congress's objective was to preclude the Commission from making any modifications to the sports blackout and other listed rules. Indeed, given the inclusion of retransmission consent in the relevant SHVERA provision, the Baseball Commissioner's argument, if accepted, would lead to the conclusion that Congress barred the Commission revising any of its rules pertaining to retransmission consent. We reject this position, which has no basis in the text of the statute. Rather, we think the more reasonable interpretation is that Congress simply intended that the Commission provide recommendations for any legislative changes that it deemed necessary or appropriate to address the impact of the specified rules on competition among MVPDs.

B. Sports Blackout Rules No Longer Needed To Ensure That Sports Telecasts Are Widely Available to the Public

12. Our policy inquiry begins with an evaluation of whether the sports blackout rules are still needed to achieve the objective of ensuring the wide availability of sporting events on television in light of the dramatic changes that have occurred in the sports industry over the last 40 years. As an initial matter, we find that the sports blackout rules have little relevance today for sports other than professional football. We therefore focus our analysis on whether the sports blackout rules remain necessary to preserve the overall availability to television viewers of NFL games. We conclude that sports blackout rules are no longer needed to serve that purpose. We find that, during the past 40 years, television revenues have replaced gate receipts as the principal source of revenue for NFL teams and there has been a substantial decline in the number of NFL games blacked out due to failure to sell out. We further find that the loss to consumers of their ability to view the game on television when an NFL game is blacked out exceeds any gain in gate receipts and other revenue that may accrue to the NFL as a result of a blackout. In addition, the record demonstrates that changes in the industry make it unlikely that the NFL would move its games to pay TV as a result of the elimination of the sports blackout rules, notwithstanding the NFL's claims to the contrary. Given that the goal of the rules was not to protect the profitability of sports leagues but rather to ensure that sports programming is widely available to television viewers, we believe that all of these factors weigh in favor of eliminating the sports blackout rules.

i. Primary Relevance to Professional Football

13. The record confirms that the sports blackout rules are no longer relevant for sports other than professional football. As explained in the *NPRM,* in professional sports leagues other than the NFL, individual teams, rather than the league, hold and sell the distribution rights for all or most of their games, both home and away games, in their home markets. Thus, each individual team is in control of deciding how many of its home games are telecast live in its home market, and individual teams have generally chosen to telecast all or most of their home games in the team's local market. Moreover, most individual teams distribute the majority of their televised games today through RSNs rather than over-the-air television stations. The *NPRM* accordingly sought comment on whether the sports blackout rules are still relevant for these other professional sports leagues. The *NPRM* also requested specific data on the extent to which games of other professional sports leagues, as well as other professional, collegiate, and high school sports events, are blacked out locally pursuant to the Commission's sports blackout rules and the reasons for any such blackouts (i.e., whether they are blacked out due to failure to sell out or for some other reason). No commenter asserts, or provides supporting data showing, that sports events other than NFL games are blacked out locally today pursuant to the Commission's sports blackout rules. In the absence of any such assertions or data, we conclude that the sports blackout rules are no longer relevant for sports other than professional football. Accordingly, we focus our analysis herein on whether the sports blackout rules are still needed to ensure the overall availability to television viewers of NFL games.

ii. NFL Gate Receipts and Other Revenues

14. The substantial shift in importance of gate receipts vis-à-vis television and other revenues for NFL clubs over the past 40 years supports our conclusion that the sports blackout rules are no longer needed to meet their underlying policy objective of ensuring that sports programming is widely available to the viewing public. When the Commission adopted the cable sports blackout rule in 1975, it found that ''gate receipts were the *primary* source of revenue for sports clubs.'' The Commission acknowledged that ''teams have a reasonable interest in protecting their home gate receipts from the potentially harmful financial effects of invading telecasts of their games from distant television stations'' and found that ''a local team's need to protect its gate receipts might require that it prohibit the telecasting of its games on [distant] television stations which might be carried on local cable systems.'' Gate receipts, however, are no longer the primary source of revenue for the NFL. According to the NFL, gate receipts account for approximately 25 percent of NFL team revenue today. Other estimates suggest that gate receipts account for closer to 20 percent of NFL revenue. In either event, gate receipts are now dwarfed by television revenues, which have grown exponentially over the past four decades. In 1975, annual television revenues for the NFL were estimated at $55 million (which in today's dollars would be approximately $242 million). In 2011, the NFL entered into long-term contracts totaling an estimated $27.6 billion with CBS, Fox, and NBC to air NFL games from 2014 to 2022. The NFL also has an eight-year, $15 billion deal with ESPN for the rights to Monday Night Football, which extends from 2014 to 2021. Additionally, the NFL's four-year deal with DIRECTV for NFL Sunday Ticket, which runs through 2014, is reportedly worth an estimated $4.1 billion. Further, the NFL recently entered into a one-year contract with CBS to air eight Thursday Night Football games, which is estimated to be worth $275 million or $34.4 million per game. The NFL is expected to collect an estimated $6 billion per year in total television revenues beginning in 2014. Other significant sources of revenue for the NFL include sponsorships, which

totaled an estimated $1.07 billion in 2013, merchandising and licensing, which are estimated at around $1 billion per year, and in-stadium revenues such as concessions and parking. Total NFL revenues reportedly topped $10 billion for the first time during the 2013 season. The NFL is the most lucrative sports league in the world, with each of its 32 teams worth on average $1.17 billion.

15. We find that the replacement of television revenues for gate receipts as the main source of revenue for NFL clubs creates a powerful economic incentive for the industry to make games widely available to television viewers even in the absence of the blackout rules. This change in the NFL's economic structure thus supports our conclusion that the sports blackout rules are no longer necessary to promote attendance at games in order to ensure that sports programming is widely available to television viewers. We are not persuaded by NAB's argument that the Commission should not consider gate receipts or the economic condition of the sports leagues as part of our analysis of whether to eliminate the sports blackout rules. According to NAB, it is misguided to base possible elimination of the sports blackout rules on changing economic conditions. Rather, it maintains that, if the NFL believes that it is economically desirable to maintain a policy of blackouts in local markets when games do not sell out, the Commission should not substitute its judgment for that of the NFL. However, as we stated in the *NPRM,* ''[t]he objective of the sports blackout rules is not to ensure the profitability or financial viability of sports leagues, but rather to ensure that sports programming is widely available to television viewers. Thus, we are interested in gate receipts and other revenues only to the extent that such revenues are relevant to this objective.'' We conclude that it is relevant to our analysis of the continued need for the sports blackout rules that television revenues have supplanted gate receipts as NFL clubs' principal source of revenue and that total revenues for the NFL have skyrocketed since 1975.

iii. Reduction in NFL Blackouts

16. We also conclude that the substantial decline in the number of NFL games blacked out locally over the past 40 years supports a finding that the sports blackout rules are no longer needed to ensure that sports programming is widely available to television viewers. The record shows that the NFL's rise in popularity since 1975 has made it easier for teams to sell out games than it was at the time the sports blackout rules were first adopted. In 1975, the year the Commission adopted the cable sports blackout rule, 59 percent of regular season NFL games were blacked out locally due to failure to sell out. As the NFL notes, ''NFL football over the past few decades has become the most popular, most watched professional sport in America.'' The Sports Economists explain that televising NFL games has substantially increased the fan base for professional football, which in turn has allowed teams to sell more tickets. Indeed, the immense popularity of NFL football has ensured that the vast majority of NFL teams sell out all of their games every season. Thus, the number of regular season NFL games blacked out has declined substantially since 1975. Between 1975 and 2013, the percentage of regular season NFL games blacked out dropped by more than 58 percent. During the 2013 NFL season, only two (0.78 percent) of 256 regular season NFL games were blacked out. Total attendance at NFL games in 1975 was approximately 10.2 million. In 2013, total NFL attendance rose for the third straight year to approximately 17.3 million. In addition, blackouts of NFL games have been limited in recent years to a few markets.

17. The NFL asserts that one reason for the ''success'' of its blackout policy is that ''the League has adjusted its policy in recent years to give teams more flexibility as they seek to strike the right balance between promoting the in-stadium experience and engaging fans over television.'' There is little evidence, however, that the NFL's relaxation of its blackout policy in 2012 has had a significant impact on the number of NFL games blacked out during the past two NFL seasons. Moreover, the NFL fails to explain why it believes that its relaxed policy favors retention of the sports blackout rules. Under the revised blackout policy, NFL teams have the option of deciding at the beginning of each season to reduce the percentage of tickets that must be sold at least 72 hours prior to the game in order to avoid a blackout to anywhere between 85 and 100 percent and adhering to that alternative blackout threshold throughout the season. Few NFL teams have taken advantage of this policy because, if the team's ticket sales exceed the benchmark threshold set by the team at the beginning of the season, the team must share a higher percentage of the revenue from those ticket sales than usual with the visiting team. The total number of NFL games blacked out dropped by only one game between 2011 and 2012, the first year the revised blackout policy was in effect. One of the teams that elected to lower its benchmark threshold to 85 percent, the Tampa Bay Buccaneers, actually saw an increase in the number of games blacked out from 2011 to 2012; the team took other measures in 2013 to avoid blackouts altogether. In contrast, three teams that experienced blackouts in both 2011 and 2012—the Cincinnati Bengals, Buffalo Bills, and San Diego Chargers—all reduced their number of blackouts in 2013, despite electing not to lower their benchmark thresholds. Thus, we do not believe that the NFL's recent relaxation of its blackout policy favors retention of the Commission's sports blackout rules.

18. We further note that individual NFL clubs have used a variety of other measures in recent years to avoid blackouts, which suggest that they value television revenues more than selling out stadiums. Such measures have included removing seats or covering seats with tarps to reduce stadium capacity; reducing ticket prices; and buying tickets themselves at a discounted price. In addition, local television network affiliates that would otherwise be airing these games and other local businesses that would benefit from the games being televised have purchased outstanding tickets to help avert blackouts. The fact that many NFL clubs, as well as local network affiliates and other local businesses, choose to take such measures to avoid blackouts, even when it entails an economic cost, reflects the industry trend toward maximizing television revenues above other considerations, including selling out stadiums.

19. We conclude that the substantial decrease in the number of NFL games blacked out locally since 1975 demonstrates that the sports blackout rules are no longer necessary to ensure the wide availability of sports telecasts to the general public and thus weighs in favor of eliminating the sports blackout rules. At the time that the sports blackout rules were first adopted, nearly 60 percent of NFL games were blacked out locally due to failure to sell out. Since that time, the popularity of NFL football has soared, making it far easier for most teams to sell out all of their games and making blackouts of NFL games increasingly rare. Additionally, the measures taken by NFL teams in recent years to prevent blackouts indicate that these teams are more concerned with television revenues than with selling out every seat in the stadium. NAB argues that the fact that the 2013 NFL season featured the fewest local blackouts since the league's inception ''demonstrates that the

existing blackout policies . . . are working well and should not be upset.'' We find this argument unpersuasive. NAB offers no support for its suggestion that the 2013 season featured the fewest local blackouts as a result of the NFL's blackout policies, much less the Commission's rules. Moreover, even the NFL acknowledges that there are a number of factors apart from its blackout policies—such as stadium capacity, weather, and team performance—that determine whether a team sells out a particular home game. Thus, we cannot conclude that the very low number of blackouts during the 2013 season is attributable to the NFL's blackout policies or that it establishes that the sports blackout rules should be retained. Rather, if anything, the very low number of blackouts in 2013 seems to suggest that stadium revenues that once were preserved by blackouts are less significant than the television revenues the NFL enjoys by preventing blackouts.

iv. Impact of Blackouts on NFL Attendance and Gate Receipts

20. As reviewed above, the Commission adopted the sports blackout rules to promote the availability of sports programming to television viewers, not to boost sports leagues' financial bottom line. Nevertheless, based on the record before us, we conclude that the loss to consumers of their ability to view an NFL game that has been blacked out locally exceeds any gains in gate receipts and other in-stadium revenues that may accrue to the NFL as a result of blacking out the game. In the *NPRM,* we sought comment on the conclusion of the Sports Economists that, based on their review of several econometric studies of attendance at NFL games as well as other team sports in the U.S. and Europe, there is no evidence that local blackouts of NFL games significantly affect either ticket sales or no-shows at those games. The NFL disputes this conclusion, arguing that recent empirical research demonstrates that the sports blackout rules play a vital role in ensuring that professional sports games reach near-capacity attendance and that blackouts are associated with ''a statistically significant increase in attendance and decrease in 'no-shows.' '' Specifically, the NFL's economist expert, Dr. Singer, asserts that a 2000 study by Putsis and Sen demonstrates that the NFL's blackout policy has a positive effect on attendance at NFL games. The Putsis and Sen study examined the impact of blackouts on attendance at NFL games using data on economic, demographic, team, and game specific variables for the eight NFL teams that experienced blackouts of at least one home game during the 1996–1997 NFL season. The study found that, for these eight teams, blackouts were associated with an average maximum increase in overall tickets sold per game of 11,310, an average maximum decrease in no-shows per game of 4,959, and an average maximum per game increase in revenues of $414,336 per team.

21. We acknowledge that the Putsis and Sen study indicates that blackouts have a positive impact on gate receipts and other in-stadium revenues. As the Sports Economists observe, however, Dr. Singer focuses only on the statistical significance of this study and fails to consider its economic significance. In this regard, Putsis and Sen also find that, when viewed in the broader context of the societal and economic loss due to the game not being broadcast in the local area, the gain to the NFL in on-site stadium revenue due to a blackout (e.g., through additional ticket and concession sales) is small in comparison to the loss to consumers of their ability to view NFL games that have been blacked out locally. Specifically, Putsis and Sen state that ''even if one estimates the maximum potential impact on NFL game day revenue—the welfare loss resulting from the blackouts likely exceeds the loss in NFL revenue. Thus, the imposition of a blackout creates a market failure. . . .'' In other words, as the Sports Economists put it, the added money spent by the few fans ''driven'' to the stadium by a blackout is a gain to the NFL but is not economically significant when compared to the loss of viewer value. The Sports Economists therefore conclude that this study does not provide evidence of an economically significant relationship between attendance and blackouts. We agree. Particularly when considered in relation to the NFL's $6 billion annual television revenues, we cannot conclude based on this study that blackouts have an economically significant impact on attendance at NFL games or gate receipts from those games. Additionally, we cannot conclude based on this study that the positive impact of the sports blackout rule on gate receipts and attendance exceeds the loss of television revenues or the societal loss to consumers of their ability to view locally blacked out NFL games. In any event, the goal of the sports blackout rules is not to protect the profitability of sports leagues but rather to ensure that sports programming is widely available to television viewers.

v. Migration of NFL Games to Pay TV

22. We conclude that elimination of the sports blackout rules is unlikely to reduce the availability of NFL games to free, over-the-air television viewers by leading the NFL to migrate its games to pay TV. As noted above, the NFL's existing contracts with the broadcast networks extend through 2022 so migration of NFL games will not even be an issue until 2023. Dr. Singer asserts that, by spurring attendance at games, the sports blackout rules facilitate the NFL's ''free TV'' model. In the absence of the sports blackout rules, he continues, the NFL would likely be forced to migrate to a ''pay TV'' model in order to preserve its private blackout policy (and thus its ability to control the distribution of its programming). Dr. Singer states that the NFL would seek to preserve its private blackout policy because this policy is profit-maximizing. Migration of NFL games to pay TV, he maintains, would leave consumers who rely solely on over-the-air television unable to view NFL games (i.e., it would reduce the overall availability of sports telecasts to the public).

23. To support his assertions, Dr. Singer states that the NFL's calculus for switching from its ''free TV'' model to pay TV in the absence of the sports blackout rules is as follows: the NFL would switch to pay TV if the value to the NFL of distributing its games via pay TV (i.e., the revenues that the NFL would earn from distributing its games via pay TV) plus the increase in gate revenue from its blackout policy exceeds the value to the NFL of distributing its games via over-the-air television in the absence of the sports blackout rules (*i.e.,* the revenues that the NFL would earn from distributing its games via over-the-air television in the absence of the sports blackout rules). According to Dr. Singer, the value to the NFL of distributing its games via over-the-air television would decrease in the absence of the sports blackout rules because the lack of exclusivity for local broadcasters that would result from elimination of the sports blackout rules would reduce the value of the NFL telecasts to advertisers, which in turn would reduce the value that the networks would pay for rights to NFL games. Dr. Singer also indicates that the NFL's calculus ''assume[s] that no amount of contracting . . . can restore the full value of exclusivity.''

24. Even if we were to assume that elimination of the sports blackout rules will result in the reduction in exclusive distribution rights for some local broadcasters and that no amount of

contracting could restore the full value of exclusivity, it does not follow that it would be more profitable for the NFL to migrate its games to pay TV. It is necessary to consider the magnitude of the reduction in exclusivity and the impact of that reduction on the rights payment that the NFL would receive from broadcasters in the absence of the sports blackout rules. We believe that, if there were any reduction, the magnitude would be small because only a small number of games are blacked out locally today due to failure to sell out. Moreover, both Putsis and Sen and the Sports Economists agree that the increase in gate revenue to the NFL from its blackout policy is small. Under the NFL's calculus, the NFL would not be expected to migrate its games to pay TV unless the NFL could earn almost as much from distributing its games via pay TV as it could from distributing its games via over-the-air television in the absence of the sports blackout rules. Because the record does not show that eliminating the sports blackout rules would have a significant impact on the NFL's over-the-air revenues, and for the reasons provided below, we think that this is highly unlikely.

25. While the NFL currently distributes a limited number of games via pay TV, the fact that it distributes the majority of its games via broadcast television stations (which may be viewed by consumers on free, over-the-air television or on basic MVPD service) indicates that it is more profitable for it to do so. Indeed, we note that NFL games are consistently the highest rated programs on broadcast television. According to a recent NFL press release, average viewership of NFL games on broadcast television has increased 31 percent from 15.5 million in 2003 to 20.3 million in 2013. NFL games accounted for 34 of the 35 most-watched television shows among all programming during the 2013 NFL regular season and 22 of these games were watched by at least 25 million viewers. In addition, NFL games attract the young male demographic highly coveted by advertisers, and most consumers watch NFL games live, which is important to advertisers at a time when many viewers record programs and then skip the commercials when they watch them. The high viewership of NFL games on broadcast television stations (whether viewed by consumers over-the-air or via MVPD service) enables television networks and their local affiliates to command the highest possible advertising rates for spots during NFL games. In contrast, ESPN and NFL Network, the two pay TV networks that currently hold rights to distribute some NFL games, do not attract nearly the same level of viewership as the television networks. In 2013, ESPN's Monday Night Football averaged 13.7 million viewers and NFL Network's Thursday Night Football averaged 8.1 million viewers. ESPN and NFL Network therefore are unable to charge as much as broadcast networks for advertising spots aired during NFL games. Specifically, estimates for a 30-second spot aired during an NFL game on ESPN in 2013 range from $325,000 to $410,000, while estimates for a 30-second spot aired during an NFL game on broadcast television in 2013 range from $593,000 to $628,000. The substantial difference in viewership of NFL games on broadcast television stations and pay TV networks—and the corresponding difference in the advertising rates that broadcast television and pay TV networks charge for spots during NFL games—reflects, among other things, the fact that a significant number of consumers rely exclusively on broadcast television received over the air or subscribe only to basic MVPD service. According to the NFL, approximately 22.4 million households (almost 20 percent of all U.S. households with a television) relied solely on over-the-air broadcasting in 2013. The Commission recently found that, as of July 2012, approximately 11.1 million U.S. households with a television, which represented 9.7 percent of all television households at that time, relied exclusively on over-the-air television. In addition, a recent Media Bureau survey indicates that, as of January 1, 2013, 14 percent of cable subscribers took basic service only. Thus, in order for the NFL to earn almost as much from distributing its games via pay TV as it could from distributing its games via broadcast television stations, a significant percentage of the over-the-air television households would have to switch to pay TV and the households that subscribe only to basic cable service would have to upgrade to a higher tier of pay TV. While Dr. Singer suggests that if the NFL migrated all of its games to pay TV, some over-the-air television households would subscribe to pay TV in order to receive the games, he does not provide any estimate or evidence of the number of over-the-air television households that would switch to pay TV. There is also no evidence in the record as to the number of basic service tier only subscribers that could be expected to upgrade to a higher service tier if the NFL migrated its games to pay TV. Given the immense popularity of NFL football on broadcast television and the significant number of over-the-air television households and households that subscribe only to basic MVPD service, we think that it is highly unlikely that it would be more profitable for the NFL to distribute its games via pay TV than via broadcast television in the absence of the sports blackout rules. Furthermore, we note that the broadcast networks also value NFL programming highly because it provides them a platform to promote their prime-time lineups and boosts their ratings for prime-time and other network programming, which may allow broadcasters to demand higher retransmission consent fees from MVPDs. Thus, the broadcast networks will have a strong incentive to take measures to ensure that the NFL does not migrate its games to pay TV after their current contracts expire in 2022. Accordingly, we conclude that the NFL is unlikely to migrate a substantial number of its games to pay TV as a result of elimination of the sports blackout rules. Ultimately, we believe that the market, rather than the elimination of our sports blackout rules, will determine whether NFL football stays on broadcast television or moves to pay TV.

vi. Erosion of Economic Basis for Sports Blackout Rules

26. As previously discussed, the sports blackout rules were premised on the concern that the potential loss of gate receipts resulting from cable, OVS and satellite system importation of distant stations would lead the NFL and other sports leagues to refuse to sell their rights to sports events to distant stations, thereby substantially reducing the overall availability of sports programming to television viewers. We conclude that this concern is no longer valid in today's marketplace. As discussed above, blackouts are no longer relevant for sports other than professional football. With respect to NFL football, television revenues have become the dominant share of NFL revenues with a corresponding decrease in gate receipts as a proportion of overall revenues. Moreover, the number of sell-outs and total attendance at NFL games has increased substantially since 1975, reflecting an increase in the popularity of NFL games. These trends undermine the notion that the NFL would find it profitable to significantly restrict television broadcasts of its games to protect gate receipts and in-stadium revenues. Additionally, the record shows that the loss to consumers of their ability to view a game on local television when an NFL game is blacked

out exceeds any gain to the NFL in gate receipts and other in-stadium revenue as a result of a blackout and that the NFL is unlikely to migrate its games to pay TV as a result of elimination of the sports blackout rules because it would not be profitable for it to do so. Accordingly, based on all of these factors, we conclude that the economic considerations underlying the sports blackout rules are no longer valid and, therefore, the sports blackout rules are no longer needed to ensure that NFL games are widely available to the viewing public.

vii. Elimination of the Sports Blackout Rules

27. As explained in detail above, the sports blackout rules are no longer necessary to ensure the overall availability of NFL games to television viewers. Accordingly, we conclude that the sports blackout rules are outdated and should be eliminated. We recognize that eliminating our sports blackout rules is unlikely to end all sports blackouts. The NFL has stated that it most likely will continue its underlying blackout policy. Thus, consumers may still be unable to view locally blacked out NFL games despite repeal of our rules. Nevertheless, we conclude that it will serve the public interest to eliminate regulations that are no longer needed to serve their original purpose of ensuring that sports telecasts are widely available to the viewing public. If regulations are no longer serving a public interest purpose, they should be eliminated.

28. We also find that the public interest will be served by removing regulatory reinforcement of the NFL's blackout policy. With annual revenues totaling around $10 billion, the NFL is the most lucrative sports league in the world. In addition, most NFL teams are heavily subsidized by consumers through publicly funded stadiums and other tax benefits. Yet consumers—including elderly and disabled sports fans who are physically unable to attend games in person and sports fans who cannot afford to attend games due to high ticket prices or the economy—are sometimes unable to watch their favorite teams on television simply because a game is not completely sold out. We acknowledge that repeal of our sports blackout rules may not provide an immediate, direct benefit to these consumers. We find, however, that rather than fulfilling their intended goal of ensuring the widespread availability of sports programming to the viewing public, our sports blackout rules may be having the opposite effect by reinforcing and implicitly endorsing a private policy that deprives many consumers of the ability to watch on television the teams that they have subsidized through their tax dollars. Accordingly, we conclude that the public interest will be served by eliminating regulatory reinforcement and endorsement of the NFL's blackout policy.

C. Impact of Eliminating Sports Blackout Rules on NFL's Ability To Control Distribution of Its Games

29. The NFL claims that the sports blackout rules provide protections that cannot be achieved through other regulatory means or by private contract and thus without the rules, there would likely be a decrease in the amount of professional sports on broadcast television, thereby decreasing the availability of sports programming to the public. Specifically, the NFL and NAB raise a number of arguments as to why, as a result of the compulsory copyright licenses and contractual limitations, the NFL will be unable to control the distribution of its games or obtain blackout protection in the private marketplace—measures they claim are necessary to ''[help] keep sports programming on free, over-the-air broadcast television, available to all viewers.'' Below, we address these arguments and explain that the protections that will remain available to the NFL after repeal of the sports blackout rules will be adequate to ensure that broadcast television remains an attractive medium for distributing sports content. Accordingly, if the NFL (or any other sports league) chooses to continue its blackout policy, it must do so by relying on the same processes available to any other entity that wishes to protect its distribution rights in the marketplace.

i. NFL's Blackout Policy

30. Elimination of the sports blackout rules will not, by itself, preclude blackouts of future NFL games because the NFL's blackout policy, rather than the Commission's rules, determines whether games are blacked out on local television stations. The NFL's blackout policy is given effect through contractual arrangements between the NFL and the entities to which it grants distribution rights, including television networks and their affiliates, national sports networks such as ESPN and the NFL Network, and MVPDs. The Commission's sports blackout rules have merely reinforced these contractual arrangements by barring MVPDs from retransmitting, within the specified local blackout zone, games that the NFL has required local television stations to black out. Thus, repeal of the sports blackout rules will not remove the NFL's private blackout policy or likely end blackouts on local television stations. The NFL indicates that it likely will continue to enforce its blackout policy in the absence of the sports blackout rules. As we explain below, to the extent that the NFL chooses to continue its blackout policy, we find it to be in the public interest to require it to rely on the same avenues available to other market participants in order to protect its distribution rights rather than provide additional protections under sports blackout rules which no longer serve their original purpose of ensuring that sports telecasts are widely available to the viewing public.

ii. Compulsory Copyright Licenses

31. The compulsory copyright licenses granted under the Copyright Act permit cable systems and, to a more limited extent, satellite carriers to retransmit the signals of distant broadcast stations without obtaining the consent of owners of content carried on the stations, including the sports leagues whose games are carried on those stations, when the carriage of such stations is permitted under FCC rules. The NFL and NAB argue that, in the absence of the sports blackout rules, the compulsory copyright licenses will enable MVPDs to circumvent the private contractual agreements between the NFL and broadcasters and retransmit distant stations carrying locally blacked out games. This ''loss of control'' over program distribution, according to commenters, ''would threaten the continued distribution of major sporting events on free, over-the-air television'' thereby leading sports leagues to move the programming to ''pay platforms where the compulsory license would not undermine their ability to control distribution.'' We do not agree with the NFL and NAB that the Copyright Act, left unchecked by sports blackout rules, will make broadcast television less competitive in obtaining rights to popular sports programming and accelerate its migration to pay TV. With respect to satellite carriers, we expect that the limited nature of the compulsory license granted to satellite carriers by the Copyright Act may largely preclude them from retransmitting the signals of distant network stations carrying locally blacked out NFL games. Satellite carriers may retransmit the signals of distant network stations to subscribers only if local network stations are unavailable to the subscribers as part of a local-into-local satellite package and the subscribers are ''unserved'' by the

local network stations over the air. Satellite carriers currently offer local-into-local service to more than 99 percent of U.S. television households, including all markets that are home to NFL teams. Thus, with certain exceptions, it appears that satellite carriers may be precluded by statute from retransmitting distant network stations carrying locally blacked out NFL games. And although cable operators may in certain circumstances use the compulsory copyright license to retransmit the signals of distant broadcast stations without obtaining the consent of the content owners, including the sports leagues whose games are carried on those stations, we believe, as explained below, that the NFL can adequately protect its distribution rights through private contractual arrangements with broadcast networks and MVPDs.

iii. Retransmission Consent and Contractual Arrangements With Broadcasters

32. The NFL asserts that private contractual arrangements with broadcast networks will not adequately protect its program distribution rights and, therefore, eliminating the sports blackout rules will result in the migration of sports programming from broadcast television to pay TV, thereby decreasing public access to games. We disagree. As explained above, we believe that it would not be in the NFL's economic interest to remove their games from broadcast television. And in any event, as explained below, the retransmission consent requirement and its contractual arrangements with broadcasters will provide the NFL with adequate protection to control the distribution of its programming following elimination of the sports blackout rules. When the cable sports blackout rule was first adopted nearly 40 years ago, the Communications Act prohibited a broadcast station from rebroadcasting another station's signal without the latter's permission, but did not prohibit cable retransmission of broadcast stations without permission. In the 1992 Cable Act, however, Congress extended this restriction on unauthorized retransmission of broadcast stations to cable operators. The restriction on unauthorized retransmission of broadcast stations was later extended to all MVPDs. Thus, with limited exceptions, MVPDs today may not carry a broadcaster's signal without the permission of the broadcaster. Accordingly, the retransmission consent requirement helps to ensure that broadcast television remains an attractive medium for distributing sports content.

33. The NFL argues that without sports blackout rules, private contracts with broadcasters will not adequately protect its distribution rights. According to the NFL, it is unable to prevent contractually network affiliates from allowing their signals to be imported into a market where an NFL game has been blacked out because it lacks direct privity of contract with the affiliates; its contracts with the broadcast networks do not contain provisions requiring the networks to ensure that their affiliates prohibit MVPDs from retransmitting blacked out NFL games into a local market; and the networks have no incentive to reopen these contracts to add such a provision. A review of network affiliation agreements on file with the Commission, however, indicates that many existing network affiliation agreements already include provisions prohibiting the affiliate from allowing its signal to be retransmitted by an MVPD in a distant market. It appears, therefore, that such provisions are likely standard clauses routinely included in network affiliation agreements. Given that many, if not all, existing network affiliation agreements effectively provide the NFL with blackout protection, we find that the NFL's assertion that the networks would be required to amend their affiliation agreements with each of their nearly 200 local network affiliates to adequately protect its distribution rights (e.g., include blackout protection) is at least greatly overstated.

34. To the extent that any existing network affiliation agreements do not already include such provisions, the record suggests that the NFL has the ability to adequately protect its rights (e.g., obtain blackout protection) through negotiations with broadcast networks in the private marketplace. Contrary to the NFL's assertion, the record shows that the networks would have a very strong incentive to reopen their contracts with the NFL and affiliates to include blackout protection for the NFL—namely, to increase the chances that each network will be able to continue airing NFL games after 2022, when their existing contracts with the NFL expire. For example, were CBS to reopen its contracts but NBC fail to take this step, presumably CBS would enjoy an advantage over NBC in the next competition for NFL television rights. As discussed above, NFL games are consistently the most highly-rated programs on broadcast television, which translates into the highest possible advertising revenues for the networks. The popularity of the NFL games and the steep ad rates that these games command appear to provide the networks ample motivation to reopen their contracts with the NFL to include blackout protection, where such protection is needed. In addition, NFL programming is highly valuable to the broadcast networks because it provides them a platform to promote their prime-time lineups and boosts their ratings for prime-time and other network programming. Further, while the NFL contends that an affiliate would have no incentive to open its existing affiliation agreement for early renegotiation to accept such a provision, the record shows that the affiliates will likewise be highly motivated to keep the NFL games on their network. In any event, regardless of the NFL's ability to obtain blackout protection without the rules, we conclude that there is no public interest justification for retaining the rules because we find that there is little risk that sports telecasts on broadcast television will be significantly curtailed without them.

iv. Contractual Arrangements With MVPDs

35. The NFL similarly asserts that it cannot adequately protect its program distribution rights through its private contractual agreements with MVPDs and, therefore, repeal of the sports blackout rules may force it to move its games from broadcast television to pay TV, resulting in reduced public access to NFL games. But so long as the NFL is able to protect its program distribution rights through agreements with broadcasters, it need not do so through agreements with MVPDs. In any event, contrary to the NFL's arguments, we observe that the NFL also has the ability to obtain blackout protection through private contractual arrangements with MVPDs. The NFL indicates that it has contracts with nine major operators of cable, satellite, and telecommunications services and a national cooperative that represents many smaller MVPDs that distribute the NFL Network and NFL RedZone, but asserts that these contracts contain no provisions that prohibit the MVPDs from importing a distant signal of a non-NFL Network game into a market where that game has been blacked out on the local broadcast station. The NFL claims that without such protection, it cannot accomplish the goals of the sports blackout rules through these contracts. The NFL argues that it took many years of difficult negotiations with the MVPDs to achieve widespread carriage of the NFL Network and NFL RedZone and that it sees no incentives for the MVPDs to reopen these contracts—which

typically run for seven to nine years—and accept an unrelated, collateral provision that limits their ability to import a distant signal of a local non-NFL Network game that has been blacked out. Based on the record gathered in this proceeding, we believe the NFL's claimed difficulty is overstated. We recognize that contract negotiations can be difficult. Nevertheless, the record shows that the NFL is sufficiently positioned to incentivize the MVPDs to reopen their contracts and include blackout provisions to protect the NFL's distribution rights of its games shown on broadcast television if necessary. The NFL Network is one of the fastest growing cable networks, and is highly valued by MVPDs. Accordingly, we expect that MVPDs will be motivated to reopen their contracts and discuss inclusion of a blackout provision, if the NFL offers adequate incentives. Even if the MVPDs are unwilling to do so, however, as discussed above, we find that there is little risk that the NFL will move its games from broadcast television to pay TV.

36. We note, moreover, that the NFL offers no explanation as to why MVPDs currently comply with the NFL's policy of blacking out games that are not sold out throughout the NFL clubs' home territories, which generally extend well beyond the 35-mile zone of protection afforded by the Commission's sports blackout rules. The NFL has more broadly defined a club's ''home territory'' to include the surrounding territory 75 miles in every direction from the exterior corporate limits of the city in which the club is located. In addition, the NFL has defined one or more ''secondary markets'' for most teams, which include any network affiliate station(s) whose signal can be seen within 75 miles of the game site. Under the NFL's blackout policy, if a game is not sold out within 72 hours prior to kickoff, the game is blacked out on network affiliates in both the team's home market and any secondary markets. And notwithstanding the fact that the Commission's sports blackout rules only provide a 35-mile zone of protection, MVPDs apparently comply with the NFL's policy of blacking out games in both the home and secondary markets. Such blackouts clearly go well beyond the scope of what is required under the Commission's sports blackout rules and indicate that the NFL has the ability to obtain even greater blackout protection from MVPDs in the private marketplace than that afforded under the Commission's sports blackout rules. In any event, regardless of the NFL's ability to obtain blackout protection without the rules, we conclude that there is no public interest justification for retaining the rules because we find that there is little risk that sports telecasts will not be widely available on television without them.

v. Compulsory License and Retransmission Consent Fees

37. The NFL and NAB argue that the current copyright royalty system would not discourage all cable systems from retransmitting distant signals of locally blacked out games. We expect, however, that even if cable operators are able to obtain consent to retransmit a distant signal of a locally blacked out game, compulsory license fees, along with retransmission consent fees, may make it unprofitable for them to do so in many cases. The copyright royalty system is highly complex and the cost of importing distant signals varies widely by cable system, depending on the size of the cable system and the number of distant signals carried. As NCTA and SFC point out, cable systems that retransmit a distant signal for a single day, or even a single sports event, must pay royalties for the signal as if it had been carried for the entire six-month compulsory license accounting period. Thus, in some cases, compulsory license fees alone may make it prohibitively expensive for cable systems to retransmit a distant signal carrying a locally blacked out sports event.

38. Additionally, we note that retransmission consent fees have risen sharply in recent years, and the trend is expected to continue. The rising costs for sports rights have been a significant factor in broadcasters' demands for larger retransmission consent fees. NFL games are among the most popular and costly programming on television. Moreover, unlike a situation where a station cannot reach an agreement on retransmission consent with a cable system for in-market carriage—resulting in a loss of the station's local audience and a corresponding loss in local advertising revenues—a distant station does not risk losing any local advertising revenues if it cannot reach an agreement with a cable system for out-of-market carriage; thus, a distant station would be in a very good bargaining position vis-à-vis the cable system to demand high retransmission consent fees. Accordingly, we expect that retransmission consent fees charged by distant stations for retransmission of locally blacked out NFL games would be substantial and, along with the compulsory license fees, may make it cost prohibitive for cable systems to carry such distant stations in at least many situations. In any event, regardless of the NFL's ability to obtain blackout protection without the rules, we conclude that there is no public interest justification for retaining the rules because we find that there is little risk that sports telecasts will not be widely available on television without them.

D. Local Impact of Eliminating Sports Blackout Rules

39. We now examine the impact of eliminating the sports blackout rules on other interested parties. We conclude that eliminating the sports blackout rules will not adversely impact broadcasters, consumers, or local businesses.

i. Impact on Localism

40. We conclude that the elimination of the sports blackout rules is unlikely to adversely impact localism in broadcasting. NAB asserts that elimination of the sports blackout rules will result in decreased advertising revenues for local stations in markets prone to NFL blackouts, such as San Diego, Jacksonville, Buffalo, and Cincinnati, which in turn will diminish those stations' ability to provide quality programming, including sports programming. As explained in detail above, however, the record demonstrates that the sports blackout rules are no longer needed to ensure that sports programming is widely available to the viewing public. In addition, elimination of the sports blackout rules is unlikely to accelerate the migration of NFL games from over-the-air to pay TV in the near future or in the longer term. We also note that the record demonstrates that the NFL will be able to achieve exclusivity following the repeal of the sports blackout rules, if it chooses to do so, thus maintaining the attractiveness of NFL games to advertisers. Further, we note that it may benefit localism if the NFL ended its blackout policy because local stations in markets prone to blackouts may carry more games and earn more advertising revenues. Therefore, we conclude that retention of the sports blackout rules is not necessary to preserve or promote localism.

ii. Impact on Consumers

41. We acknowledge that repeal of the sports blackout rules may not provide consumers relief from local blackouts of NFL games because the NFL may choose to continue its private blackout policy. The NFL has indicated that it will likely still require non-sold-out games to be blacked out locally, and consumers will

be unable to watch those games on either broadcast television or pay TV. We also conclude, however, that elimination of the sports blackout rules is unlikely to harm consumers. As we discuss at length above, the record indicates that elimination of the sports blackout rules is unlikely to accelerate the migration of NFL games from free, over-the-air television to pay TV. Since the NFL is in the first year of nine-year contracts with the CBS, Fox, and NBC television networks to air NFL games on broadcast television, there will be no additional migration of NFL games to pay TV through at least 2022.

42. Additionally, we find unconvincing the arguments that elimination of the sports blackout rules will harm consumers by causing NFL teams to raise ticket prices. The NFL's economist expert, Dr. Singer, asserts that the sports blackout rules provide its teams with an economic incentive to price tickets below the levels that would exist if teams were maximizing gate receipts only. Dr. Singer states that even if a team could increase its total gate receipts by raising ticket prices, the team likely would keep prices low in an effort to fill seats and avoid a blackout because blackouts result in loss of advertising revenues. Thus, he avers that elimination of the sports blackout rules likely would lead to higher ticket prices because sports teams would no longer have an incentive to keep attendance above a certain level; instead, their ticket pricing strategy would focus on maximizing gate receipt revenue. As the Sports Economists observe, however, there is no empirical support for this argument and ''there is no logical connection between the [NFL's blackout] policy and pricing.'' In addition, Dr. Singer concedes that ''[e]conomists have offered additional hypotheses to explain why NFL teams refrain from raising ticket prices, including public pressure, the need to establish long-term relationships with fans, and the desire to maximize in-stadium revenues, such as concessions and parking. . . . It is plausible that some or all of these considerations also play a role in tempering ticket prices. . . .'' Dr. Singer makes no attempt to quantify the marginal impact of the sports blackout rules on ticket prices given these other factors. Moreover, as the Sports Economists point out, an NFL team can take other measures to avoid blackouts, such as reducing the prices of unsold seats and removing seats or covering them with tarps to reduce a stadium's seating capacity. Furthermore, to the extent the NFL chooses to continue its blackout policy through other existing regulations and through private contractual agreements, teams will retain their incentive to limit increases in ticket prices.

43. Dr. Singer also asserts that the sports blackout rules benefit national television viewers because ''[s]old-out stadiums populated by boisterous, visible fans make telecasts of NFL games more appealing to the marginal, national fan, thereby improving fans' viewing experiences, and increasing the value of NFL programming'' to national audiences and therefore to advertisers. As the Sports Economists observe, however, the difference between a fully sold-out stadium and a nearly full stadium subject to a local blackout due to failure to sell out is likely not very significant in terms of appeal to national audiences and advertisers, and it is not technologically difficult for broadcasters to avoid showing empty portions of non-sold-out stadiums. Further, we note that the NFL's blackout policy allows teams to cover seats with tarps in order to reduce stadium capacity and thereby avoid blackouts, and to reduce the percentage of tickets that must be sold in order to avoid a blackout to as low as 85 percent (thereby leaving up to 15 percent of non-premium seats empty). In addition, the NFL does not count non-sold-out premium seats for purposes of its blackout policy. We find it difficult to reconcile these features of the NFL's blackout policy—which allow teams to leave significant numbers of seats empty without facing a blackout—with its argument that the sports blackout rules are needed to make telecasts of NFL games more appealing to audiences and advertisers.

iii. Impact on Local Businesses and Economies

44. Several commenters express concern that elimination of the sports blackout rules will adversely impact local businesses and economic activity in and surrounding NFL stadiums by removing incentives to fill the stadiums. These commenters assert that NFL stadiums and related infrastructure investment have helped to create jobs, support businesses, and generate tax revenue and are important sources of employment, growth, and development for local communities. We disagree that eliminating the sports blackout rules will remove incentives for NFL clubs to sell out stadiums. In-stadium revenues (e.g., concessions, parking) are a significant source of revenue for NFL clubs and will provide them an economic incentive to fill their stadiums. Additionally, if the NFL chooses to continue its blackout policy, it will be able to control the distribution of its games through other existing regulations or through contractual arrangements in the private marketplace. Accordingly, repeal of the sports blackout rules will not create a disincentive for NFL teams to fill their stadiums or have a negative impact on local economies.

Other Issues

45. We reject the Baseball Commissioner's assertion that the sports blackout rules remain necessary to protect the ability of MLB clubs to license to RSNs the exclusive right to televise home games. The Baseball Commissioner states that the sports blackout rules prevent MVPDs from exploiting the compulsory copyright license by importing distant broadcasts of games that MLB clubs have licensed to RSNs such as MASN and YES Network to televise on an exclusive basis. According to the Baseball Commissioner, the ability to protect these exclusive rights under the sports blackout rules incentivizes RSNs, as exclusive licensees, to televise the games in their local markets and incentivizes MLB clubs to license the distribution of games on distant broadcast stations (i.e., in the away team's local market), thereby maintaining the overall availability of sports programming to television viewers. We note, however, that the sports blackout rules were not intended to protect the exclusive distribution rights granted by individual sports teams to RSNs, nor were they intended to prevent dual telecasts of the same game in the same local market. Rather, they were intended to promote the wide availability of sports events on television, and the Baseball Commissioner did not submit into the record any economic evidence or analysis that it would be profitable for baseball teams to curtail the availability of games on television if the blackout rules are repealed. Accordingly, we see no need to retain the sports blackout rules to protect RSN exclusivity. Additionally, the Baseball Commissioner's proposal that we ''strengthen'' the sports blackout rules by prohibiting MVPDs from importing a distant station carrying a game that is being carried live on a local broadcast station is beyond the scope of this proceeding and we decline to consider it.

IV. Procedural Matters

A. Final Regulatory Flexibility Act Analysis

46. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the Notice of Proposed Rulemaking (*NPRM*) in this proceeding. The Federal Communications Commission (Commission) sought written public comment on the proposals in the *NPRM,* including comment on the IRFA. The Commission received no comments on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Report and Order

47. The Commission's sports blackout rules prohibit cable operators, satellite carriers, and open video systems (OVS) from retransmitting, within a protected local blackout zone, the signal of a distant broadcast station carrying a live sporting event if the event is not available live on a local television broadcast station. The Commission first adopted a sports blackout rule for cable operators in 1975, when game ticket sales were the primary source of revenue for sports leagues. This rule was intended to ensure that the potential loss of gate receipts resulting from cable system importation of distant stations did not lead sports clubs to refuse to sell their rights to sports events to distant stations, which would reduce the overall availability of sports programming to television viewers. At the direction of Congress, the Commission later applied the cable sports blackout rule to open video systems and then to satellite carriers to provide parity between cable and newer video distributors.

48. Sports leagues' blackout policies, rather than the Commission's rules, determine which sports events are blacked out on local television stations. These policies are given effect through contractual arrangements negotiated between the leagues or individual teams that hold the rights to the games and the entities to which they grant distribution rights, including television networks, local television broadcast stations, Regional Sports Networks (RSNs), and multichannel video programming distributors (MVPDs). The Commission's rules merely supplement these contractual relationships by barring MVPDs from retransmitting, within the local blackout zone, games that the sports leagues or individual teams require local television stations to black out.

49. In 2012, the Media Bureau issued a Public Notice to request comment on a Petition for Rulemaking seeking elimination of the sports blackout rules. The record amassed in response to the Public Notice suggested that, given the substantial changes in the sports industry in the 40 years since the sports blackout rules were originally adopted, the sports blackout rules may no longer be necessary to ensure the overall availability of sports programming to the general public. The Commission subsequently released an *NPRM* seeking comment whether the sports blackout rules have become outdated due to marketplace changes since their adoption and whether modification or elimination of those rules is appropriate.

50. Based on the record before us, we conclude that the sports blackout rules are no longer necessary to ensure that sports programming is widely available to the public. The sports industry has evolved dramatically in the four decades since the cable sports blackout rule was adopted. The record confirms that the sports blackout rules are no longer relevant for sports other than professional football. With respect to NFL football, television revenues have become the dominant share of NFL revenues with a corresponding decrease in gate receipts. Moreover, the number of sell-outs and total attendance at NFL games has increased substantially since 1975, reflecting an increase in the quality and popularity of NFL games. These trends undermine the notion that the NFL would find it profitable to significantly restrict television broadcasts of its games to protect gate receipts and in-stadium revenues. Additionally, the loss to consumers of their ability to view the game on television when an NFL game is blacked out exceeds any gain in gate receipts and other revenue that may accrue to the NFL as a result of a blackout, and the record indicates that the NFL is unlikely to migrate its games to pay TV following elimination of sports blackout rules because it would not be profitable for it to do so. Accordingly, based on all of these factors, we conclude that the economic considerations underlying the sports blackout rules are no longer valid and the sports blackout rules therefore are no longer needed to ensure that NFL games are widely available to television viewers.

51. We recognize that eliminating our sports blackout rules is unlikely to end all sports blackouts. The NFL has stated that it most likely will continue its underlying blackout policy. Thus, consumers may still be unable to view locally blacked out NFL games despite repeal of our rules. Nevertheless, we conclude that it will serve the public interest to eliminate regulations that are no longer needed to serve their original purpose of ensuring that sports telecasts are widely available to the viewing public. We also find that the public interest will be served by removing regulatory reinforcement (and the Commission's implicit endorsement) of the NFL's blackout policy. Although the NFL is the most lucrative sports league in the world with annual revenues totaling around $10 billion and most NFL teams are heavily subsidized by consumers through publicly funded stadiums and other tax benefits, consumers are sometimes unable to watch their favorite teams on television simply because a game is not completely sold out. While repeal of our sports blackout rules may not provide an immediate, direct benefit to these consumers, rather than fulfilling their intended goal of ensuring the widespread availability of sports programming to the general public, our sports blackout rules may be having the opposite effect by reinforcing a private policy that deprives many consumers of the ability to watch on television the teams that they have subsidized through their tax dollars.

52. To the extent that the NFL or any other sports league decides to continue their blackout policies following elimination of the sports blackout rules, it will no longer be entitled to additional protections under our sports blackout rules, but instead must rely on the same processes available to any other entities that wish to protect their distribution rights in the private marketplace. While the NFL argues that the sports blackout rules provide protections that cannot be achieved through other regulatory means or by private contract, we find that the NFL will be able to protect its distribution rights following elimination of the sports blackout rules through other existing regulations and through private contractual arrangements. First, the limited nature of the satellite compulsory license will largely preclude satellite carriers from retransmitting distant stations carrying locally blacked out NFL games. In addition, the retransmission consent requirement and the NFL's contractual arrangements with broadcasters will provide the NFL with the means to control the distribution of its programming. Specifically, we note that many existing network affiliation agreements already include provisions prohibiting the affiliate from allowing its signal to be retransmitted by an

MVPD in a distant market and some network affiliation agreements also include provisions giving the NFL broad discretion to limit or condition an affiliate's distribution rights to NFL games. To the extent that any network affiliation agreements do not include such provisions, the record indicates that the NFL can obtain blackout protection through negotiations with the broadcast networks in the private marketplace. The NFL also has the ability to obtain blackout protection through private contractual negotiations with MVPDs. Moreover, we note that MVPDs currently comply with the NFL's policy of blacking out games that are not sold out throughout the NFL clubs' ''home territories,'' which generally extend well beyond the 35-mile zone of protection afforded by the Commission's sports blackout rules. This indicates that the NFL has the ability to obtain greater protection than that provided by the Commission's sports blackout rules in the private marketplace, should it choose to do so. We further observe that retransmission consent fees and compulsory copyright license fees may, to some extent, make it unprofitable for cable operators to take advantage of the compulsory copyright licenses to retransmit distant stations carrying locally blacked out NFL games.

53. Finally, we conclude that elimination of the sports blackout rules will not adversely affect broadcasters, consumers, or local businesses. Localism is unlikely to be adversely affected by repeal of the sports blackout rules. In addition, elimination of the sports blackout rules will not harm consumers by forcing the NFL to migrate its games to pay TV or by causing the NFL to raise its ticket prices. Moreover, eliminating the sports blackout rules will not harm local businesses and local economies in areas surrounding NFL stadiums by removing incentives to fill the stadiums.

Summary of Significant Issues Raised in Response to the IRFA

54. No comments were filed in response to the IRFA. Additionally, pursuant to the Small Business Jobs Act of 2010, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration, and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

55. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted in the *Order.* The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below are descriptions of the small entities that are directly affected by the rules adopted in the *Order,* including, where feasible, an estimate of the number of such small entities.

56. *Wired Telecommunications Carriers.* The 2007 North American Industry Classification System (''NAICS'') defines ''Wired Telecommunications Carriers'' as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for wireline firms within the broad economic census category, ''Wired Telecommunications Carriers.'' Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities.

57. *Cable Television Distribution Services.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers, which was developed for small wireline businesses. This category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' The SBA has developed a small business size standard for this category, which is: All such businesses having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, we estimate that the majority of such businesses can be considered small entities.

58. *Cable Companies and Systems.* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data shows that there were 1,100 cable companies at the end of December 2012. Of this total, all but ten cable operators nationwide are small under this size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,945 cable systems nationwide. Of this total, 4,380 cable systems have less than 20,000 subscribers, and 565 systems have 20,000 or more subscribers, based on the same records. Thus, under this standard, we estimate that most cable systems are small entities.

59. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator

that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There are approximately 56.4 million incumbent cable video subscribers in the United States today. Accordingly, an operator serving fewer than 564,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but ten incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

60. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.'' The SBA has created the following small business size standard for such businesses: Those having $35.5 million or less in annual receipts. The 2007 U.S. Census indicates that 2,076 television stations operated in that year. Of that number, 1,515 had annual receipts of $10,000,000 dollars or less, and 561 had annual receipts of more than $10,000,000. Since the Census has no additional classifications on the basis of which to identify the number of stations whose receipts exceeded $35.5 million in that year, the Commission concludes that the majority of television stations were small under the applicable SBA size standard.

61. Apart from the U.S. Census, the Commission has estimated the number of licensed commercial television stations to be 1,387. In addition, according to Commission staff review of the BIA Advisory Services, LLC's Media Access Pro Television Database on March 28, 2012, about 950 of an estimated 1,300 commercial television stations (or approximately 73 percent) had revenues of $14 million or less. We therefore estimate that the majority of commercial television broadcasters are small entities.

62. We note, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent.

63. In addition, the Commission has estimated the number of licensed noncommercial educational television stations to be 395. These stations are non-profit, and therefore considered to be small entities.

64. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS, by exception, is now included in the SBA's broad economic census category, Wired Telecommunications Carriers, which was developed for small wireline businesses. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small entities. However, the data we have available as a basis for estimating the number of such small entities were gathered under a superseded SBA small business size standard formerly titled ''Cable and Other Program Distribution.'' The definition of Cable and Other Program Distribution provided that a small entity is one with $12.5 million or less in annual receipts. Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and DISH Network. Each currently offer subscription services. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined under the superseded SBA size standard would have the financial wherewithal to become a DBS service provider.

65. *Satellite Master Antenna Television (SMATV) Systems, also known as Private Cable Operators (PCOs).* SMATV systems or PCOs are video distribution facilities that use closed transmission paths without using any public right-of-way. They acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. SMATV systems or PCOs are now included in the SBA's broad economic census category, Wired Telecommunications Carriers, which was developed for small wireline businesses. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 show that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small entities.

66. *Home Satellite Dish (HSD) Service.* HSD or the large dish segment of the satellite industry is the original satellite-to-home service offered to consumers, and involves the home reception of signals transmitted by satellites operating generally in the C-band frequency. Unlike DBS, which uses small dishes, HSD antennas are between four and eight feet in diameter and can receive a wide range of unscrambled (free) programming and scrambled programming purchased from program packagers that are licensed to facilitate subscribers' receipt of video programming. Because HSD provides subscription services, HSD falls within the SBA-recognized definition of Wired Telecommunications Carriers. The SBA has developed a small business size standard for this category, which is: all such businesses having 1,500 or fewer employees. Census data for 2007 show that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, the majority of such

businesses can be considered small entities.

67. *Open Video Systems.* The open video system (OVS) framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is ''Wired Telecommunications Carriers.'' The SBA has developed a small business size standard for this category, which is: All such businesses having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees. Therefore, under this size standard, we estimate that the majority of these businesses can be considered small entities. In addition, we note that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (BSPs) are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the other entities authorized to provide OVS, some of which may not yet be operational. Thus, again, at least some of the OVS operators may qualify as small entities.

68. *Cable and Other Subscription Programming.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. . . . These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.'' The SBA has developed a small business size standard for this category, which is: All such businesses having $35.5 million dollars or less in annual revenues. Census data for 2007 show that there were 659 establishments that operated that year. Of that number, 462 operated with annual revenues of $9,999,999 dollars or less. One hundred ninety-seven (197) operated with annual revenues of between $10 million and $100 million or more. Thus, under this size standard, the majority of such businesses can be considered small entities.

i. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

69. The *Report and Order* eliminates the sports blackout rules for cable operators, satellite carriers, and open video systems. The *Report and Order* does not adopt any new reporting, recordkeeping, or compliance requirements for small entities.

Steps Taken To Minimize Economic Impact on Small Entities and Significant Alternatives Considered

70. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The *IRFA* invited comment on issues that had the potential to have a significant impact on some small entities.

71. To the extent that the NFL or any other sports league decides to continue it blackout policy following elimination of the sports blackout rules, it can protect its distribution rights through other existing regulations and through private contractual arrangements. Because the NFL can protect its distribution rights through other existing regulations and through private contractual arrangements, repeal of the sports blackout rules will not adversely impact broadcasters or other affected entities as identified above, including small entities, by decreasing advertising revenues for local stations in markets prone to NFL blackouts or leading the NFL to migrate its games from broadcast television to pay TV.

ii. Report to Congress

72. The Commission will send a copy of the *Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. The *Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

B. Paperwork Reduction Act

73. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

C. Additional Information

74. For additional information on this proceeding, contact Kathy Berthot, *Kathy.Berthot@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120.

V. Ordering Clauses

75. Accordingly, *it is ordered* that, pursuant to the authority found in Sections 1, 4(i), 4(j), 303(r), 339(b), and 653(b) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), 339(b), 573(b), this Report and Order *is adopted,* effective thirty (30) days after the date of publication in the **Federal Register**.

76. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order in MB Docket No. 12–3, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

77. *It is further ordered* that the Commission *shall send* a copy of this Report and Order in MB Docket No. 12–3 in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572 and 573.

■ 2. Amend § 76.110 by revising the first sentence to read as follows:

§ 76.110 Substitutions.

Whenever, pursuant to the requirements of the syndicated exclusivity rules, a community unit is required to delete a television program on a broadcast signal that is permitted to be carried under the Commission's rules, such community unit may, consistent with these rules, substitute a program from any other television broadcast station. * * *

§ 76.111 [Removed]

■ 3. Remove § 76.111.

■ 4. Amend § 76.120 by revising the heading and removing paragraph (e)(3) to read as follows:

§ 76.120 Network non-duplication protection and syndicated exclusivity rules for satellite carriers: Definitions.

* * * * *

§§ 76.127 and 76.128 [Removed]

■ 5. Remove §§ 76.127 and 76.128.

■ 6. Amend § 76.130 by revising the first sentence to read as follows:

§ 76.130 Substitutions.

Whenever, pursuant to the requirements of the network program non-duplication or syndicated program exclusivity rules, a satellite carrier is required to delete a television program from retransmission to satellite subscribers within a zip code area, such satellite carrier may, consistent with this subpart, substitute a program from any other television broadcast station for which the satellite carrier has obtained the necessary legal rights and permissions, including but not limited to copyright and retransmission consent. * * *

§ 76.1506 [Amended]

■ 7. Amend § 76.1506 by removing paragraph (m) and redesignating paragraphs (n) and (o) as paragraphs (m) and (n).

[FR Doc. 2014–24612 Filed 10–23–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2 and 4

[FAC 2005–77; FAR Case 2012–023; Correction; Docket 2012–0023, Sequence 1]

RIN 9000–AM60

Federal Acquisition Regulation; Uniform Procurement Identification; Correction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule; Correction.

SUMMARY: DoD, GSA, and NASA are issuing a correction to FAR Case 2012–023; Uniform Procurement Identification (Item III), which was published in the **Federal Register** at 79 FR 61739, October 14, 2014.

DATES: *Effective:* November 13, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at 202–501–0650, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–77; FAR Case 2012–023; Correction.

SUPPLEMENTARY INFORMATION:

Correction

In rule FR Doc. 2014–24240 published in the **Federal Register** at 79 FR 61739, October 14, 2014, make the following correction:

On page 61741, in the first column, second line, correct ''4.601'' to read ''4.1601''.

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

Dated: October 21, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2014–25416 Filed 10–23–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 130717632–4285–02]

RIN 0648–XD504

International Fisheries; Pacific Tuna Fisheries; 2014 Bigeye Tuna Longline Fishery Closure in the Eastern Pacific Ocean

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

ACTION: Temporary rule; fishery closure.

SUMMARY: Because the 2014 catch limit of 500 metric tons is expected to be reached, NMFS is closing the U.S. pelagic longline fishery for bigeye tuna for vessels over 24 meters in overall length in the eastern Pacific Ocean (EPO) through December 31, 2014. This action is necessary to prevent the fishery from exceeding the applicable catch limit established by the Inter-American Tropical Tuna Commission (IATTC) in Resolution C–13–01, which governs tuna conservation in the EPO from 2014–2016.

DATES: Effective October 31, 2014, through December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Rachael Wadsworth, NMFS West Coast Region, 562–980–4036.

SUPPLEMENTARY INFORMATION: Pelagic longline fishing in the EPO is managed, in part, under the Tuna Conventions Act of 1950 (Act), 16 U.S.C. 951–962. Under the Act, NMFS must publish regulations to carry out recommendations of the Inter-American Tropical Tuna Commission (IATTC) that have been approved by the Department of State (DOS). The United States is a member of the IATTC, which was established under the Convention for the Establishment of an Inter-American Tropical Tuna Commission signed in 1949 (Convention) to provide an international agreement to ensure the effective international conservation and management of highly migratory species of fish in the IATTC Convention Area.

The IATTC Convention Area includes the waters of the eastern Pacific Ocean (EPO) bounded by the coast of the Americas, the 50° N. and 50° S. parallels, and the 150° W. meridian. Regulations governing fishing by U.S. vessels in accordance with the Act appear at 50 CFR part 300, subpart C. Those regulations implement recommendations of the IATTC for the

conservation and management of highly migratory fish resources in the EPO.

The IATTC adopted Resolution C–13–01, which establishes an annual catch limit of bigeye tuna for large U.S. longline vessels. For calendar years 2014, 2015, and 2016, the catch of bigeye tuna by longline gear in the IATTC Convention Area by fishing vessels of the United States that are over 24 meters in overall length is limited to 500 metric tons per year. With the approval of the DOS, NMFS implemented this catch limit by notice-and-comment rulemaking under the Act (79 FR 19487, April 9, 2014, and codified at 50 CFR 300.25).

NMFS monitored the retained catches of bigeye tuna using logbook data submitted by vessel captains and other available information from the longline fisheries in the IATTC Convention Area, and determined that the 2014 catch limit is expected to be reached on October 31, 2014. In accordance with 50 CFR 300.25(b), this **Federal Register** notice announces that the U.S. longline fishery for bigeye tuna in the IATTC Convention Area will be closed for vessels over 24 meters in overall length starting on October 31, 2014, through the end of the 2014 calendar year. The 2015 fishing year is scheduled to open on January 1, 2015. The bigeye tuna catch limit for longline vessels over 24 meters in overall length for 2015 will be 500 metric tons.

During the closure, a U.S. fishing vessel over 24 meters in overall length may not be used to retain on board, transship, or land bigeye tuna captured by longline gear in the IATTC Convention Area, except as follows:

- Any bigeye tuna already on board a fishing vessel upon the effective date of the prohibitions may be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided that they are landed within 14 days after the prohibitions become effective, that is, by November 14, 2014.
- In the case of a vessel that has declared to NMFS that the current trip type is shallow-set longlining, the 14-day limit is waived, but the number of bigeye tuna retained on board, transshipped, or landed must not exceed the number on board the vessel upon the effective date of the prohibitions, as recorded by the NMFS observer on board the vessel.
- Bigeye tuna caught by longline gear used on a vessel of the United States over 24 meters in the IATTC Convention Area may not be transshipped to a fishing vessel unless that fishing vessel is operated in compliance with a valid permit issued under 50 CFR 660.707 or 665.801 (the rule implementing Resolution C–13–1 incorrectly cited § 665.21, which has been re-codified as § 665.801).
- A fishing vessel of the United States over 24 meters, other than a vessel for which a declaration has been made to NMFS that the current trip is shallow-setting, may not be used to fish in the Pacific Ocean using longline gear both inside and outside the IATTC Convention Area during the same fishing trip, with the exception of a fishing trip during which the prohibitions were put into effect.
- If a vessel over 24 meters that is not on a declared shallow-set trip is used to fish in the Pacific Ocean using longline gear outside the IATTC Convention Area and the vessel enters the IATTC Convention Area at any time during the same fishing trip, the longline gear on the fishing vessel must be stowed in a manner so as not to be readily available for fishing. Specifically, the hooks, branch lines, and floats must be stowed and not available for immediate use, and any power-operated mainline hauler on deck must be covered in such a manner that it is not readily available for use.

Classification

There is good cause to waive prior notice and opportunity for public comment pursuant to 5 U.S.C. 553(b)(B). This action is based on the best available information and is necessary for the conservation and management of bigeye tuna. Compliance with the notice and comment requirement would be impracticable and contrary to the public interest because NMFS would be unable to ensure that the 2014 bigeye tuna catch limit applicable to large longline vessels is not exceeded. The annual catch limit is an important mechanism to ensure that the United States complies with its international obligations in preventing overfishing and managing the fishery at optimum yield. Moreover, NMFS previously solicited public comments on the rule that established the catch limit (79 FR 19487, April 9, 2014), including a provision for issuing a notice to close the fishery, if necessary, to prevent exceeding the catch limit. For the same reasons, there is good cause to establish an effective date less than 30 days after date of publication of this notice.

This action is required by § 300.25(b) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 951–962 *et seq.*

Dated: October 15, 2014.

Alan D. Risenhoover,

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

[FR Doc. 2014–25293 Filed 10–21–14; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140624530–4848–01]

RIN 0648–XD354

Revisions to Framework Adjustment 51 to the Northeast Multispecies Fishery Management Plan and Sector Annual Catch Entitlements; Updated Annual Catch Limits for Sectors and the Common Pool for Fishing Year 2014

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

ACTION: Temporary final rule; adjustment to specifications.

SUMMARY: Based on the final Northeast multispecies sector rosters, we are adjusting the fishing year 2014 specification of annual catch limits for commercial groundfish vessels, as well as sector annual catch entitlements for groundfish stocks by adding carried over catch from fishing year 2013 and reducing quotas for some stocks by the amount of overages exceeding their limits in fishing year 2013, among other adjustments. This revision to fishing year 2014 catch levels is necessary to account for changes in the number of participants electing to fish in sectors.

DATES: Effective October 23, 2014, through April 30, 2015.

FOR FURTHER INFORMATION CONTACT: Allison Murphy, Sector Policy Analyst, (978) 281–9122.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council developed Amendment 16 to the Northeast (NE) Multispecies Fishery Management Plan (FMP), in part, to establish a process for setting groundfish annual catch limits (also referred to as ACLs or catch limits) and accountability measures. The Council has a biennial review process to develop catch limits and revise management measures. Framework Adjustment 51 and concurrent emergency actions set annual catch limits for nine groundfish stocks and three jointly managed U.S./Canada stocks for fishing years 2014–

2015. Recently, we partially approved Framework 51, which became effective on May 1, 2014 (79 FR 22421; April 22, 2014), and also approved fishing year 2014 sector operations plans and allocations (79 FR 23278; April 28, 2014; ''sector rule''). A sector receives an allocation of each stock, or annual catch entitlement (referred to as ACE, or allocation), based on its members' catch histories. State-operated permit banks also receive an allocation that can be transferred to qualifying sector vessels (for more information, see the final rule implementing Amendment 17 (77 FR 16942; March 23, 2012)). The sum of all sector and state-operated permit bank allocations is referred to as the sector sub-ACL in the FMP. Whatever groundfish allocation remains after sectors and state-operated permit banks receive their allocations is then allocated to vessels not enrolled in a sector (referred to as the common pool). This allocation is also referred to as the common pool sub-ACL. This rule adjusts the both the sector and common pool fishing year 2014 sub-ACLs based on final sector membership, which was established as of May 1, 2014.

Permitted vessels that wish to fish in a sector must enroll by December 1 of each year, with the fishing year beginning the following May 1 and lasting through April 30 of the next year. However, due to a delay in distributing each vessel's potential contribution to a sector's quota for fishing year 2014, we extended the deadline to join a sector until March 6, 2014. Because of this extended deadline, and the fact that vessels had until April 30, 2014, to drop out of a sector and fish in the common pool, fishing year 2013 membership was used to estimate sector ACEs in the Framework 51 final rule. The fishing year 2014 sector final rule, which published later than the Framework 51 final rule, used March 6, 2014, rosters to estimate sector ACEs.

The final number of permits enrolled in a sector or state-operated permit bank for fishing year 2014 is 845, which is 4 less than the March 6, 2013, roster. All sector allocations assume that each NE multispecies vessel enrolled in a sector has a valid permit for fishing year 2014. Tables 1, 2, and 3 (below) explain the revised fishing year 2014 allocations as a percentage and absolute amount (in metric tons and pounds).

Table 4 compares the preliminary allocations based on fishing year 2013 membership published in the Framework 51 proposed and final rules, with the revised allocations based on the final sector and state-operated permit bank rosters as of May 1, 2014. The table shows that changes in sector allocations due to updated rosters range from a decrease of 0.86 percent of Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder, to an increase of 0.40 percent of Georges Bank (GB) yellowtail flounder. Common pool allocation adjustments range between a 2.94-percent decrease in GB cod, to a 15.79-percent increase in redfish. The changes in the common-pool allocations are greater because the common pool has a significantly lower allocation for all stocks.

BILLING CODE 3510–22–P

Table 1. Final Percentage (%) of ACE for Each Sector by Stock for Fishing Year 2014[1]

Sector Name	MRI Count	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	110	27.72	2.51	5.76	1.84	0.01	0.31	2.90	0.98	2.13	0.03	12.87	1.67	2.74	5.70	7.38
MCCS	46	0.21	4.60	0.04	2.55	0.00	0.67	1.05	7.56	5.06	0.01	1.96	0.19	2.50	4.40	3.80
M PB	11	0.13	1.15	0.04	1.12	0.01	0.03	0.32	1.16	0.73	0.00	0.42	0.02	0.82	1.65	1.69
NCCS	27	0.17	0.85	0.12	0.36	0.84	0.73	0.63	0.16	0.22	0.07	0.93	0.30	0.43	0.81	0.51
NEFS 1	3	0.00	0.03	0.00	0.00	0.00	0.00	0.04	0.01	0.01	0.00	0.05	0.00	0.00	0.00	0.00
NEFS 2	81	5.78	18.24	10.69	16.36	1.91	1.42	19.31	7.87	12.80	3.22	18.43	3.27	14.74	5.94	11.26
NEFS 3	78	1.26	14.42	0.15	9.28	0.01	0.36	8.86	4.06	2.84	0.03	9.49	0.77	1.34	4.75	6.81
NEFS 4	50	4.14	9.59	5.32	8.35	2.16	2.38	5.47	9.29	8.50	0.69	6.24	1.29	6.64	8.06	6.14
NEFS 5	29	0.78	0.01	1.05	0.29	1.61	22.53	0.48	0.49	0.67	0.52	0.07	12.01	0.08	0.12	0.11
NEFS 6	22	2.87	2.95	2.92	3.85	2.70	5.31	3.74	3.88	5.20	1.51	4.55	1.94	5.31	3.91	3.29
NEFS 7	22	4.66	0.39	4.62	0.47	10.08	4.11	2.35	3.53	3.24	12.97	0.75	5.15	0.59	0.82	0.71
NEFS 8	20	6.14	0.46	6.00	0.20	11.26	6.05	6.40	1.72	2.57	15.55	3.16	10.13	0.55	0.51	0.61
NEFS 9	60	14.24	1.73	11.61	4.80	26.79	8.01	10.41	8.27	8.28	39.51	2.43	18.67	5.83	4.15	4.23
NEFS 10	43	0.73	5.21	0.25	2.53	0.02	0.55	12.67	1.70	2.39	0.01	17.84	0.73	0.55	0.89	1.39
NEFS 11	56	0.41	13.62	0.04	3.21	0.00	0.02	2.59	2.10	2.07	0.00	2.25	0.02	1.99	4.83	9.44
NEFS 13	53	7.92	0.95	15.96	0.99	24.73	18.78	5.03	5.14	6.20	7.26	2.34	10.98	3.98	1.74	2.27
NH PB	4	0.00	1.14	0.00	0.03	0.00	0.00	0.02	0.03	0.01	0.00	0.06	0.00	0.02	0.08	0.11
SHS 1	117	20.65	19.66	34.34	42.71	14.10	8.41	13.22	39.51	34.45	17.31	10.38	19.55	51.30	50.77	39.56
SHS 3	13	0.29	0.15	0.40	0.07	2.21	2.27	1.13	0.66	0.61	0.46	1.32	1.12	0.18	0.16	0.07
Sector Total	845	98.11	97.67	99.31	99.01	98.45	81.92	96.61	98.13	97.97	99.14	95.54	87.82	99.58	99.30	99.36
Common Pool	528	1.89	2.33	0.69	0.99	1.55	18.08	3.39	1.87	2.03	0.86	4.46	12.18	0.42	0.70	0.64

-Georges Bank Cod Fixed Gear Sector (FGS), Maine Coast Community Sector (MCCS), Maine Permit Bank (M PB), Northeast Coastal Communities Sector (NCCS) , Northeast Fishery Sectors (NEFS), New Hampshire Permit Bank (NH PB), and Sustainable Harvest Sector (SHS)

[1]All ACE values for sectors outlined in Table 1 assume that each sector permit is valid for fishing year 2014.

Table 2. Final ACE for Each Sector by Stock for Fishing Year 2014 (mt)[1,2]

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	41	449	21	577	413	4	0	2	14	14	13	1	92	20	290	244	976
MCCS	0	3	38	4	3	6	0	4	5	104	31	0	14	2	264	188	502
M PB	0	2	10	4	3	2	0	0	2	16	4	0	3	0	87	71	223
NCCS	0	3	7	12	9	1	2	4	3	2	1	2	7	4	46	35	67
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	9	94	151	1070	766	36	5	8	92	109	78	109	132	40	1558	254	1489
NEFS 3	2	20	120	15	10	20	0	2	42	56	17	1	68	9	142	203	901
NEFS 4	6	67	80	532	381	18	6	13	26	128	52	24	45	16	702	345	812
NEFS 5	1	13	0	105	76	1	4	127	2	7	4	17	0	145	8	5	14
NEFS 6	4	46	25	293	210	8	7	30	18	54	32	51	33	23	561	167	435
NEFS 7	7	76	3	462	331	1	26	23	11	49	20	439	5	62	62	35	94
NEFS 8	9	100	4	600	430	0	29	34	31	24	16	526	23	123	58	22	80
NEFS 9	21	231	14	1161	832	11	68	45	50	114	50	1337	17	226	616	178	559
NEFS 10	1	12	43	25	18	6	0	3	61	24	15	0	127	9	58	38	184
NEFS 11	1	7	113	4	3	7	0	0	12	29	13	0	16	0	210	207	1248
NEFS 13	12	128	8	1596	1144	2	63	106	24	71	38	246	17	133	421	74	300
NH PB	0	0	9	0	0	0	0	0	0	0	0	0	0	0	2	3	15
SHS 1	31	335	163	3435	2461	94	36	47	63	546	210	586	74	237	5419	2172	5231
SHS 3	0	5	1	40	29	0	6	13	5	9	4	16	9	14	19	7	10
Sector Total	145	1590	811	9935	7117	218	251	462	463	1356	598	3356	683	1063	10521	4248	13139
Common Pool	3	31	19	69	50	2	4	102	16	26	12	29	32	147	44	30	85

[1]All ACE values for sectors outlined in Table 2 assume that each sector permit is valid for fishing year 2014.

[2]These values do not include any potential ACE carryover or deductions from fishing year 2013 sector ACE underages or overages.

Table 3. Final ACE for Each Sector by Stock for Fishing Year 2014 (1,000 lb)[1,2]

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	90	991	46	1271	911	9	0	4	31	30	29	2	203	45	638	538	2151
MCCS	1	8	84	9	6	12	0	8	11	230	68	1	31	5	583	415	1107
M PB	0	5	21	10	7	5	0	0	3	35	10	0	7	0	191	156	492
NCCS	1	6	16	27	19	2	5	9	7	5	3	5	15	8	101	77	148
NEFS 1	0	0	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0
NEFS 2	19	207	334	2358	1689	79	11	18	204	240	172	240	290	87	3434	560	3282
NEFS 3	4	45	264	32	23	45	0	4	94	124	38	2	150	21	313	448	1985
NEFS 4	14	148	176	1173	840	41	12	30	58	283	114	52	98	34	1547	760	1790
NEFS 5	3	28	0	233	167	1	9	280	5	15	9	38	1	320	18	11	31
NEFS 6	9	102	54	645	462	19	15	66	40	118	70	113	72	52	1237	369	960
NEFS 7	15	167	7	1018	729	2	57	51	25	107	44	968	12	137	136	77	207
NEFS 8	20	220	8	1323	948	1	63	75	68	52	35	1160	50	270	128	48	177
NEFS 9	46	509	32	2560	1834	23	150	100	110	252	111	2948	38	498	1358	392	1232
NEFS 10	2	26	95	55	40	12	0	7	134	52	32	1	281	20	127	84	405
NEFS 11	1	15	249	8	6	16	0	0	27	64	28	0	35	1	462	456	2751
NEFS 13	26	283	17	3519	2521	5	139	233	53	157	83	542	37	293	927	164	662
NH PB	0	0	21	0	0	0	0	0	0	1	0	0	1	0	5	8	32
SHS 1	67	738	360	7573	5426	207	79	105	140	1204	463	1292	163	522	11948	4788	11533
SHS 3	1	10	3	89	63	0	12	28	12	20	8	34	21	30	42	15	22
Sector Total	320	3506	1787	21903	15691	480	552	1019	1020	2990	1317	7399	1505	2343	23195	9366	28966
Common Pool	6	67	43	152	109	5	9	225	36	57	27	64	70	325	97	66	188

[1] All ACE values for sectors outlined in Table 3 assume that each sector permit is valid for fishing year 2014.

[2] These values do not include any potential ACE carryover or deductions from fishing year 2013 sector ACE underages or overages.

Table 4. Comparison of Allocations Between the Framework 51 Final Rule and May 1, 2014, Sector Rosters (mt)[1]

	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Total Commercial Allocation	1769	1316	17171	307	254.5	564	479	1382	610	3385	715	1210	10565	4278	13224
FY 2014 Common Pool Allocation based on FY 2013 sector membership	34	19	122	2	4	98	16	25	12	26	32	138	38	29	86
Adjusted FY 2014 Common Pool Allocation	33	19	119	2	4	102	16	26	12	29	32	147	44	30	85
% Change	-2.94%	0.00%	-2.46%	0.00%	0.00%	4.08%	0.00%	4.00%	0.00%	11.54%	0.00%	6.52%	15.79%	3.45%	-1.16%
FY 2014 Sector Allocation based on FY 2013 sector membership	1735	811	17049	218	250	466	463	1357	598	3359	683	1072	10527	4249	13138
Adjusted FY 2014 Sector Allocation	1736	811	17052	218	251	462	463	1356	598	3356	683	1063	10521	4248	13139
% Change	0.06%	0.00%	0.02%	0.00%	0.40%	-0.86%	0.00%	-0.07%	0.00%	-0.09%	0.00%	-0.84%	-0.06%	-0.02%	0.01%

[1] All values for sectors outlined in Table 4 assume that each sector permit is valid for fishing year 2014.

We have completed fishing year 2013 data reconciliation with sectors and allowed a 2-week window for any sector with an overage to trade fishing year 2013 ACE to balance the overage. We have since determined final fishing year 2013 sector catch and the amount of quota that sectors may carry from fishing year 2013 into fishing year 2014. A recent emergency rule (79 FR 36433; June 27, 2014) described changes to carryover and catch accounting in response to litigation by Conservation Law Foundation (*Conservation Law Foundation* v. *Pritzker, et al.* (Case No. 1:13–CV–0821–JEB)). The Court invalidated the previous carryover measures because those measures failed to prevent total potential catches of certain stocks (ACEs plus carryover) from exceeding their annual biological catch (ABC). This rule ensures that catch does not exceed the ABC for any stock. Because of this, the maximum carryover for certain stocks may be lower than what a sector expects. Table 5 includes the maximum amount of quota that sectors may carry over from fishing year 2013 into fishing year 2014. Table 6 includes the *de minimis* amount of quota that sectors may carry over from fishing year 2013 into fishing year 2014.

Table 5. Maximum Carryover ACE from Fishing Year 2013 to Fishing Year 2014 (lbs)

Sector	GB Cod West	GOM Cod	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE Winter Flounder	Redfish	White Hake	Pollock
FGS	57,920	4,440	116,954	757	0	284	1,575	993	0	64	3,275	2,646	34,596	29,651	119,733
MCCS	441	8,390	800	1,051	0	618	601	12,735	2,439	16	1,721	311	31,603	22,932	61,513
NCCS	359	1,368	2,461	143	0	677	349	70	0	160	792	481	5,443	4,106	6,855
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	12,937	33,635	242,197	6,831	0	1,406	11,076	13,654	0	7,684	16,203	5,959	202,643	33,004	197,867
NEFS 3	2,621	26,311	2,957	3,974	0	333	4,887	6,843	4	62	8,175	1,236	16,933	24,674	109,487
NEFS 4	8,644	10,160	107,880	3,443	0	2,118	3,127	15,662	0	1,617	5,471	1,402	83,903	42,043	99,696
NEFS 5	1,642	23	21,378	120	0	21,456	277	834	88	1,210	59	19,890	971	616	1,704
NEFS 6	5,985	5,331	59,313	1,580	0	4,824	2,037	6,536	0	3,393	3,832	3,045	67,082	20,421	53,455
NEFS 7	10,889	717	100,537	194	0	4,266	1,633	6,053	574	34,608	732	10,201	7,399	4,307	11,772
NEFS 8	12,849	899	115,071	88	0	5,454	3,659	2,782	357	34,078	2,936	15,080	6,760	2,624	9,698
NEFS 9	29,765	1,050	235,454	1,977	0	7,428	5,955	13,944	0	92,027	2,136	29,933	65,011	21,673	68,635
NEFS 10	1,523	9,617	5,101	1,045	0	0	7,332	2,967	0	33	23,661	1,208	6,926	4,758	22,606
NEFS 11	739	15,551	724	227	0	16	1,203	1,997	0	2	1,696	29	11,833	12,236	104,884
NEFS 12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 13	16,633	1,315	326,360	407	0	17,666	2,876	8,700	115	17,377	2,053	17,743	50,293	9,076	36,864
SHS 1	41,165	35,655	671,390	17,390	0	7,691	7,341	66,247	0	38,010	9,008	29,676	631,940	263,115	628,695
SHS 3	918	839	13,061	76	0	2,924	1,190	918	0	1,147	2,024	2,255	2,434	804	954
Sector Total	205,030	155,300	2,021,639	39,303	0	77,162	55,116	160,937	3,577	231,485	83,776	141,096	1,225,770	496,040	1,534,417

Table 6. *De Minimis* Carryover ACE from Fishing Year 2013 to Fishing Year 2014 (lbs)

Sector	GB Cod West	GOM Cod	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE Winter Flounder	Redfish	White Hake	Pollock
FGS	10,810	459	21,818	89	0	38	307	298	0	21	2,028	445	6,384	5,376	21,511
MCCS	82	841	149	124	0	83	111	2,302	681	5	309	52	5,826	4,146	11,070
NCCS	68	156	460	17	0	91	66	48	0	51	146	80	1,006	767	1,479
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	2,255	3,338	40,477	793	0	177	2,039	2,397	0	2,401	2,904	871	34,338	5,603	32,821
NEFS 3	492	2,638	553	450	0	45	936	1,236	4	20	1,496	206	3,128	4,479	19,853
NEFS 4	1,614	1,755	20,126	405	0	295	577	2,832	0	518	983	345	15,468	7,599	17,899
NEFS 5	304	2	3,991	14	0	2,802	51	151	88	385	10	3,203	179	114	306
NEFS 6	1,118	540	11,069	187	0	660	395	1,183	0	1,127	717	518	12,367	3,689	9,601
NEFS 7	1,819	71	17,476	23	0	511	248	1,075	436	9,681	118	1,375	1,364	775	2,069
NEFS 8	2,395	84	22,708	10	0	752	676	523	346	11,602	498	2,702	1,280	484	1,769
NEFS 9	5,555	317	43,932	233	0	996	1,100	2,521	0	29,482	384	4,979	13,582	3,917	12,322
NEFS 10	284	953	952	123	0	0	1,338	519	0	10	2,810	196	1,271	843	4,047
NEFS 11	159	2,493	144	156	0	2	273	640	0	2	354	6	4,624	4,559	27,510
NEFS 12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 13	3,087	173	60,409	48	0	2,335	531	1,566	115	5,418	369	2,930	9,272	1,640	6,616
SHS 1	8,055	3,598	129,987	2,072	0	1,045	1,396	12,039	0	12,919	1,635	5,215	119,479	47,883	115,330
SHS 3	112	27	1,519	3	0	282	119	202	0	344	207	299	422	147	216
Sector Total	38,210	17,447	375,770	4,746	0	10,114	10,162	29,533	1,669	73,985	14,969	23,422	229,989	92,020	284,420

We have determined that 9 sectors have exceeded their fishing year 2013 allocation of witch flounder, requiring reductions to those sectors' fishing year 2014 allocations. Because of the Court decision discussed above, we were required to reduce the amount of witch flounder carryover available for sectors to use in fishing year 2013. Some sectors inadvertently exceeded their fishing year 2013 witch flounder ACE and were unable to transfer a sufficient amount of quota to cover the overage. Reducing ACE by the overage amount is necessary to address the requirement to apply a pound-for-pound reduction in ACE in the year following an overage. Table 6 includes a summary of the sectors with fishing year 2013 witch flounder overages, the initial fishing year 2014 witch flounder ACE included in Table 3, and adjusted fishing year 2014 witch flounder ACE, accounting for the overage.

Table 7. Fishing Year 2014 Witch Flounder Overage Adjustments

Sector	Fishing Year 2013 Overage (lbs)	Initial Fishing Year 2014 Common Pool sub-ACL (1,000 lbs)	Adjusted Fishing Year 2014 Common Pool sub-ACL (1,000 lbs)
NEFS 2	3,450	172	169
NEFS 4	14,513	114	100
NEFS 6	2,391	70	68
NEFS 9*	6	111	111
NEFS 10	5,340	32	27
NEFS 11	2,696	28	25
SHS 1	48,898	463	414
SHS 3	415	8	8

*When rerunning final FY 2013 data, additional data corrections were captured, resulting in an unanticipated overage.

Summarizing all the information provided above, Tables 8 and 9 display the total amount of ACE available to sectors in fishing year 2014, including reductions for overages, and adding maximum carryover.

Table 8. Total ACE Available to Sectors in Fishing Year 2014 with Maximum Carryover (mt)

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	41	476	23	577	466	4	0	2	15	14	13	1	93	21	305	257	1,030
MCCS	0	4	42	4	3	6	0	4	5	110	32	0	15	2	279	198	530
M PB	0	2	10	4	3	2	0	0	2	16	4	0	3	0	87	71	223
NCCS	0	3	8	12	10	1	2	4	3	2	1	2	7	4	48	37	70
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	9	100	167	1,070	876	39	5	9	97	115	77	112	139	42	1,649	269	1,578
NEFS 3	2	22	132	15	12	22	0	2	45	59	17	1	72	10	150	214	950
NEFS 4	6	71	84	532	430	20	6	14	28	136	45	24	47	16	740	364	857
NEFS 5	1	13	0	105	85	1	4	137	2	7	4	18	0	154	9	5	15
NEFS 6	4	49	27	293	236	9	7	32	19	57	31	53	34	25	591	177	460
NEFS 7	7	81	4	462	376	1	26	25	12	52	20	455	6	67	65	37	99
NEFS 8	9	105	4	600	482	0	29	37	32	25	16	542	24	129	61	23	85
NEFS 9	21	244	15	1,161	939	11	68	49	53	121	50	1,379	18	239	646	188	590
NEFS 10	1	13	48	25	20	6	0	3	64	25	12	0	138	9	61	40	194
NEFS 11	1	7	120	4	3	7	0	0	13	30	11	0	17	0	215	212	1,295
NEFS 13	12	136	8	1,596	1,292	2	63	114	25	75	38	254	18	141	443	78	317
NH PB	0	0	9	0	0	0	0	0	0	0	0	0	0	0	2	3	15
SHS 1	31	353	179	3,435	2,766	102	36	51	67	576	188	603	78	250	5,706	2,291	5,516
SHS 3	0	5	2	40	35	0	6	14	6	10	4	16	10	15	20	7	10
Sector Total	145	1,683	881	9,935	8,034	236	251	497	488	1,429	564	3,461	721	1,127	11,077	4,473	13,835

Table 9. Total ACE Available to Sectors in Fishing Year 2014 with Maximum Carryover (1,000 lb)

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	90	1,049	50	1,271	1,028	10	0	4	32	31	29	2	206	47	673	567	2,271
MCCS	1	8	93	9	7	13	0	9	12	243	70	1	33	5	614	438	1,169
M PB	0	5	21	10	7	5	0	0	3	35	10	0	7	0	191	156	492
NCCS	1	7	17	27	22	2	5	10	7	5	3	5	15	8	106	81	155
NEFS 1	0	0	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0
NEFS 2	19	220	367	2,358	1,932	86	11	19	215	253	169	248	307	93	3,636	593	3,480
NEFS 3	4	48	290	32	26	49	0	5	98	130	38	2	158	22	330	473	2,095
NEFS 4	14	157	186	1,173	948	44	12	32	61	299	100	53	104	36	1,631	802	1,890
NEFS 5	3	30	0	233	188	2	9	302	5	16	9	40	1	340	19	12	32
NEFS 6	9	108	59	645	521	20	15	71	42	125	68	116	76	55	1,304	389	1,014
NEFS 7	15	178	8	1,018	830	2	57	55	26	114	44	1,003	13	148	144	82	219
NEFS 8	20	232	9	1,323	1,063	1	63	81	71	55	35	1,194	53	285	135	51	187
NEFS 9	46	539	33	2,560	2,069	25	150	107	116	266	111	3,040	41	528	1,423	413	1,301
NEFS 10	2	28	105	55	45	13	0	7	141	55	27	1	305	21	134	89	427
NEFS 11	1	15	265	8	7	16	0	0	29	66	25	0	37	1	474	468	2,856
NEFS 13	26	300	19	3,519	2,848	5	139	251	56	165	83	559	39	311	977	173	698
NH PB	0	0	21	0	0	0	0	0	0	1	0	0	1	0	5	8	32
SHS 1	67	779	395	7,573	6,097	225	79	112	147	1,270	414	1,330	172	551	12,580	5,051	12,162
SHS 3	1	11	4	89	76	0	12	31	13	21	8	36	23	32	45	15	23
Sector Total	320	3711	1942	21903	17713	520	552	1096	1075	3151	1243	7630	1589	2484	24421	9862	30501

Framework 51 also specifies incidental catch limits (or incidental total allowable catches, ''TACs'') applicable to the common pool and NE multispecies Special Management Programs for fishing year 2013–2015, including the B day-at-sea (DAS) Program. Special Management Programs are designed to allow fishing for healthy stocks that can support additional fishing effort without undermining the other goals of the FMP. Incidental catch limits are specified to limit catch of certain stocks of concern for common pool vessels fishing in the Special Management Programs. Because these incidental catch limits are based on the changed common-pool allocation, they also must be revised. Final incidental catch limits are included in Tables 10–13 below.

TABLE 10—FISHING YEAR 2014 COMMON POOL INCIDENTAL CATCH TACS

Stock	Percentage of common pool sub-ACL	Incidental catch TAC (mt)
GB cod	2	0.6
GOM cod	1	0.2
GB yellowtail flounder	2	0.08
CC/GOM yellowtail flounder	1	0.2
American Plaice	5	1.3
Witch Flounder	5	0.6
SNE/MA winter flounder	1	1.5

TABLE 11—DISTRIBUTION OF COMMON POOL INCIDENTAL CATCH TACS TO EACH SPECIAL MANAGEMENT PROGRAM

Stock	Regular B DAS program (%)	Closed area I hook gear haddock SAP (%)	Eastern U.S./CA haddock SAP (%)
GB cod	50	16	34
GOM cod	100	NA	NA
GB yellowtail flounder	50	NA	50
CC/GOM yellowtail flounder	100	NA	NA
American Plaice	100	NA	NA
Witch Flounder	100	NA	NA
SNE/MA winter flounder	100	NA	NA

TABLE 12—FISHING YEAR 2014 COMMON POOL INCIDENTAL CATCH TACS FOR EACH SPECIAL MANAGEMENT PROGRAM (mt)

Stock	Regular B DAS program	Closed area I hook gear haddock SAP	Eastern U.S./Canada haddock SAP
GB cod	0.3	0.1	0.2
GOM cod	0.2	n/a	n/a
GB yellowtail flounder	0.04	n/a	0.04
CC/GOM yellowtail flounder	0.2	n/a	n/a
American Plaice	1.3	n/a	n/a
Witch Flounder	0.6	n/a	n/a
SNE/MA winter flounder	1.5	n/a	n/a

TABLE 13—FISHING YEAR 2014 COMMON POOL REGULAR B DAS PROGRAM QUARTERLY INCIDENTAL CATCH TACS (mt)

	1st Quarter (13%)	2nd Quarter (29%)	3rd Quarter (29%)	4th Quarter (29%)
GB cod	0.04	0.09	0.09	0.09
GOM cod	0.02	0.06	0.06	0.06
GB yellowtail flounder	0.005	0.011	0.011	0.011
CC/GOM yellowtail flounder	0.02	0.05	0.05	0.05
American Plaice	0.17	0.37	0.37	0.37
Witch Flounder	0.08	0.18	0.18	0.18
SNE/MA winter flounder	0.19	0.43	0.43	0.43

Similar to the accountability measures for sectors when a quota overage occurs, if the common pool sub-ACL for any stock is exceeded, we are required to reduce the common pool sub-ACL by the amount of the overage in the next fishing year. We are reducing the fishing year 2014 GB cod and GOM haddock common pool sub-ACLs due to fishing year 2013 overages. The fishing year 2013 common pool sub-ACL for GB cod was exceeded by 8 percent (2.3 mt) and the GOM haddock common pool sub-ACL was exceeded by 118 percent (1.2 mt). Therefore, we are reducing the

fishing year 2014 GB cod and GOM haddock common pool sub-ACLs due to the fishing year 2013 overages. Table 14 provides the common pool overage adjustments for these stocks. Table 15 provides the updated trimester Total Allowable Catches (TACs) for GB cod and GOM haddock based on the final FY 2014 common pool sub-ACLs.

TABLE 14—FISHING YEAR 2014 COMMON POOL OVERAGE ADJUSTMENT (mt)

Stock	Fishing year 2013 overage	Initial fishing year 2014 common pool sub-ACL	Adjusted fishing year 2014 common pool sub-ACL
GB Cod	2.3	34	31.7
GOM Haddock	1.2	2	0.8

TABLE 15—FISHING YEAR 2014 COMMON POOL TRIMESTER TACS (mt)

Stock	Trimester 1 TAC	Trimester 2 TAC	Trimester 3 TAC
GB Cod	8.0	11.9	12.2
GOM Haddock	0.22	0.21	0.38

We are reducing the fishing year 2014 GB haddock sub-ACL for the herring mid-water trawl fishery due to a fishing year 2013 overage. The herring mid-water trawl fishery is allocated 1 percent of the U.S. ABC for each stock of GOM and GB haddock. If the herring mid-water trawl fishery exceeds its GOM or GB haddock sub-ACL, we are required to reduce the respective sub-ACL by the amount of the overage in the following fishing year. In fishing year 2013, the mid-water trawl fishery exceeded its GB haddock sub-ACL by 16.98 mt. Therefore, this rule reduces the fishing year 2014 GB haddock sub-ACL by the 16.98 mt overage for the herring mid-water trawl fishery. Table 16 provides the herring mid-water trawl adjustments for GB haddock that this rule implements.

TABLE 16—FISHING YEAR 2014 HERRING MID-WATER TRAWL OVERAGE ADJUSTMENT (mt)

Stock	Fishing year 2013 overage	Initial fishing year 2014 herring mid-water trawl sub-ACL	Adjusted fishing year 2014 herring mid-water trawl sub-ACL
GB Haddock	16.98	179	162.02

Finally, Table 17 provides the U.S. ABCs for the three transboundary Georges Bank stocks that we jointly manage with Canada. The U.S./Canada quotas, and the corresponding ACLs/sub-ACLs were included in the Framework 51 final rule; however, because the U.S. ABCs for GB cod, haddock, and yellowtail flounder were mis-specified, the corrected levels are being included here in this rule.

TABLE 17—U.S. ACCEPTABLE BIOLOGICAL CATCHES FOR TRANSBOUNDARY STOCKS

Stock	U.S. ABC (mt)
GB Cod	1,960
GB Haddock	19,229
GB Yellowtail Flounder	328

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the NE Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

Pursuant to 5 U.S.C. 553(b)(3)(B), we find good cause to waive prior public notice and opportunity for public comment on the catch limit and allocation adjustments because allowing time for notice and comment is impracticable and contrary to the public interest. We also find good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective upon filing.

Notice and comment are impracticable and contrary to the public interest because a delay would potentially impair achievement of the management plan's objectives of preventing overfishing and achieving optimum yield by vessels staying within ACLs or allocations. The proposed and final rules for fishing year 2014 sector operations plans and contracts explained the need and likelihood for adjustments of sector and common pool allocations based on final sector rosters. No comments were received on the potential for these adjustments, which provide an accurate accounting of a sector's or common pool's allocation at this time. Prior notice of the need to distribute carryover catch was also provided. Allowing for prior notice and public comment on the herring mid-water trawl overage adjustment is impracticable because this is a non-discretionary action required by provisions of Framework 46 to the NE Multispecies FMP, which was subject to public comment. The proposed rule to implement Framework 46 requested public comment on these measures including the specific accountability measure implemented by this rule, with the understanding that possession limit trigger adjustments would be required if an ACL overage occurred. If this rule is not effective immediately, the sector and common pool vessels will be operating under incorrect information on the catch limits for each stock for sectors and the common pool. This could cause negative economic impacts

to the both sectors and the common pool, depending on the size of the allocation, the degree of change in the allocation, and the catch rate of a particular stock. Further, these adjustments are based purely on objective sector enrollment data and are not subject to our discretion, so there would be no benefit to allowing time for prior notice and comment.

Waiving the 30-day delay in effectiveness allows harvesting in a manner that prevents catch limits of species from being exceeded in fisheries that are important to coastal communities. Until the final stock allocations are made, the affected fishing entities will not know how many fish of a particular stock they can catch without going over their ultimate limits. Fishermen may make both short- and long-term business decisions based on the catch limits in a given sector or the common pool. Any delays in adjusting these limits may cause the affected fishing entities to slow down, or speed up, their fishing activities during the interim period before this rule becomes effective. Both of these reactions could negatively affect the fishery and the businesses and communities that depend on them. The fishing industry and the communities it supports could be affected by potentially reducing harvests and delaying profits. Lastly, the catch limit and allocation adjustments are not controversial and the need for them was clearly explained in the proposed and final rules for fishing year 2014 sector operations plans and contracts. As a result, the NE multispecies permit holders are expecting these adjustments and awaiting their implementation. Therefore, it is important to implement adjusted catch limits and allocations as soon as possible. For these reasons, we are waiving the public comment period and the 30-day delay in effectiveness for this rule, pursuant to 5 U.S.C. 553(b)(3)(B) and (d), respectively.

Because advanced notice and the opportunity for public comment are not required under the Administrative Procedure Act, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, do not apply to this rule. Therefore, no final regulatory flexibility analysis is required and none has been prepared.

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

Dated: October 20, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2014–25307 Filed 10–23–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 131021878–4158–02]

RIN 0648–XD565

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Halibut Prohibited Species Catch Allowances in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating projected unused amounts of the 2014 halibut prohibited species catch (PSC) allowance from the Bering Sea and Aleutian Islands trawl (BSAI) limited access sector to the Amendment 80 cooperatives in the BSAI management area. This action is necessary to allow the Amendment 80 cooperatives to fully harvest their 2014 groundfish allocations.

DATES: Effective October 21, 2014, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

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

The Administrator, Alaska Region, NMFS, has determined that 80 metric tons of halibut PSC allowance from the BSAI trawl limited access sector will not be needed to support BSAI trawl limited access fisheries. Therefore, in accordance with § 679.91(f)(4), NMFS is reallocating this halibut PSC allowance from the BSAI trawl limited access sector to the Amendment 80 cooperatives in the BSAI.

In accordance with § 679.91(f)(1), NMFS will reissue cooperative quota permits for the reallocated halibut PSC allowances following the procedures set forth in § 679.91(f)(4).

In accordance with § 679.91(f)(4)(i), NMFS will reallocate 95 percent of the halibut PSC reallocated from the BSAI trawl limited access sector to the Amendment 80 cooperatives, which is 76 metric tons.

The 2014 harvest specifications for halibut PSC allowances included in the final 2014 and 2015 harvest specifications in the BSAI (79 FR 12108, March 4, 2014 and 79 FR 35958, June 25, 2014) are revised as follows in Tables 10, 12, and 14:

TABLE 10—FINAL 2014 AND 2015 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

PSC species and area [1]	Total non-trawl PSC	Non-trawl PSC remaining after CDQ PSQ [2]	Total trawl PSC	Trawl PSC remaining after CDQ PSQ [2]	CDQ PSQ reserve [2]	Amendment 80 sector [3]	BSAI trawl limited access fishery
2014 Halibut mortality (mt) BSAI	900	832	3,675	3,349	393	2,401	795
2015 Halibut mortality (mt) BSAI	900	832	3,675	3,349	393	2,325	875
Herring (mt) BSAI	n/a	n/a	2,172	n/a	n/a	n/a	n/a
Red king crab (animals) Zone 1	n/a	n/a	97,000	86,621	10,379	43,293	26,489
C. *opilio* (animals) COBLZ	n/a	n/a	11,185,892	9,989,002	1,196,890	4,909,594	3,210,465
C. *bairdi* crab (animals) Zone 1	n/a	n/a	980,000	875,140	104,860	368,521	411,228

TABLE 10—FINAL 2014 AND 2015 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS—Continued

PSC species and area [1]	Total non-trawl PSC	Non-trawl PSC remaining after CDQ PSQ [2]	Total trawl PSC	Trawl PSC remaining after CDQ PSQ [2]	CDQ PSQ reserve [2]	Amendment 80 sector [3]	BSAI trawl limited access fishery
C. *bairdi* crab (animals) Zone 2	n/a	n/a	2,970,000	2,652,210	317,790	627,778	1,241,500

[1] Refer to § 679.2 for definitions of zones.
[2] Section 679.21(e)(3)(i)(A)(*2*) allocates 326 mt of the trawl halibut mortality limit and § 679.21(e)(4)(i)(A) allocates 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. The PSQ reserve for crab species is 10.7 percent of each crab PSC limit.
[3] The Amendment 80 program reduced apportionment of the trawl PSC limits by 150 mt for halibut mortality and 20 percent for crab. These reductions are not apportioned to other gear types or sectors.
Note: Sector apportionments may not total precisely due to rounding.

TABLE 12—FINAL 2014 AND 2015 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR

BSAI trawl limited access fisheries	Prohibited species and area [1]					
	2014 Halibut mortality (mt) BSAI	2015 Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
					Zone 1	Zone 2
Yellowfin sole	227	167	23,338	3,026,465	346,228	1,185,500
Rock sole/flathead sole/other flatfish[2]	0	0	0	0	0	0
Turbot/arrowtooth/sablefish[3]	0	0	0	0	0	0
Rockfish April 15—December 31	5	5	0	5,000	0	1,000
Pacific cod	353	453	2,954	129,000	60,000	50,000
Pollock/Atka mackerel/other species[4]	210	250	197	50,000	5,000	5,000
Total BSAI trawl limited access PSC	795	875	26,489	3,210,465	411,228	1,241,500

[1] Refer to § 679.2 for definitions of areas.
[2] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[3] Arrowtooth flounder for PSC monitoring includes Kamchatka flounder.
[4] "Other species" for PSC monitoring includes skates, sculpins, sharks, squids, and octopuses.
Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 14—FINAL 2014 PROHIBITED SPECIES BYCATCH ALLOWANCE FOR THE BSAI AMENDMENT 80 COOPERATIVES

Cooperative	Prohibited species and zones [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
Alaska Seafood Cooperative	1,654	29,285	3,150,269	257,941	431,195
Alaska Groundfish Cooperative	747	14,008	1,759,325	110,580	196,583

[1] Refer to § 679.2 for definitions of zones.
Note: Sector apportionments may not total precisely due to rounding.

This will enhance the socioeconomic well-being of harvesters of groundfish dependent upon these halibut PSC allowances. The Regional Administrator considered the following factors in reaching this decision: (1) The current catch and stated future harvesting intent of BSAI trawl limited access sector fisheries and, (2) the harvest capacity and stated intent on future harvesting patterns of the Amendment 80 cooperatives that participates in this BSAI fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of halibut PSC allowances from the BSAI trawl limited access sector to the Amendment 80 cooperatives in the BSAI. Since the fisheries are currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of these fisheries, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 14, 2014.

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

This action is required by § 679.91 and is exempt from review under Executive Order 12866.

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

Dated: October 21, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–25366 Filed 10–21–14; 4:15 pm]

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Proposed Rules

Federal Register
Vol. 79, No. 206
Friday, October 24, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 340

RIN 3064–AE26

Restrictions on Sale of Assets by the Federal Deposit Insurance Corporation

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is proposing to amend our regulations. Part 340 implements section 11(p) of the Federal Deposit Insurance Act. Under section 11(p), individuals or entities whose acts or omissions have, or may have, contributed to the failure of an insured depository institution cannot buy the assets of that failed insured depository institution from the FDIC. The proposed revisions to part 340 will help to clarify its purpose, scope and applicability, and will make it more consistent in our regulations, the parallel provision in the FDIC's Orderly Liquidation Authority regulations that implements section 210(r) of the Dodd-Frank Wall Street Reform and Consumer Protection Act by placing restrictions on sales of assets of a covered financial company by the FDIC. Sections of part 340 became effective on July 1, 2014.

DATES: Written comments must be received by the FDIC not later than December 23, 2014.

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

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal/.* Follow instructions for submitting comments on the Agency Web site.
- *E-Mail: Comments@FDIC.gov.* Include ''RIN 3064–AE26'' in the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. (EDT).
- *Federal eRulemaking Portal: http://www.regulations.gov/.* Follow the instructions for submitting comments.
- *Public Inspection:* All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/* including any personal information provided. Paper copies of public comments may be ordered from the Public Information Center by telephone at 703–562–2200 or 1–877–275–3342.

FOR FURTHER INFORMATION CONTACT: James D. Sigler, Resolutions & Receiverships Specialist, 202–898–3871; Craig Rice, Senior Capital Markets Specialist, Division of Resolutions and Receiverships, 202–898–3501; Elizabeth Falloon, Supervisory Counsel, Legal Division, 703–562–6148; Shane Kiernan, Counsel, Legal Division, 703–562–2632; Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

The FDIC promulgated part 340 in 2000 to implement section 11(p) of the Federal Deposit Insurance Act, 12 U.S.C. 1821(p) (section 11(p)). Under section 11(p), individuals or entities whose acts or omissions have, or may have, contributed to the failure of an insured depository institution (failed institution) cannot buy the assets of that failed institution from the FDIC. The FDIC expanded the purchaser eligibility restriction as permitted by statute when it promulgated part 340 by precluding such individuals or entities from purchasing the assets of any failed institution, not only the particular institution affected by the actions of those individuals or entities. As provided in section 11(p), part 340 also prohibits the sale of assets involving FDIC financing to certain persons who have defaulted on obligations of $1 million or more, in aggregate, owed to a failed insured depository institution or the FDIC and who have made fraudulent misrepresentations in connection with any of those obligations. Compliance with part 340 is established through a self-certification process by which a prospective purchaser certifies that it is eligible to purchase an asset from the FDIC and that the FDIC's sale of an asset to that prospective purchaser would not be restricted under section 11(p) or part 340.

In March of this year the FDIC promulgated section 380.13 to implement section 210(r) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. 5390(r) (section 210(r)). Section 210(r) prohibits certain sales of assets held by the FDIC in the course of liquidating a covered financial company. Because section 210(r) and section 11(p) share substantially similar statutory language, part 340 served as a model for the development of section 380.13. While many aspects of part 340 were included in section 380.13, FDIC staff identified new or different concepts to include in section 380.13 that were not already in part 340. Several of these concepts, if incorporated into part 340, would improve part 340 and make it more consistent with section 380.13.

II. Proposal

The FDIC proposes to amend part 340 in a number of ways. Some of the amendments are significant, substantive changes and others are non-substantive, technical or conforming changes. This discussion in this supplemental information section addresses the substantive changes suggested by the FDIC in this proposed rulemaking.

Paragraph 340.1(b) sets forth the purpose of part 340. The FDIC proposes to amend the purpose because it believes part 340 should extend the restrictions on sales of assets of a failed institution to individuals or entities who are also precluded from purchasing assets of a covered financial company from the FDIC under section 210(r) and section 380.13. This would ensure consistency among part 340 and section 380.13. Under section 380.13, individuals or entities prohibited from purchasing assets of a failed institution under part 340 are also prohibited from purchasing assets of a covered financial company under section 380.13. Likewise, individuals or entities prohibited from purchasing assets of a covered financial company under section 380.13 should be prohibited from purchasing assets of a failed institution under part 340.

The FDIC is proposing three changes to clarify part 340's scope of coverage, which is set forth in paragraph 340.1(c). First, the FDIC proposes to clarify the applicability of part 340 to sales of

assets by a subsidiary of a failed institution or by a bridge depository institution. Sales of assets of a failed institution's subsidiary or a bridge depository institution are not expressly subject to section 11(p) because such assets are not ''assets of a failed institution'' that are being sold ''by the Corporation,'' and thus would fall outside the scope of the statutory restrictions on asset sales. The FDIC believes, however, that if it has the right to control the terms of a sale of assets of a failed institution's subsidiary or a bridge depository institution, or has the ability to control selection of the purchaser of those assets under an agency agreement or as shareholder, the restrictions set forth in section 11(p) and part 340 should apply. The FDIC has discretionary authority to expand the scope of coverage because section 11(p) sets the minimum requirements for restrictions on sales of assets, and the FDIC may prescribe further restrictions on its own accord. Under the FDIC's proposed revision of part 340, the restrictions on asset sales would apply to sales of assets of a failed institution's subsidiary or a bridge depository institution if the FDIC controls the terms of the sale by agreement or as shareholder.

Second, the FDIC proposes amending section 340.1 to explicitly state that part 340 does not apply to certain types of transactions involving marketable securities and other financial instruments. Under proposed paragraph (e), a sale of a security or a group or index of securities, a commodity, or any qualified financial contract that customarily is traded through a financial intermediary and where the seller cannot control selection of the purchaser and the sale is consummated through that customary practice would not be covered by part 340. For example, if the FDIC were to sell publicly-traded stocks or bonds that the failed institution held, it might engage a broker or custodian to conduct or facilitate the sale. The broker or custodian would then tender the securities to the market and accept prevailing market terms offered by another broker, a specialist, a central counterparty or a similar financial intermediary who would then sell the security to another purchaser. In this scenario, it is not possible for the FDIC to control selection of the end purchaser at the time of sale. Therefore, the transaction cannot be a sale covered by section 11(p) because the FDIC has no way to select the prospective purchaser or determine whether that purchaser would or would not be prohibited from purchasing the asset. Moreover, a prospective purchaser of such assets will not be able to select the FDIC as the seller and therefore could not determine whether section 11(p) and part 340 apply to the transaction. The FDIC is proposing to define the term ''financial intermediary,'' for the purposes of part 340, in section 340.2 as discussed below. The FDIC anticipates that this express limitation on the scope of part 340's coverage will provide greater certainty to market participants and FDIC staff who conduct asset sales regarding the applicability of section 11(p) and part 340.

Third, the FDIC proposes to clarify in section 340.1 that part 340 is not applicable to a judicial sale or a trustee's sale of property securing an obligation to the FDIC where the sale is not conducted or controlled by the FDIC. Although the FDIC could have a security interest in property serving as collateral and therefore the authority to initiate a foreclosure action, the selection of the purchaser and terms of the sale are not necessarily within the FDIC's control. Rather, a court or trustee would conduct the sale in accordance with applicable state law and would select the purchaser. In this situation, the sale is not a sale by the FDIC. While the plain language of part 340 does not suggest that such a sale would fall within its scope, the FDIC is proposing this change for the sake of clarity. This exception does not affect sales of collateral by the FDIC where the FDIC is in possession of the property and conducts the sale itself, however. Where the FDIC has control over the manner and terms of the sale, it will require the prospective purchaser's certification that the prospective purchaser is not prohibited from purchasing the asset.

Section 340.2 sets forth definitions for certain terms used in part 340. The FDIC is proposing to revise the definition of ''associated person'' to include limited liability companies of which an individual is a member (or was a member at the time of the occurrence of any event that would result in a restriction on sale as set forth in section 340.4) if the prospective purchaser of assets is an individual and, if the prospective purchaser is a limited liability company, to include the manager of the limited liability company. The FDIC is proposing to revise the definition of ''failed institution'' to remove reference to entities ''owned and controlled'' by the failed institution because the revision to paragraph 340.1(c), discussed above, explicitly states that sales of subsidiary assets are covered under part 340 if the FDIC controls the terms of the sale by agreement or in its role as shareholder. Additionally, references to the Resolution Trust Corporation and RTC are removed in favor of generically referencing the FDIC's predecessor agencies.

The FDIC is also proposing to add a new term for use in part 340, ''financial intermediary,'' and define that term to mean any broker, dealer, bank, underwriter, exchange, clearing agency registered with the SEC under section 17A of the Securities Exchange Act of 1934, transfer agent (as defined in section 3(a)(25) of the Securities Exchange Act of 1934), central counterparty or any other entity whose role is to facilitate a transaction by, as a riskless intermediary, purchasing a security or qualified financial contract from one counterparty and then selling it to another. This definition is used to identify transactions of marketable financial instruments set forth in section 340.1(c) that the FDIC believes should not be covered by section 11(p) or part 340.

Section 340.4 sets forth the conditions under which a person (whether an individual or entity) is prohibited from acquiring assets of a failed institution from the FDIC. Those conditions are: (1) The person, or its associated person, participated as an officer or director of a failed institution or of an affiliate of a failed institution, ''in a material way in a transaction that caused a substantial loss to the failed institution'' (as defined in paragraph (b) of section 340.4); (2) the person, or its associated person, has been removed from a failed institution by order of a primary federal regulatory agency; (3) the person, or its associated person, has engaged in a ''pattern or practice of defalcation'' (as defined in paragraph (c) of section 340.4) with respect to obligations owed to a failed institution; or (4) the person, or its associated person, has committed a certain criminal offense against a financial institution and is in default on an obligation owed by that person or its associated person. The FDIC proposes adding a fifth restriction: If the person is prohibited from purchasing assets of a covered financial company from the FDIC. As explained above, the FDIC believes part 340 should also restrict sales of assets of a failed institution to individuals or entities who are also prohibited from purchasing assets of a covered financial company from the FDIC under section 210(r) and section 380.13. This would ensure consistent treatment of prospective purchasers of assets from the FDIC, whether such assets are assets of a covered financial company or of a failed institution.

The FDIC is proposing to amend paragraph (a) of section 340.7, which sets forth the requirement that a prospective purchaser certify that none of the restrictions set forth in part 340 apply to the sale, by adding a sentence stating that the person must also certify that it is not using a straw purchaser or other subterfuge to allow it to purchase an asset of an insured depository institution from the FDIC or benefit from such transaction if such person would otherwise be ineligible to purchase assets from the FDIC under part 340. The FDIC's form certification (the ''Purchaser Eligibility Certification,'' FDIC Form 7300/06) already includes a statement under which a prospective purchaser certifies that neither the identity nor form of the prospective purchaser, nor any aspect of the contemplated transaction, has been created or altered with the intent, in whole or in part, to allow an individual or entity who otherwise would be ineligible to purchase assets of a failed institution from the FDIC to benefit directly or indirectly from the sale. The FDIC believes that part 340 would be strengthened by explicitly stating this requirement in the regulatory text itself as well as in the Purchaser Eligibility Certification.

The FDIC is proposing to amend paragraph (b) of section 340.7, which excepts certain types of entities that are federal agencies or instrumentalities and states or political subdivisions of states from the self-certification requirement, by including bridge depository institutions among the list of excepted entities. The FDIC believes it is reasonable to presume a bridge depository institution will be in compliance with part 340 because such entity is subject to control or oversight by the FDIC.

Finally, the FDIC is proposing to amend section 340.8, which provides that part 340 does not apply if the sale resolves or settles a person's obligation to the FDIC, to also except a sale that resolves a claim that the FDIC has asserted against a person. This is not intended to be a substantive change but to more closely track section 11(p), which excepts sales that resolve or settle either claims or obligations. This proposed change would ensure that the regulation cites both bases for exception set forth in the statute. It would also ensure consistency with the equivalent provision in paragraph (a)(2)(vi) of section 380.13.

The FDIC's proposed changes to part 340 will clarify the restrictions on sales of assets of failed institutions by the FDIC and will ensure consistency among part 340 and section 380.13, which will allow the FDIC to more efficiently administer the two rules and will help the public better understand the two rules. Because the proposed substantive amendments and technical and conforming changes are extensive, the FDIC proposes to revise and restate the text of part 340 in full rather than prepare fragmentary amendments.

III. Request for Comments

The FDIC requests comments on any of the changes that it is proposing to make. All comments must be received by the FDIC not later than December 23, 2014.

IV. Regulatory Analysis and Procedure

A. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) (PRA), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC has developed a purchaser eligibility certification form for use in establishing compliance with part 340 by a prospective purchaser of assets of a failed institution from the FDIC. The certification is an OMB-approved collection of information under the PRA, 3064–0135. The FDIC expects that the net PRA burden estimates of this collection will not be materially affected by this NPR. Any subsequent changes to the form will be submitted by the FDIC to OMB for review and approval.

1. *Information Collection*

Title of Information Collection: Purchaser Eligibility Certification.

OMB Control Number: 3064–0135.

Form Number: FDIC Form 7300/06.

Affected Public: Prospective purchasers of failed insured depository institution assets.

Frequency of Response: Event generated.

Estimated Number of Respondents: 1500.

Time per Response: 30 minutes.

Total Estimated Annual Burden: 750 hours.

2. Comments are invited on:

- Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility;
- The accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- 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. Commenters may submit comments on the information collection and burden estimates at the addresses listed under the **ADDRESSES** heading above; please put note the OMB Control Number, 3064–0135, on the subject line. A copy of the comments may also be submitted to the attention of the OMB desk officer for the FDIC; by mail to U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503; by facsimile to 202–395–6974; or by email to: *oira_submission@omb.eop.gov*.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires an agency that is issuing a proposed rulemaking to prepare and make available an initial regulatory flexibility analysis of a proposed regulation. The Regulatory Flexibility Act provides, however, that an agency is not required to prepare and publish a regulatory flexibility analysis if the agency certifies that the proposed rulemaking will not have a significant economic impact on a substantial number of small entities. The FDIC hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed rulemaking would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Under regulations issued by the Small Business Administration (13 CFR 121.201), a ''small entity'' includes those firms in the ''Finance and Insurance'' sector whose size varies from $7.5 million or less in assets (mortgage and nonmortgage loan brokers) to $550 million or less in assets (commercial banks, savings institutions, credit unions, and others). This proposed rulemaking imposes no new burden on prospective purchasers of assets sold by the FDIC. The requirement that a prospective purchaser complete and submit the Purchaser Eligibility Certification described above is a precondition to sale that is already required. Completion of the Purchaser Eligibility Certification does not require the use of professional skills or the preparation of special reports or records and should continue to have minimal economic impact on those individuals and entities that seek to purchase assets from the FDIC. Thus, the FDIC believes that any impact on small entities will not be substantial.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act of 1999 (Pub. L. 106–102, 113 Stat. 1338, 1471) requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the proposed rulemaking in a simple and straightforward manner. The FDIC invites comments on whether the proposed rulemaking is clearly stated and effectively organized, and how the FDIC might make the proposed rulemaking text easier to understand.

Text of the Proposed Rule

Federal Deposit Insurance Corporation

12 CFR Chapter III

List of Subjects in 12 CFR Part 340

Asset disposition, Banks, Banking.

Authority and Issuance

For the reasons stated in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend part 340 of title 12 of the Code of Federal Regulations as follows:

PART 340—RESTRICTIONS ON SALE OF ASSETS BY THE FEDERAL DEPOSIT INSURANCE CORPORATION

■ 1. Revise the title to read PART 340—RESTRICTIONS ON SALE OF ASSETS OF A FAILED INSTITUTION BY THE FEDERAL DEPOSIT INSURANCE CORPORATION

■ 2. The authority citation for part 340 continues to read as follows:

Authority: 12 U.S.C. 1819 (Tenth), 1821(p).

■ 3. Revise part 340 to read as follows:

Sec.

340.1 What is the statutory authority for the regulation, what are its purpose and scope, and can the FDIC have other policies on related topics?
340.2 Definitions.
340.3 What are the restrictions on the sale of assets by the FDIC if the buyer wants to finance the purchase with a loan from the FDIC?
340.4 What are the restrictions on the sale of assets by the FDIC regardless of the method of financing?
340.5 Can the FDIC deny a loan to a buyer who is not disqualified from purchasing assets using seller-financing under this regulation?
340.6 What is the effect of this part on transactions that were entered into before its effective date?
340.7 When is a certification required, and who does not have to provide a certification?
340.8 Does this part apply in the case of a workout, resolution, or settlement of obligations?

§ 340.1 What is the statutory authority for the regulation, what are its purpose and scope, and can the FDIC have other policies on related topics?

(a) Authority. The statutory authority for adopting this part is section 11(p) of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1821(p). Section 11(p) was added to the FDI Act by section 20 of the Resolution Trust Corporation Completion Act (Pub. L. 103–204, 107 Stat. 2369 (1993)).

(b) Purpose. The purpose of this part is to prohibit individuals or entities that improperly profited or engaged in wrongdoing at the expense of a failed institution or covered financial company, or seriously mismanaged a failed institution, from buying assets of a failed institution from the FDIC.

(c) Scope.

(1) The restrictions of this part generally apply to sales of assets of failed institutions owned or controlled by the FDIC in any capacity.

(2) The restrictions in this section apply to the sale of assets of a subsidiary of a failed institution or a bridge depository institution if the FDIC controls the terms of the sale by agreement or in its role as shareholder.

(3) Unless we determine otherwise, this part does not apply to the sale of securities in connection with the investment of corporate and receivership funds pursuant to the Investment Policy for Liquidation Funds managed by the FDIC as it is in effect from time to time.

(4) In the case of a sale of securities backed by a pool of assets that may include assets of failed institutions by a trust or other entity, this part applies only to the sale of assets by the FDIC to an underwriter in an initial offering, and not to any other purchaser of the securities.

(5) The restrictions of this part do not apply to a sale of a security or a group or index of securities, a commodity, or any qualified financial contract that customarily is traded through a financial intermediary, as defined in section 340.2, where the seller cannot control selection of the purchaser and the sale is consummated through that customary practice.

(6) The restrictions of this part do not apply to a judicial sale or a trustee's sale of property that secures an obligation to the FDIC where the sale is not conducted or controlled by the FDIC.

(d) The FDIC retains the authority to establish other policies restricting asset sales. Neither 12 U.S.C. 1821(p) nor this part in any way limits the authority of the FDIC to establish policies prohibiting the sale of assets to prospective purchasers who have injured any failed institution, or to other prospective purchasers, such as certain employees or contractors of the FDIC, or individuals who are not in compliance with the terms of any debt or duty owed to the FDIC. Any such policies may be independent of, in conjunction with, or in addition to the restrictions set forth in this part.

§ 340.2 Definitions.

Many of the terms used in this part are defined in the Federal Deposit Insurance Act, 12 U.S.C. 1811, *et seq.* Additionally, for the purposes of this part, the following terms are defined:

(a) Associated person of an individual or entity means:

(1) With respect to an individual:

(i) The individual's spouse or dependent child or any member of his or her immediate household;

(ii) A partnership of which the individual is or was a general or limited partner;

(iii) A limited liability company of which the individual is or was a member; or

(iv) A corporation of which the individual is or was an officer or director.

(2) With respect to a partnership, a managing or general partner of the partnership or with respect to a limited liability company, a manager; or

(3) With respect to any entity, an individual or entity who, acting individually or in concert with one or more individuals or entities, owns or controls 25 percent or more of the entity.

(b) Default means any failure to comply with the terms of an obligation to such an extent that:

(1) A judgment has been rendered in favor of the FDIC or a failed institution; or

(2) In the case of a secured obligation, the property securing such obligation is foreclosed on.

(c) FDIC means the Federal Deposit Insurance Corporation.

(d) Failed institution means any insured depository institution (as defined in 12 U.S.C. 1813(c)) that has been under the conservatorship or receivership of the FDIC or any of its predecessors.

(e) Financial intermediary means any broker, dealer, bank, underwriter, exchange, clearing agency registered with the SEC under section 17A of the Securities Exchange Act of 1934, transfer agent (as defined in section 3(a)(25) of the Securities Exchange Act of 1934), central counterparty or any other entity whose role is to facilitate a transaction by, as a riskless intermediary, purchasing a security or

qualified financial contract from one counterparty and then selling it to another.

(f) Obligation means any debt or duty to pay money owed to the FDIC or a failed institution, including any guarantee of any such debt or duty.

(g) Person means an individual, or an entity with a legally independent existence, including: A trustee; the beneficiary of at least a 25 percent share of the proceeds of a trust; a partnership; a corporation; an association; or other organization or society.

(h) Substantial loss means:

(1) An obligation that is delinquent for ninety (90) or more days and on which there remains an outstanding balance of more than $50,000;

(2) An unpaid final judgment in excess of $50,000 regardless of whether it becomes forgiven in whole or in part in a bankruptcy proceeding;

(3) A deficiency balance following a foreclosure of collateral in excess of $50,000, regardless of whether it becomes discharged in whole or in part in a bankruptcy proceeding;

(4) Any loss in excess of $50,000 evidenced by an IRS Form 1099–C (Information Reporting for Cancellation of Debt).

§ 340.3 What are the restrictions on the sale of assets by the FDIC if the buyer wants to finance the purchase with a loan from the FDIC?

A person may not borrow money or accept credit from the FDIC in connection with the purchase of any assets of a failed institution from the FDIC if:

(a) There has been a default with respect to one or more obligations totaling in excess of $1,000,000 owed by that person or its associated person; and

(b) The person or its associated person made any fraudulent misrepresentations in connection with any such obligation(s).

§ 340.4 What are the restrictions on the sale of assets by the FDIC regardless of the method of financing?

(a) A person may not acquire any assets of a failed institution from the FDIC if the person or its associated person:

(1) Has participated, as an officer or director of a failed institution or of an affiliate of a failed institution, in a material way in one or more transaction(s) that caused a substantial loss to that failed institution;

(2) Has been removed from, or prohibited from participating in the affairs of, a failed institution pursuant to any final enforcement action by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the FDIC, or any of their predecessors or successors;

(3) Has demonstrated a pattern or practice of defalcation regarding obligations to any failed institution;

(4) Has been convicted of committing or conspiring to commit any offense under 18 U.S.C. 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1341, 1343 or 1344 affecting any failed institution and there has been a default with respect to one or more obligations owed by that person or its associated person; or

(5) Would be prohibited from purchasing the assets of a covered financial company from the FDIC under 12 U.S.C. 5390(r) or its implementing regulation at 12 CFR part 380.13.

(b) For purposes of paragraph (a) of this section, a person has participated ''in a material way in a transaction that caused a substantial loss to a failed institution'' if, in connection with a substantial loss to a failed institution, the person has been found in a final determination by a court or administrative tribunal, or is alleged in a judicial or administrative action brought by the FDIC or by any component of the government of the United States or of any state:

(1) To have violated any law, regulation, or order issued by a federal or state banking agency, or breached or defaulted on a written agreement with a federal or state banking agency, or breached a written agreement with a failed institution;

(2) To have engaged in an unsafe or unsound practice in conducting the affairs of a failed institution; or

(3) To have breached a fiduciary duty owed to a failed institution.

(c) For purposes of paragraph (a) of this section, a person or its associated person has demonstrated a ''pattern or practice of defalcation'' regarding obligations to a failed institution if the person or associated person has:

(1) Engaged in more than one transaction that created an obligation on the part of such person or its associated person with intent to cause a loss to any insured depository institution or with reckless disregard for whether such transactions would cause a loss to any such insured depository institution; and

(2) The transactions, in the aggregate, caused a substantial loss to one or more failed institution(s).

§ 340.5 Can the FDIC deny a loan to a buyer who is not disqualified from purchasing assets using seller-financing under this regulation?

The FDIC still has the right to make an independent determination, based upon all relevant facts of a person's financial condition and history, of that person's eligibility to receive any loan or extension of credit from the FDIC, even if the person is not in any way disqualified from purchasing assets from the FDIC under the restrictions set forth in this part.

§ 340.6 What is the effect of this part on transactions that were entered into before its effective date?

This part does not affect the enforceability of a contract of sale and/or agreement for seller financing in effect prior to July 1, 2000.

§ 340.7 When is a certification required, and who does not have to provide a certification?

(a) Before any person may purchase any asset from the FDIC that person must certify, under penalty of perjury, that none of the restrictions contained in this part applies to the purchase. The person must also certify that neither the identity nor form of the person, nor any aspect of the contemplated transaction, has been created or altered with the intent, in whole or in part, to allow an individual or entity who otherwise would be ineligible to purchase assets from the FDIC to benefit directly or indirectly from the proposed transaction. The FDIC may establish the form of the certification and may change the form from time to time.

(b) Notwithstanding paragraph (a) of this section, and unless the Director of the FDIC's Division of Resolutions and Receiverships, or designee, in his or her discretion so requires, a certification need not be provided by:

(1) A state or political subdivision of a state;

(2) A federal agency or instrumentality such as the Government National Mortgage Association;

(3) A federally-regulated, government-sponsored enterprise such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation; or

(4) A bridge depository institution.

§ 340.8 Does this part apply in the case of a workout, resolution, or settlement of obligations?

The restrictions of §§ 340.3 and 340.4 do not apply if the sale or transfer of an asset resolves or settles, or is part of the resolution or settlement of, one or more obligations or claims that have been, or could have been, asserted by the FDIC against the person with whom the FDIC is settling, regardless of the amount of such obligations or claims.

Dated at Washington, DC, this 21st day of October, 2014.

By Order of the Board of Directors, Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–25337 Filed 10–23–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 380

RIN 3064–AE25

Record Retention Requirements

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (''FDIC'') is proposing a rule with request for comments that would implement section 210(a)(16)(D) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). This statutory provision requires the promulgation of a regulation establishing schedules for the retention by the FDIC of the records of a covered financial company (i.e., a financial company for which the FDIC has been appointed receiver pursuant to title II of the Dodd-Frank Act) as well as the records generated by the FDIC in the exercise of its title II orderly liquidation authority (title II) with respect to such covered financial company.

DATES: Written comments on the proposed rule must be received by the FDIC no later than December 23, 2014.

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

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal.* Follow instructions for Submitting comments on the Agency Web site.
- *E-Mail: Comments@FDIC.gov.* Include ''RIN 3064–AE25 '' in the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. (EST).
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal* including any personal information provided. Comments may be inspected and photocopied in the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–I002, Arlington, VA 22226, between 9 a.m. and 5 p.m. (EST) on business days. Paper copies of public comments may be ordered from the Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT: Legal Division: Elizabeth Falloon, (703) 562–6148; Jerilyn Rogin, (703) 562–2409. Division of Resolutions and Receiverships: Teresa J. Franks, (202) 898–7007; Manuel Ramilo, (202) 898–3781. Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

Title II of the Dodd-Frank Act provides for the appointment of the FDIC as receiver for a financial company to conduct an orderly liquidation of the company if, among other things, resolution of the company under bankruptcy (or other applicable insolvency regime) would have serious adverse effects on U.S. financial stability. Once appointed, Title II confers upon the FDIC as receiver for the company (the ''covered financial company'') certain powers and authorities to effectuate an orderly liquidation of the covered financial company in a manner that is consistent with the statutory objectives. For example, upon appointment of the FDIC as receiver for a covered financial company, the FDIC succeeds to all rights, titles, powers and privileges of the covered financial company including title to the books and records of the covered financial company.[1]

In addition, the FDIC necessarily will generate its own records in exercising the authorities conferred upon it by Title II. Section 210(a)(16)(D) of the Dodd-Frank Act (12 U.S.C. 5390(a)(16)(D), hereafter ''section 210(a)(16)(D)'') sets forth the outlines of the FDIC's responsibilities regarding the retention of both of these categories of records—the records of a financial company in existence at the time the FDIC is appointed receiver, as well as those generated by the FDIC in connection with its appointment as receiver and the exercise of its orderly liquidation authority as receiver. Section 210(a)(16)(D) provides guidance as to types of records that must be retained, and requires the FDIC to prescribe such regulations and establish such retention schedules as are necessary. Specifically, section 210(a)(16)(D)(i) requires that the FDIC prescribe the regulations and establish schedules for retention of these records with due regard for the avoidance of duplicative record retention and for the evidentiary needs of the FDIC as receiver and for the public. Once such regulations and retention schedules are prescribed, section 210(a)(16)(D)(ii) prohibits the destruction of records to the extent that they must be retained in accordance with the promulgated regulations and retention schedules. The proposed rule provides separate rules and retention schedules for inherited records of the covered financial company and for the records generated or maintained by the FDIC in connection with its receivership function. ''Generated or maintained'' refers in this context to records the FDIC creates, as well as records the FDIC receives and retains in connection with its Title II responsibilities.

Section 210(a)(16)(D)(iii), entitled ''Records Defined,'' describes the forms of documentary material to be addressed in the regulations and schedules, specifying that any document, book, paper, map, photograph, microfiche, microfilm, computer or electronically-created record is included. In addition, that section specifies that the records inherited from the failed company are those that were generated or maintained by the covered financial company in the course of and necessary to its transaction of business. The proposed rule clarifies the definition of ''records'' by including factors to be considered in determining whether documentary material was generated by the company in the course of and necessary to its transaction of business, as well as by providing examples such as general ledger and financial reports and qualified financial contracts.

In addressing records generated by the FDIC, the proposed rule uses the same broadly inclusive description of documentary material provided in the statute and includes those records that the FDIC created or received in exercising the authorities of title II as required by section 210(a)(16)(D). This definition is also clarified in the proposed rule by including factors to be considered in determining whether documentary material was generated or maintained by the FDIC in the exercise of its title II authorities as well as by providing examples such as documentary material relating to the appointment of the FDIC as receiver and documentary material relating to the administration, determination and payment of claims against the FDIC as receiver.

[1] 12 U.S.C. 5390(a)(1)(A).

Exclusions from both categories of records addressed in the proposed rule include items such as duplicate copies, drafts superseded by later revisions, and non-publicly available confidential supervisory information.

In keeping with the statutory mandate, retention schedules are created for both receivership and inherited records. The retention schedule for inherited records of the financial company that existed at the time of appointment of the receiver was modeled after the treatment of such records upon the appointment of the FDIC as receiver for a failed insured depository institution. That regulation, entitled ''Records of Failed Depository Institutions'' [2] (hereafter the ''FDIA final rule''), addressed the retention of records of failed insured depository institutions pursuant to section 11(d)(15)(D) [3] of the Federal Deposit Insurance Act (hereafter the ''FDIA provision''). Although certain aspects of the FDIA final rule provided guidance for this proposed rule, there are significant differences because the respective statutory underpinnings are different; in contrast to section 210(a)(16)(D), the FDIA provision contains neither a definition of records nor factors for the identification of records. In addition, the FDIA provision addresses only the retention of records of a failed insured depository institution and does not address the retention of the records generated or maintained by the FDIC in connection with its receivership functions. Accordingly, the FDIA final rule and this proposed rule promulgated under the Dodd-Frank Act each should be viewed and interpreted independently of each other.

II. Proposed Rule

Authority and Purpose

Title II of the Dodd-Frank Act sets forth the orderly liquidation authority over covered financial companies. Section 210(a)(16)(D) specifically requires the FDIC to prescribe such regulations and establish such retention schedules as are necessary to maintain the records of the FDIC generated in exercising the authorities of title II and the records of a covered financial company for which the FDIC is appointed receiver.

The purpose of this proposed rule is to fulfill the statutory mandate contained in section 210(a)(16)(D) by providing the factors necessary to identify such records and to establish retention schedules for those records in order to enable the FDIC to properly manage the records of that covered financial company [4] as well as the records generated or maintained by the FDIC in the course of its function as the receiver for that covered financial company.

Section-by-Section Analysis

Scope and Definition

Paragraph (a)(1) sets forth the scope of the proposed rule. It makes clear that the proposed rule would apply to those records that are addressed by section 210(a)(16)(D), *i.e.,* those records of a financial company that are inherited by the FDIC upon its appointment as receiver, as well as those generated by the FDIC in connection with its appointment as receiver and the exercise of its orderly liquidation authority.

Paragraph (a)(2) sets forth the definition of ''documentary material.'' This definition is taken directly from text of section 210(a)(16)(D)(iii) and describes the universe of forms and formats in which ''records'' (determined pursuant to the proposed rule's criteria) may appear, including books, paper, maps, photographs, microfiche, and electronically-created records, regardless of medium or business value and regardless of whether they are user-created or system-generated.

The definition in the proposed regulation clarifies that only those documentary materials that are ''reasonably accessible'' are included in the scope of the rule in order to incorporate the policy behind Federal Rule of Civil Procedure 26(b)(2)(B), which provides that a party from whom discovery is sought need not provide electronically-stored information from sources that are not reasonably accessible because of undue cost or burden. For example, a party may be excused from restoring electronically-stored information from aging back-up tapes in order to produce it in response to a discovery request. Thus, the use of the phrase ''reasonably accessible'' would align the concept of ''records'' in the proposed rule with the discovery standard and would protect the FDIC as receiver from incurring expenses associated with restoring or maintaining the legacy system of a covered financial company in order to extract documentary material from those systems that is not otherwise needed by the FDIC to carry out its receivership functions.

Part 380 of the Code of Federal Regulations concerns the FDIC's orderly liquidation authority conferred by title II of the Dodd-Frank Act. Section 380.1 contains the definition of the term ''covered financial company'' which is defined as a ''financial company'' for which the FDIC has been appointed receiver. Accordingly, it is not necessary to repeat the definitions of the terms ''covered financial company'' and ''financial company'' in this proposed regulation.

Records of a Covered Financial Company for Which the FDIC Is Appointed Receiver

Paragraph (b) of the proposed rule addresses the records of the failed company that are inherited by the FDIC upon its appointment as receiver. The statute specifies that these records must be those that were generated or maintained by the financial company in the course of and necessary to its business. The proposed regulation provides additional guidance with respect to determining what documentary material constitutes a record that must be retained. It sets forth four factors which the FDIC will consider in determining whether documentary material, as defined in paragraph (a)(2), was generated or maintained in the course of and necessary to its business as a financial company.

The first of these factors is the extent to which the documentary material related to the business of the financial company prior to the appointment of the FDIC as receiver. In making its determination, the FDIC would consider the extent to which the particular documentary material relates to the business purpose of the financial company.

The second factor is whether the documentary material was generated or maintained in accordance with a financial company's recordkeeping practices and procedures or pursuant to standards established by the financial company's regulators. In general, a company's own recordkeeping policies and procedures will reflect the significance of its records to its business and regulatory requirements and the importance of documentary material created or maintained by a financial company. Thus, the FDIC will consider whether documentary material was retained pursuant to the financial company's recordkeeping practices when determining whether specific documentary material is a record for the

[2] 12 CFR 360.11, 78 FR 54373 (September 4, 2013).

[3] 12 U.S.C. 1821(d)(15)(D).

[4] A ''covered financial company'' is a financial company (other than an insured depository institution) for which the necessary determinations have been made for the appointment of the FDIC as receiver. 12 U.S.C. 5381(8). ''Financial company'' is defined in the Dodd-Frank Act at 12 U.S.C. 5381(11) and the regulations promulgated thereunder.

purposes of section 210(a)(16)(D) and the proposed rule. Likewise, the FDIC will consider whether documentary material was retained pursuant to standards imposed by the financial company's regulators when determining whether specific documentary material is a record for the purposes of section 210(a)(16)(D) and the proposed rule.

The third factor is whether the documentary material is needed by the FDIC to carry out its functions as receiver. This inquiry would permit the classification of documentary material as a record if it would be used by the FDIC in carrying out its functions as receiver in, for example, transferring the financial company's assets or liabilities, assuming or repudiating the financial company's contracts, determining claims, or collecting obligations owed to the financial company.

The fourth factor used to determine whether documentary material should be classified as records is the expected evidentiary needs of the FDIC and the public. Some records generated or maintained by the financial company may be used to support enforcement actions and litigation. Certain information may be necessary for reports to Congress and the public that are required under the Dodd-Frank Act. This factor reflects the statutory text of section 210(a)(16)(D)(i)(II), which requires the FDIC to prescribe a records retention regulation with due regard for the expected evidentiary needs of the FDIC as receiver for a covered financial company and the public regarding the records of covered financial companies.

Paragraph (b)(2) of the proposed rule establishes the record retention schedule for the records of a covered financial company described in paragraph (b)(1). The retention and disposition schedule set forth in the proposed rule is modeled after that contained in the FDIA provision and the FDIA final rule: After the end of the six-year period beginning on the date of its appointment as receiver, the FDIC may destroy any records of a failed covered financial company that the FDIC determines to be unnecessary to maintain unless otherwise required by applicable law. In addition, the FDIC may at any time destroy any records that are at least 10 years old as of the date of its appointment as receiver. Also, similar to the FDIA final rule, paragraph (b)(2) of the proposed rule expressly provides that the FDIC will not destroy records subject to a litigation hold [5] imposed by the FDIC in order to ensure retention of documentary material that is relevant to ongoing litigation matters. By including litigation holds, the proposed rule implements the policy of the FDIC to preserve information (both electronically-stored information and paper) that the FDIC may be required to produce in litigation or when otherwise subject to a legal requirement to produce information.

Paragraph (b)(3) provides a non-exclusive list of examples of material that would constitute records of financial companies to provide additional guidance and clarity with respect to the sorts of documentary material that are subject to the retention requirements of the rule. Included examples are correspondence, tax and accounting forms and work papers, internal audits, inventories, board of directors or committee meeting minutes, personnel files and employee benefits information, general ledger and financial reports or data, memoranda, litigation files, loan documents including records relating to intercompany debt, contracts and agreements to which the financial company was a party, customer accounts and transactions, qualified financial contracts and related information, and reports or other records of subsidiaries or affiliates of the financial company that were provided to the financial company.

Transfer of Records

Paragraph (b)(4) addresses the transfer of the records of a financial company to a third party acquirer (including a bridge financial company) and is also modeled on a similar provision in the FDIA final rule. In a resolution of a covered financial company, the FDIC may transfer the records of a covered financial company to the custody of a third party including a bridge financial company in connection with a transaction involving the purchase and assumption of the assets and liabilities of the covered financial company. Paragraph (b)(4) of the proposed rule provides that such a transfer will satisfy the records retention obligations under paragraph (b)(2) and section 210(a)(16)(D) so long as the transfer is made pursuant to a purchase and assumption agreement under which the transferee agrees that it will not destroy the transferred records for at least six years from the date of the appointment of the FDIC as receiver for a covered financial company, unless otherwise notified in writing by the FDIC.

Records of the FDIC as Receiver for a Covered Financial Company

In fulfilling its duties and responsibilities as receiver for a covered financial company pursuant to title II of the Dodd-Frank Act, the FDIC itself would generate, receive and maintain documentary material in connection with and after its appointment as receiver that would be separate and apart from the records that it inherited from the failed company. Section 210(a)(16)(D) requires retention of records generated by the FDIC in exercising the authorities of title II. Paragraph (c) of the proposed rule provides guidance with respect to the evaluation of whether documentary materials generated or maintained by the FDIC are subject to the retention requirement.

Paragraph (c)(1) sets forth three factors that will be considered by the FDIC to evaluate if documentary material was generated or maintained by the FDIC in the course of and necessary to the exercise of its title II authorities. The first factor is the extent to which the documentary material related to duties and functions of the FDIC as receiver in exercising its authorities under title II of the Dodd-Frank Act. These would include documentary material generated or maintained by the FDIC as receiver with respect to its appointment under section 202 of the Dodd-Frank Act, as well as documentary material generated or maintained by the FDIC as receiver for a covered financial company in connection with the exercise of its orderly liquidation authority. In making its determination, the FDIC would judge the degree to which particular documentary material is related to the duties and functions of the FDIC receiver and the exercise of its orderly liquidation authority.

The second factor is whether the documentary material was generated or maintained in accordance with the record retention policies and procedures of the FDIC. The FDIC will look to its internal procedures for maintaining its own corporate records and use them as a guideline to determine whether documentary material generated or maintained as receiver for a covered financial company comports with these procedures for retention and, thus, should constitute records. Like private companies and other governmental organizations, the FDIC has established protocols for the efficient and effective maintenance of files, records and non-

[5] A litigation hold (also known as a ''preservation order'', a ''legal hold'' or a ''hold order'') is a stipulation requiring a party to preserve all data that may relate to a legal action involving that party. When in place, it requires that parties preserve records when they learn of pending or imminent litigation, or when litigation is reasonably anticipated. This requirement ensures that documentary material will be available for the litigation's discovery process.

record documentary materials. These protocols reflect the importance of these materials to the work of the FDIC.

The third factor used to determine whether documentary material should be classified as records of the FDIC as receiver is the expected evidentiary needs of the FDIC and the public. Records generated or maintained by the FDIC as receiver may be needed to support enforcement actions and litigation. In addition, records of the FDIC as receiver may be needed to provide required reports to Congress and the public. This factor is based on section 210(a)(16)(D)(i)(II) which requires the FDIC to prescribe a records retention regulation with due regard for the expected evidentiary needs of the FDIC as receiver for a covered financial company and the public regarding the records of covered financial companies.

Paragraph (c)(2) of the proposed rule sets forth the record retention schedule for the records described in paragraph (c)(1). The requirement that these records be maintained for at least six years following the termination of the receivership reflects the time periods contained in the FDIA final rule with respect to records of a failed insured depository institution and is also similar to the proposed rule's retention schedule time period regarding the inherited records of a covered financial company. The FDIA provision and final rule promulgated thereunder measure the six-year period from the appointment of the receiver which marks the legal termination of a failed insured depository institution. In keeping with the FDIC's long experience with this six-year retention period,[6] the final rule includes a six-year retention period for the records of the FDIC as receiver of a covered financial company measured from the termination of the receivership, which is the comparable date after which no new records will be created. As in the case of the retention of records inherited from covered financial companies, this minimum retention period is intended to ensure that these records are available for a long enough period to satisfy the evidentiary needs of the FDIC and the public in the aftermath of the receivership of a covered financial company.

Paragraph (c)(3) of the proposed rule sets forth a non-exclusive list of examples of documentary material that would constitute records of the FDIC in order to provide additional guidance and clarity with respect to the sorts of documentary material that are subject to the retention requirements of the rule. Included examples are: Correspondence; tax and accounting forms and work papers; inventories; contracts and other information relating to the management and disposition of the assets of the covered financial company; documentary material relating to the appointment of the FDIC as receiver; administrative records and other information relating to administrative proceedings; pleadings and similar documents in civil litigation, criminal restitution and forfeiture litigation matters and all other litigation matters in which the FDIC as receiver is a party; the charter and formation documents of a bridge financial company and contracts and other documents and information relating to the role of the FDIC as receiver in overseeing the operations of the bridge financial company; and reports or other records of the bridge financial company and its subsidiaries or affiliates that were provided to the FDIC as receiver; and documentary material relating to the administration, determination and payment of claims against the FDIC as receiver.

Paragraph (c)(4) of the proposed rule makes clear that the records either generated or maintained by the FDIC as receiver do not include the inherited records that existed prior to the date of the appointment of the receiver by the covered financial company itself. The records of the covered financial company and the rules for their retention are addressed separately in paragraph (b).

Records Subject to the Record Retention Requirements of Section 210(a)(16)(D) of the Dodd-Frank Act and the Proposed Regulation

Paragraph (d) of the proposed rule applies to all records that fall within the scope of the retention requirements of the rule as that scope is described in paragraphs (b) and (c). Paragraph (d)(1) of the proposed rule makes clear that the FDIC's designation of documentary material as records pursuant to paragraph (b) or (c) is solely for the purpose of identifying documentary material subject to the retention requirements of section 210(a)(16)(D) and the proposed rule should have no effect on whether the documentary material is discoverable or admissible in any court, tribunal or other adjudicative proceeding, nor on whether such material is subject to the Freedom of Information Act, the Privacy Act or other law or court order. Thus, whether specific documentary material is a record pursuant to the proposed rule does not alter its status under evidentiary rules such as the Federal Rules of Evidence (''FRE''). For example, FRE 803(1) provides that ''records of regularly conducted activity'' (''business records'') are not excluded from evidence by the rule against hearsay, regardless of whether the declarant is available as a witness. If certain documentary material meets the requirements of a business record pursuant to FRE 803(1), then whether or not the FDIC determines that specific documentary material constitutes ''records of a covered financial company'' or ''records of the FDIC as receiver for a covered financial company'' pursuant to the proposed rule will not affect the determination of whether the documentary material is a business record under FRE 803(1). In addition, whether specific material is or is not designated as a record for purposes of section 210(a)(16)(D) and the proposed rule is not intended to affect whether it may be subject to a litigation hold or a request under the Freedom of Information Act, the Privacy Act or other law.

Paragraph (d)(1) also clarifies that any record designation made by the FDIC will not prevent full compliance with any applicable legal or regulatory requirement or court order that establishes particular requirements with respect to certain records, such as a requirement that specific records be preserved, maintained, destroyed or kept under seal.

Exclusions

Paragraph (d)(2) of the proposed rule lists three categories of documentary material that will not qualify as records and thus will not be subject to the record retention requirements of section 210(a)(16)(D) and the proposed rule. The first category includes duplicate copies, as required by the mandate in section 210(a)(16)(D)(I) to accord due regard to the avoidance of duplicative record retention. Also in the first category is documentary material such as reference materials, drafts of documents that are superseded by later drafts or revisions, documentary material provided to the FDIC by other parties in concluded litigation for which all appeals have expired, and transitory information including personal notes, out-of-office replies, routine system messages or system-generated log files or other documentary material not routinely maintained under the standard record retention policies and

[6] The FDIC has been required to retain records inherited from failed insured depository institutions for six years since the enactment of the FDIA provision which was added to the Federal Deposit Insurance Act by section 212(a) of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) in 1989 (Pub. L. No. 101–73).

procedures of the FDIC. The term ''transitory information'' or ''transitory record'' is commonly used in record retention systems to describe records of temporary usefulness required only for a limited period of time for the completion of an action by an employee or official and that are not essential to the fulfillment of statutory obligations or the documentation of government or business functions.[7]

The second category of exclusions from record designation entails the documentary material generated or maintained by a bridge financial company[8] or by a subsidiary or affiliate of a covered financial company. The exclusion of this documentary material emphasizes the separate legal status of the covered financial company and its subsidiaries and of the FDIC receiver and any bridge financial company the FDIC may organize for the purpose of resolving a covered financial company. The proposed rule addresses only the records of a covered financial company and of the FDIC as receiver for a covered financial company. Information provided to the FDIC in connection with the formation or oversight of the bridge financial company or its subsidiaries would be within the scope of the regulation; however, documentary material generated or maintained by a bridge financial company or its subsidiaries or affiliates in the ordinary course of business that is not provided to the FDIC would fall outside the scope of the retention requirements of the proposed rule.

The third category of exclusions from the purview of the proposed rule and section 210(a)(16)(D) is non-publicly available supervisory information, operating or condition reports that were prepared by, on behalf of or at the requirement of any agency that may regulate financial companies or their subsidiaries. This is consistent with the FDIC's long-standing policy that reports of examination or other confidential supervisory correspondence or information prepared by FDIC examiners or for the use of the FDIC and other regulatory agencies with respect to a financial company or an insured depository institution or other regulated subsidiary of a financial company belong exclusively to such regulators and not to the institution, even though institutions may retain copies.

Policies and Procedures

Paragraph (d)(3) of the proposed rule provides that the FDIC may establish policies and procedures with respect to the retention and destruction of records that are consistent with the proposed rule. It is expected that these policies and procedures will address specific matters related to the capture, processing, and storage of the records of covered financial companies such as collecting computer hard drives, email databases, and backup and disaster recovery tapes, as well as establishing standard policies with respect to the retention of information generated by the FDIC on its own files, information systems, and databases.

III. Request for Comments

The FDIC seeks comments on all aspects of the proposed rule. Comments will be considered by the FDIC and appropriate revisions will be made to the proposed rule, if necessary, before a final rule is issued. All comments must be received by the FDIC not later than December 23, 2014.

IV. Regulatory Analysis and Procedure

A. Paperwork Reduction Act

No collections of information pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.,* are contained in the proposed rule.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.,* requires that each Federal agency either certify that a proposed rule would not, if adopted in final form, have a significant economic impact on a substantial number of small entities or prepare an initial regulatory flexibility analysis of the rule and publish the analysis for comment. For purposes of the RFA analysis or certification, financial institutions with total assets of $550 million or less are considered to be ''small entities.'' The FDIC hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed rule refines the definition of the term ''records'' under section 210(a)(16)(D) and establishes retention schedules that the FDIC must use in connection with its retention of these records. Accordingly, there will be no significant economic impact on a substantial number of small entities as a result of this rulemaking.

C. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the proposed rule in a simple and straightforward manner.

List of Subjects in 12 CFR Part 380

Holding companies, Insurance companies, Records and records retention.

Authority and Issuance

For the reasons set forth in the common preamble, the Federal Deposit Insurance Corporation proposes to amend chapter III of title 12 of the Code of Federal Regulations as follows:

PART 380—ORDERLY LIQUIDATION AUTHORITY

■ 1. The authority citation for part 380 is revised to read as follows:

Authority: 12 U.S.C. 5389; 12 U.S.C. 5390(s)(3); 12 U.S.C. 5390(b)(1)(C); 12 U.S.C. 5390(a)(7)(D); 5390(a)(16)(D); 12 U.S.C. 5381(b), 12 U.S.C. 5390(r).

■ 2. Add § 380.14 to read as follows:

§ 380.14 Record retention requirements.

(a) *Scope and definition.* (1) Section 210(a)(16)(D) of the Dodd-Frank Act requires retention of records of a financial company for which the Corporation has been appointed receiver

[7] For example, the Texas Administrative Code, Title 13, Chapter 6, Section 6.91 (2005) defines ''transitory information'' in the context of the state's electronic record as ''[r]ecords of temporary usefulness that are not an integral part of a records series of an agency, that are not regularly filed within an agency's recordkeeping system, and that are required only for a limited period of time for the completion of an action by an official or employee of the agency or in the preparation of an on-going records series. Transitory records are not essential to the fulfillment of statutory obligations or to the documentation of agency functions.'' The National Archives and Records Administration (NARA) Bulletin 2013–02 (August 29, 2013), ''Guidance on a New Approach to Managing Email Records'' provides that agencies must determine whether end users may delete ''. . . non-record, transitory, or personal email from their accounts.'' The Sedona Conference Commentary on Information Governance (December 2013) refers to the ''. . . defensible deletion of transitory, non-substantive or non-record content.'' A World Health Organisation publication refers to the need to differentiate between records of ''. . . substantive, fixed-term and transitory value.'' Deserno, Ineke and Kynaston, Donna, A Records Management Program that Works for Archives, The Information Management Journal, May/June 2005.

[8] This term is defined in 12 U.S.C. 5381(a)(3) and 12 CFR 380.1.

and of records of the Corporation generated in connection with its appointment and function as receiver for that covered financial company in exercising its orderly liquidation authorities under title II of the Dodd-Frank Act. This section addresses retention of those records.

(2) As used in this section, *documentary material* means any reasonably accessible document, book, paper, map, photograph, microfiche, microfilm, computer or electronically-created writing, data or file.

(b) *Records of a covered financial company for which the Corporation is appointed receiver*—(1) *Determination.* In determining whether particular documentary material existing as of the date of the appointment of the Corporation as receiver was generated or maintained by a financial company in the course of and necessary to its transaction of business and thus constitutes records of a covered financial company, the Corporation will consider the following factors:

(i) The extent to which the documentary material related to the business of the financial company;

(ii) Whether the documentary material was generated or maintained by the financial company as records in the regular course of the business of the financial company in accordance with its own record retention practices and procedures or pursuant to standards established by the financial company's regulators;

(iii) Whether the documentary material is needed by the Corporation to carry out its receivership function; and

(iv) The expected evidentiary needs of the Corporation and the public.

(2) *Record retention and disposition schedule for financial company records.*

(i) Except as provided in paragraph (b)(2)(ii) of this section, after the end of the six-year period beginning on the date of the appointment of the Corporation as receiver, the Corporation may destroy any records of the financial company that the Corporation determines to be unnecessary unless subject to a litigation hold imposed by the Corporation.

(ii) Notwithstanding paragraph (b)(2)(i) of this section, the Corporation may at any time after appointment of the Corporation as receiver for a covered financial company destroy any records of the financial company that are at least 10 years old as of the date of appointment unless subject to a litigation hold imposed by the Corporation.

(3) *Examples.* Examples of financial company records include, without limitation, correspondence, tax and accounting forms and work papers, internal audits, inventories, board of directors or committee meeting minutes, personnel files and employee benefits information, general ledger and financial reports or data, memoranda, litigation files, loan documents including records relating to intercompany debt, contracts and agreements to which the financial company was a party, customer accounts and transactions, qualified financial contracts and related information, and reports or other records of subsidiaries or affiliates of the financial company that were provided to the financial company.

(4) *Transfer of covered financial company records to acquirer.* If the Corporation transfers records of a covered financial company to a third party including a bridge financial company in connection with a transaction involving the purchase and assumption of assets and liabilities of a covered financial company, the record retention requirements of section 210(a)(16)(D) of the Dodd-Frank Act and paragraph (b)(2) of this section shall be satisfied if the transferee agrees that it will not destroy such records for at least six years beginning on the date of the appointment of the Corporation as receiver for the covered financial company unless otherwise notified in writing by the Corporation.

(c) *Records of the Corporation as receiver for a covered financial company*—(1) *Determination.* In determining whether particular documentary material constitutes records that were generated or maintained by the Corporation in connection with its appointment and function as receiver for a covered financial company and in exercising its orderly liquidation authorities under title II of the Dodd-Frank Act, the Corporation will consider the following factors:

(i) The extent to which the documentary material related to the duties and functions of the Corporation as receiver in exercising its orderly liquidation authorities under title II of the Dodd-Frank Act;

(ii) Whether the documentary material was generated or maintained by the Corporation in accordance with the record retention policies and procedures of the Corporation; and

(iii) The expected evidentiary needs of the Corporation and the public.

(2) *Record retention and disposition schedule for receivership records.* Records generated or maintained by the Corporation as receiver for a covered financial company subject to the record retention requirements of this section shall be maintained for not less than six years after the date of the termination of the receivership.

(3) *Examples.* Examples of records generated or maintained by the Corporation as receiver for a covered financial company include, without limitation, correspondence; tax and accounting forms and work papers; inventories; contracts and other information relating to the management and disposition of the assets of the covered financial company; documentary material relating to the appointment of the FDIC as receiver; administrative records and other information relating to administrative proceedings; pleadings and similar documents in civil litigation, criminal restitution and forfeiture litigation matters and all other litigation matters in which the Corporation as receiver is a party; the charter and formation documents of a bridge financial company and contracts and other documents and information relating to the role of the Corporation as receiver in overseeing the operations of the bridge financial company; and reports or other records of the bridge financial company and its subsidiaries or affiliates that were provided to the Corporation as receiver; and documentary material relating to the administration, determination and payment of claims against the Corporation as receiver.

(4) Records generated or maintained by the Corporation as receiver for a covered financial company do not include records of a financial company described in paragraph (b) of this section.

(d) *Records subject to the record retention requirements of section 210(a)(16)(D) of the Dodd-Frank Act and this section.* With respect to all records described in paragraphs (b) and (c) of this section, the following applies:

(1) *Impact on discoverability, admissibility or release; compliance with court orders.* The Corporation's determination that documentary material must be maintained pursuant to section 210(a)(16)(D) of the Dodd-Frank Act and this section shall not bear on the discoverability or admissibility of such documentary material in any court, tribunal or other adjudicative proceeding nor on whether such documentary material is subject to release under the Freedom of Information Act, the Privacy Act or other law. The Corporation will comply with any applicable court order concerning mandatory retention or destruction of any records subject to this section.

(2) *Exclusions.* Documentary material not subject to the record requirements of

section 210(a)(16)(D) of the Dodd-Frank Act and this section includes, without limitation:

(i) Duplicate copies, reference materials, drafts of documents that are superseded by later drafts or revisions, documentary material provided to the Corporation by other parties in concluded litigation for which all appeals have expired, and transitory information including personal notes, routine system messages or system-generated log files or other documentary material not routinely maintained under the standard record retention policies and procedures of the Corporation;

(ii) Documentary material generated or maintained by a bridge financial company, or by a subsidiary or affiliate of a covered financial company that was not provided to the financial company or to the Corporation as receiver; and

(iii) Non-publicly available confidential supervisory information, operating, or condition reports prepared by, on behalf of, or at the requirement of any agency responsible for the regulation or supervision of financial companies or their subsidiaries.

(3) *Policies and procedures.* The Corporation may establish policies and procedures with respect to the retention and destruction of records that are consistent with this section.

Dated at Washington, DC, this 21st day of October, 2014.

By Order of the Board of Directors, Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–25338 Filed 10–23–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2013–0818; A–1–FRL–9916–17–Region–1]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Decommissioning of Stage II Vapor Recovery Systems

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island Department of Environmental Management. This revision includes regulatory amendments that allow gasoline dispensing facilities (GDFs) to decommission their Stage II vapor recovery systems as of December 25, 2013, and a demonstration that such removal is consistent with the Clean Air Act and EPA guidance. This revision also includes regulatory amendments that strengthen Rhode Island's requirements for Stage I vapor recovery systems at GDFs. The intended effect of this action is to propose approval of Rhode Island's revised vapor recovery regulations.

DATES: Written comments must be received on or before November 24, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2013–0818 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-Mail: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2013–0818,'' Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2013–0818. 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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency: Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Ariel Garcia, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (Mail code: OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1660, fax number (617) 918–0660, email *garcia.ariel@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Summary of Rhode Island's SIP Revision
III. EPA's Evaluation of Rhode Island's SIP Revision
IV. Proposed Action
V. Statutory and Executive Order Reviews

I. Background and Purpose

On December 13, 2013, the Rhode Island Department of Environmental Management submitted a revision to its State Implementation Plan (SIP). The SIP revision consists of Rhode Island's revised Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage,* which has been revised to allow the decommissioning of Stage II vapor recovery systems and to strengthen Stage I vapor recovery requirements. The SIP submittal also includes a demonstration that removal of Stage II vapor recovery systems in Rhode Island is consistent with the Clean Air Act and EPA guidance.

Stage II and onboard refueling vapor recovery (ORVR) systems are two types of emission control systems that capture fuel vapors from vehicle gas tanks during refueling. Stage II vapor recovery systems are installed at gasoline dispensing facilities (GDFs) and capture the refueling fuel vapors at the gasoline pump. The system carries the vapors back to the underground storage tank at the GDF to prevent the vapors from escaping to the atmosphere. ORVR systems are carbon canisters installed directly on automobiles to capture the fuel vapors evacuated from the gasoline tank before they reach the nozzle. The fuel vapors captured in the carbon canisters are then combusted in the engine when the automobile is in operation.

Stage II vapor recovery systems and vehicle ORVR systems were initially both required by the 1990 Amendments to the Clean Air Act (CAA). Section 182(b)(3) of the CAA requires moderate and above ozone nonattainment areas to implement Stage II vapor recovery programs. Also, under CAA section 184(b)(2), states in the Ozone Transport Region (OTR) are required to implement Stage II or comparable measures. CAA section 202(a)(6) required EPA to promulgate regulations for ORVR for light-duty vehicles (passenger cars). EPA adopted these requirements in 1994, at which point moderate ozone nonattainment areas were no longer subject to the CAA section 182(b)(3) Stage II vapor recovery requirements. ORVR equipment has been phased in for new passenger vehicles beginning with model year 1998, and starting with model year 2001 for light-duty trucks and most heavy-duty gasoline powered vehicles. ORVR equipment has been installed on nearly all new gasoline-powered light-duty vehicles, light-duty trucks, and heavy-duty vehicles since 2006.

During the phase-in of ORVR controls, Stage II has provided volatile organic compound (VOC) reductions in ozone nonattainment areas and certain attainment areas of the OTR. Congress recognized that ORVR systems and Stage II vapor recovery systems would eventually become largely redundant technologies, and provided authority to EPA to allow states to remove Stage II vapor recovery programs from their SIPs after EPA finds that ORVR is in ''widespread use.'' Effective May 16, 2012, the date the final rule was published in the **Federal Register** (see 77 FR 28772), EPA determined that ORVR systems are in widespread use nationwide for control of gasoline emissions during refueling of vehicles at GDFs. Currently, more than 75 percent of gasoline refueling nationwide occurs with ORVR-equipped vehicles, so Stage II vapor recovery programs have become largely redundant control systems and Stage II vapor recovery systems achieve an ever declining emissions benefit as more ORVR-equipped vehicles continue to enter the on-road motor vehicle fleet.[1] In its May 16, 2012 rulemaking, EPA also exercised its authority under CAA section 202(a)(6) to waive certain federal statutory requirements for Stage II vapor recovery systems at GDFs. This decision exempts all new ozone nonattainment areas classified serious or above from the requirement to adopt Stage II vapor recovery programs. Finally, EPA's May 16, 2012 rulemaking also noted that any state currently implementing Stage II vapor recovery programs may submit SIP revisions that would allow for the phase-out of Stage II vapor recovery systems.

Stage I vapor recovery systems are systems that capture vapors displaced from storage tanks at GDFs during gasoline tank truck deliveries. When gasoline is delivered into an aboveground or underground storage tank, vapors that were taking up space in the storage tank are displaced by the gasoline entering the storage tank. The Stage I vapor recovery systems route these displaced vapors into the delivery truck's tank. Some vapors are vented when the storage tank exceeds a specified pressure threshold, however the Stage I vapor recovery systems greatly reduce the possibility of these displaced vapors being released into the atmosphere.

Stage I vapor recovery systems have been in place since the 1970s. EPA has issued the following guidance regarding Stage I systems: ''Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations'' (November 1975, EPA Online Publication 450R75102), which is regarded as the control techniques guideline (CTG) for the control of VOC emissions from this source category; and the EPA document ''Model Volatile Organic Compound Rules for Reasonably Available Control Technology'' (Staff Working Draft, June 1992) contains a model Stage I regulation.

In more recent years, the California Air Resources Board (CARB) has required Stage I vapor recovery systems capable of achieving vapor control efficiencies higher than those achieved by traditional systems. These systems are commonly referred to as Enhanced Vapor Recovery (EVR) systems.

II. Summary of Rhode Island's SIP Revision

Rhode Island adopted its Stage II Vapor Recovery Program in 1992 in order to satisfy the requirements of sections 182(b)(3) and 184(b)(2) of the CAA. The Rhode Island Stage II vapor recovery program requirements were codified in Rhode Island Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage,* and EPA approved the program into the Rhode Island SIP on December 17, 1993 (58 FR 65930). Rhode Island's rule required gasoline dispensing facilities throughout the state to install Stage II vapor recovery systems.

On December 13, 2013, Rhode Island submitted a SIP revision consisting of its revised Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage.* This SIP revision includes regulatory amendments that allow GDFs to decommission their Stage II vapor recovery systems as of December 25, 2013 and requires that all GDFs equipped with Stage II vapor recovery systems that are not compatible with ORVR, decommission their Stage II vapor recovery systems by December 22, 2017.

A GDF equipped with a Stage II vapor recovery system that is not ORVR-compatible can apply for an exemption to the Stage II removal requirement if

[1] In areas where certain types of vacuum-assist Stage II vapor recovery systems are used, the differences in operational design characteristics between ORVR and some configurations of these Stage II vapor recovery systems result in the reduction of overall control system efficiency compared to what could have been achieved relative to the individual control efficiencies of either ORVR or stage II emissions from the vehicle fuel tank.

such GDF will install, by December 22, 2017, air pollution control systems to control tank excess vent emissions resulting from that incompatibility. These GDFs are then required to continue to operate and maintain their Stage II vapor recovery systems in accordance with Rhode Island's regulations, until the time when such Stage II vapor recovery system is ever decommissioned. Also, GDFs with ORVR-compatible Stage II vapor recovery systems may choose not to decommission as long as such systems continue to be operated and maintained in accordance with Rhode Island's regulations, until the time when such Stage II vapor recovery system is ever decommissioned.

In addition, the regulatory amendments in the SIP revision also include requirements for GDFs to upgrade their Stage I vapor recovery systems to CARB-certified Stage I EVR systems or a Stage I vapor recovery system composed of EVR system components (Stage I EVR component systems). As of December 25, 2013, the upgrade to Stage I EVR systems or a Stage I system composed of EVR components is required upon facility start-up for facilities beginning operation or installing a fuel storage tank. Also as of December 25, 2013, any component of a pre-existing Stage I vapor recovery system that is replaced, is required to be replaced with a CARB-certified Stage I EVR component. The Rhode Island regulation further requires that all Stage I systems be CARB-certified Stage I EVR systems or Stage I EVR component systems by December 25, 2020.

The December 13, 2013 SIP revision also includes a narrative demonstration supporting the discontinuation of the Rhode Island Stage II vapor recovery program. This demonstration consists of an analysis that the Stage II vapor recovery controls provide only *de minimis* emission reductions due to the prevalence of ORVR-equipped vehicles.

III. EPA's Evaluation of Rhode Island's SIP Revision

EPA has reviewed Rhode Island's revised Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage,* and accompanying SIP narrative and has concluded that Rhode Island's December 13, 2013 SIP revision is consistent with EPA's widespread use rule (77 FR 28772, May 16, 2012) and EPA's ''Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures'' (EPA–457/B–12–001; August 7, 2012), hereafter referred to as EPA's Guidance Document.

Rhode Island's December 13, 2013 SIP revision includes a CAA section 110(l) anti-back sliding demonstration based on equations in EPA's Guidance Document. According to these calculations, the potential loss of refueling emission reductions from removing Stage II vapor recovery systems in 2013 (the effective date of the regulation amendments) is 7.2 percent, thus meeting the 10 percent *de minimis* recommendation in EPA's Guidance Document.

In addition, Rhode Island's December 13, 2013 SIP revision also includes calculations illustrating that the overall emissions effect of removing the Stage II vapor recovery program would be an increase of 69 tons in 2013. EPA's 2011 National Emissions Inventory database, Version 1, illustrates that Rhode Island's statewide anthropogenic VOC emissions were about 22,248 tons (see *www.epa.gov/ttn/chief/net/2011inventory.html*), therefore the 69 annual tons of VOC emissions increase calculated by Rhode Island are only about 0.3 percent of the total anthropogenic VOC emissions in Rhode Island. Also, these foregone emissions reductions in the near term continue to diminish rapidly over time as ORVR phase-in continues. Therefore, EPA believes that the resulting temporary increases in VOC emissions will not interfere with attainment or maintenance of the ozone NAAQS.

With respect to Stage I vapor recovery requirements, Rhode Island's revised Regulation No. 11 is more stringent than the previously approved version of the rule, thus meeting the CAA section 110(l) anti-back sliding requirements. As noted above, the revised rule requires upgrades to a CARB-certified EVR Stage I system or a Stage I system made up of EVR components by December 25, 2020, with an earlier December 25, 2013 compliance date in the case of a new facility or when system components are being replaced. CARB-certified Stage I EVR systems have been certified to achieve a 98 percent reduction in VOC emissions, as compared to 95 percent for pre-EVR Stage I systems.

IV. Proposed Action

EPA is proposing to approve Rhode Island's December 13, 2013 SIP revision. Specifically, EPA is proposing to approve Rhode Island's revised Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage,* and incorporate it into the Rhode Island SIP. EPA is proposing to approve this SIP revision because it meets all applicable requirements of the Clean Air Act and EPA guidance, and it will not interfere with attainment or maintenance of the ozone NAAQS.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register**.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 11, 2014.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2014–25354 Filed 10–23–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 328

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 110, 112 116, 117, 122, 230, 232, 300, 302, and 401

[EPA–HQ–OW–2011–0880; FRL–9918–34–OW]

RIN 2040–AF30

Definition of ''Waters of the United States'' Under the Clean Water Act Proposed Rule; Notice of Availability

AGENCIES: U.S. Army Corps of Engineers (Corps), Department of the Army, Department of Defense; and Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of availability.

SUMMARY: This document announces the availability of the Science Advisory Board's (SAB) final peer review of the EPA's draft report *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis.* This document has been placed in the docket for the EPA and the Corps proposed rule ''Definition of 'Waters of the United States' Under the Clean Water Act.''

DATES: The public comment for the proposed rule closes on November 14, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Downing, Office of Water (4502–T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number 202–566–2428; email address: *CWAwaters@epa.gov.*

SUPPLEMENTARY INFORMATION: On April 21, 2014, EPA and the Corps published the proposed rule ''Definition of 'Waters of the United States' Under the Clean Water Act'' in the **Federal Register** (79 FR 22188). The public comment for the proposed rule closes on November 14, 2014. The independent SAB has completed a peer review of the proposed rule's primary supporting document, EPA's draft report *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis.* The peer review was drafted by the SAB's Panel for the Review of the EPA Water Body Connectivity Report and approved by the chartered SAB. The final peer review has been placed as a supporting document in the docket for this proposed rulemaking and is available on the SAB's Web site, *http://yosemite.epa.gov/sab/sabpeople.nsf/WebCommittees/BOARD.*

How can I get copies of this document and other related information?

1. *Docket.* EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2011–0880; FRL–9901–47–OW. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically from the Government Printing Office under the ''**Federal Register**'' listings at FDSys (*http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR).*

Dated: October 14, 2014.

Benita Best-Wong,

Director, Office of Wetlands, Oceans and Watersheds, Environmental Protection Agency.

Dated: October 14, 2014.

James Hannon,

Chief, Operations and Regulatory Division, U.S. Army Corps of Engineers.

[FR Doc. 2014–25138 Filed 10–23–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180

[EPA–HQ–OPP–2014–0008; FRL–9916–03]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals In or On Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before November 24, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (BPPD)

(7511P); main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov* and Daniel Rosenblatt, Registration Division (RD) (7505P); main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

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).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

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 preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR parts 174 and 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or information prescribed in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

New Tolerance

1. *PP 4G8247.* (EPA–HQ–OPP–2014–0379). Cheminova, Inc., 1600 Wilson Blvd., Suite 700, Arlington, VA 22209–2510, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide flutriafol, (±)-α-(2-fluorophenyl)-α-(4-fluorophenyl)-1*H*-1,2,4-triazole-1-ethanol, including its metabolites and degradates, in or on corn, sweet, forage at 5 parts per million (ppm); corn, sweet, kernel plus cob with husks removed at 0.01 ppm; and corn, sweet, stover at 15 ppm. The Zeneca Agrochemicals Method RAM 219/04, entitled ''The Determination of Residues of Flutriafol (R122450) in Crops,'' dated July 5, 2000, and various subsequent modifications is used to measure and evaluate the chemical flutriafol. RD

2. *PP 4F8277.* (EPA–HQ–OPP–2014–0496). Syngenta Crop Protection, LLC, 410 Swing Rd., Greensboro, NC 27419, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide, fludioxonil, in or on rapeseed, subgroup 20A, except flax seed at 0.01 parts per million (ppm). The Syngenta Crop Protection Method AG–597B is used to measure and evaluate the chemical fludioxonil, 4-(2, 2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile. RD

New Tolerance Exemption

1. *PP 3F8221.* (EPA–HQ–OPP–2014–0560). SciReg International, 12733 Director's Loop, Woodbridge, VA 22192, on behalf of Andermatt Biocontrol AG., Stahlermatten 6 CH–6146, Grossdietwil, Switzerland, requests to establish an exemption from the requirement of a tolerance for residues of the microbial pesticide, *Bacillus amyloliquefaciens* strain FZB42, in or on all food commodities. The pesticide is intended to control soil borne diseases. The petitioner believes no analytical method is needed because *Bacillus amyloliquefaciens* strain FZB42 is virtually non-toxic and is not pathogenic. Andermatt Biocontrol AG is, therefore, submitting a petition to establish an exemption from the requirement of a tolerance and an analytical method is not required. BPPD

2. *PP 4F8251.* (EPA–HQ–OPP–2014–0457). J.R. Simplot Company, 5369 W. Irving St., Boise, IN 83706, requests to establish an exemption from the requirement of a tolerance for residues of the plant incorporated protectant (PIP), Potato Late Blight Resistance Gene (also known as *Rpi-vnt1*), in or on potato. The petitioner believes no

analytical method is needed because the petitioner is seeking an exemption from the requirement of a tolerance. BPPD

3. *PP 4F8275.* (EPA–HQ–OPP–2014–0454). Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63167, requests to establish an exemption from the requirement of a tolerance for residues of the plant-incorporated protectant (PIP), *Bacillus thuringiensis* Cry1A.105 protein, in or on soybean. The petitioner believes no analytical method is needed because the petitioner is seeking an exemption from the requirement of a tolerance. BPPD

4. *PP 4F8276.* (EPA–HQ–OPP–2014–0454). Monsanto Company, 800 North Lindbergh Blvd., St. Louis, Missouri 63167, requests to establish an exemption from the requirement of a tolerance for residues of the plant-incorporated protectant (PIP), *Bacillus thuringiensis* Cry2Ab2 protein, in or on soybean. The petitioner believes no analytical method is needed because the petitioner is seeking an exemption from the requirement of a tolerance. BPPD

5. *PP IN–10661.* (EPA–HQ–OPP–2014–0122). Exponent, 1150 Connecticut Ave. NW., Suite 1100, Washington, DC 20036, on behalf of Clariant Corporation, 4000 Monroe Rd., Charlotte, NC 28205, requests to establish an exemption from the requirement of a tolerance for residues of C.I. Pigment Yellow 1 (butanamide, 2-(4-methyl-2-nitrophenyl)azo-3-oxo-*N*-phenyl-) (CAS No. 2512–29–0) when used as a pesticide inert ingredient in pesticide formulations for pre-harvest use (seed treatments) not to exceed 10% weight (wt)/wt. The petitioner believes no analytical method is needed because it is not required for the establishment of a tolerance exemption for inert ingredients. RD

6. *PP IN–10682.* (EPA–HQ–OPP–2014–0265). Exponet, Inc., 1150 Connecticut Ave. NW., Suite 1100, Washington, DC 20036, on behalf of Huntsman Corp., 8600 Gosling Rd., The Woodlands, TX 77381, requests to establish an exemption from the requirement of a tolerance for residues of *n*-butyl benzoate (CAS No. 136–60–7) when used as a pesticide inert ingredient in pesticide formulations for pre- and post-harvest use and in antimicrobial formulations (food-contact surface sanitizing solutions). The petitioner believes no analytical method is needed because it is not required for the establishment of a tolerance exemption for inert ingredients.

RD

List of Subjects in Parts 174 and 180

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 16, 2014.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2014–25376 Filed 10–23–14; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 79, No. 206

Friday, October 24, 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

Forest Service

Nez Perce-Clearwater National Forest; Idaho; Johnson Bar Fire Salvage

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement—corrected.

SUMMARY: This is a corrected notice. This notice updates the scoping period from 30 days to 45 days and gives notice that the proposed project will be subject to 36 CFR 218 subpart A and B regulations. The original notice was published in the **Federal Register** on October 16, 2014 pages 62098–62099. The Forest Service gives notice of its intent to prepare an Environmental Impact Statement for the Johnson Bar Fire Salvage Project. The Proposed action would utilize ground based (tractor and skyline) and helicopter logging systems to harvest trees killed by the Johnson Bar Fire. Harvested areas would be replanted with early seral species such as ponderosa pine, western white pine and western larch. Approximately 3 miles of roads would be decommissioned to reduce sediment related impacts to the watershed. The EIS will analyze the effects of the proposed action and alternatives. The Nez Perce-Clearwater Forests invites comments and suggestions on the issues to be addressed. The agency gives notice of the National Environmental Policy Act (NEPA) analysis and decision making process on the proposal so interested and affected members of the public may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by December 8, 2014. The draft environmental impact statement is expected in March 2015 and the final environmental impact statement is expected July 2015.

ADDRESSES: Send written comments to Mike Ward or Tam White, Interdisciplinary Team Leaders; 502 Lowry Street, Kooskia, Idaho 83539. Comments may also be sent via email to *comments-northern-nezperce-moose-creek@fs.fed.us*

FOR FURTHER INFORMATION CONTACT: Mike Ward, Interdisciplinary Team Leader, (208) 926–6413 or Tam White, Interdisciplinary Team Leader (208) 926–6416.

SUPPLEMENTARY INFORMATION: The objective of the Johnson Bar Fire Salvage Project would be to recover the economic value of the timber burned in the fire and move the area towards desired species compositions (ponderosa pine, western white pine and western larch) through reforestation as well as improve watershed conditions.

Purpose: Provide a sustained yield of resource outputs at a level that will help support the economic structure of local communities and provide for regional and national needs (Nez Perce Forest Plan, II–1)

Need: There is a need to utilize dead trees resulting from the fire in a timely manner to provide social and economic benefits before they lose commercial value and merchantability, which would contribute to the supply of timber for local, regional, and national needs.

Purpose: Reduce potential sediment inputs into the aquatic ecosystem.

Need: Sediment input from gravel and native surface roads can flow into streams, negatively affecting fish habitat and water quality. Improvement of watershed function and stream conditions can be accomplished by reducing road densities and repairing existing roads and culverts to reduce sediment and improve drainage.

The Proposed Action would: Salvage harvest approximately 4,000 acres of dead trees within the approximate 13,000 acre fire area. Harvesting operations would primarily utilize skyline and helicopter logging systems with a small component of ground based tractor skidding where appropriate. Openings are likely to exceed 40 acres.

Approximately 23 segments of temporary roads would be built to provide line machine access from existing system roads. These spurs generally average approximately 0.16 miles each and would be removed following harvest.

Fire killed or ''dead'' trees for the purposes of this project are determined using guidelines that determine mortality by the amount of scorch and fire severity surrounding the roots and lower trunk. Field validation of these guidelines indicates they are accurate for the forest types and fire severity in the project area. All live trees will be generally retained however incidental removal may occur to facilitate harvest operations.

Reforestation would plant long lived early seral tree species such as ponderosa pine, western white pine and western larch. This strategy would allow us to continue towards the goal of restoring more resilient tree species across the landscape. Seventeen to thirty-three tons per acre of standing and down large woody debris would be left across the treatment area to provide soil microclimate and habitat, long term nutrients, soil stability, and snag habitat. For safety reasons, retention would generally occur in clumps rather than individual snags distributed across the units. Retention would generally favor the largest snags. Approximately 3 miles of unneeded roads may be decommissioned by placing them in a hydrologically stable condition. This may involve a range of road decommissioning methods from culvert removal to full recontouring.

As they are developed, additional information and maps will be posted to ''NEPA Projects'' page on the Forests Web site: *http://data.ecosystem-management.org/nepaweb/project_list.php?forest=110117.*

Responsible Official and Lead Agency

The USDA Forest Service is the lead agency for this proposal. The Nez Perce-Clearwater Forest Supervisor is the responsible official.

The Decision To Be Made is whether to adopt the proposed action, in whole or in part, or another alternative; and what mitigation measures and management requirements will be implemented.

The Scoping Process for the EIS is being initiated with this notice. The scoping process will identify issues to be analyzed in detail and will lead to the development of alternatives to the proposal. The Forest Service is seeking information and comments from other Federal, State, and local agencies; Tribal

Governments; and organizations and individuals who may be interested in or affected by the proposed action. Comments received in response to this notice, including the names and addresses of those who comment, will be a part of the project record and available for public review.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The second major opportunity for public input will be when the draft EIS is published. The comment period for the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The Draft EIS is anticipated to be available for public review in March 2015.

Dated: October 17, 2014.

Rick Brazell,

Forest Supervisor.

[FR Doc. 2014–25319 Filed 10–23–14; 8:45 am]

BILLING CODE 3410–11–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meetings

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meetings.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) plans to hold its regular committee and Board meetings in Washington, DC, Tuesday and Wednesday, November 18–19, 2014 at the times and location listed below.

DATES: The schedule of events is as follows:

Tuesday, November 18, 2014

10:00–Noon Ad Hoc Committee Meetings: Closed to Public
1:30–2:30 p.m. Ad Hoc Committee on Frontier Issues
3:00–4:00 p.m. Ad Hoc Committee Meetings: Closed to Public

Wednesday, November 19, 2014

9:30–10:00 a.m. Budget Committee
10:00–11:00 a.m. Technical Programs Committee
11:00–Noon Planning and Evaluation Committee
1:30–3:00 p.m. Board Meeting

ADDRESSES: Meetings will be held at the Access Board Conference Room, 1331 F Street NW., Suite 800, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact David Capozzi, Executive Director, (202) 272–0010 (voice); (202) 272–0054 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting scheduled on the afternoon of Wednesday, November 19, 2014, the Access Board will consider the following agenda items:

- Approval of the draft July 9 and September 10, 2014 meeting minutes (vote)
- Ad Hoc Committee Reports: Self-Service Transaction Machines; Information and Communications Technologies; Accessible Design in Education; Public Rights-of-Way and Shared Use Paths; Passenger Vessels; Frontier Issues; Transportation Vehicles; and Medical Diagnostic Equipment
- Budget Committee
- Technical Programs Committee
- Planning and Evaluation Committee
- Election Assistance Commission Report
- Executive Director's Report

All meetings are accessible to persons with disabilities. An assistive listening system, Communication Access Realtime Translation (CART), and sign language interpreters will be available at the Board meeting and committee meetings. Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants (see *www.access-board.gov/the-board/policies/fragrance-free-environment* for more information).

David M. Capozzi,

Executive Director.

[FR Doc. 2014–25347 Filed 10–23–14; 8:45 am]

BILLING CODE 8150–01–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Thursday, October 30, 2014, 9:30 a.m.–12:00 p.m. EDT.

PLACE: Cohen Building, Room 3321, 330 Independence Ave. SW., Washington, DC 20237.

SUBJECT: Notice of Meeting of the Broadcasting Board of Governors.

SUMMARY: The Broadcasting Board of Governors (Board) will be meeting at the time and location listed above. The Board will vote on a consent agenda consisting of the minutes of its August 13, 2014 meeting and a resolution to propose Board meeting dates in 2015. The Board will consider establishing a new Board special committee on the future of the Voice of America. The Board will convene a panel discussion titled, ''What's the Secret to Media Brand Loyalty? Storytelling in the Digital Age.''

This meeting will also be available for public observation via streamed webcast, both live and on-demand, on the agency's public Web site at *www.bbg.gov.* Information regarding this meeting, including any updates or adjustments to its starting time, can also be found on the agency's public Web site.

The public may also attend this meeting in person at the address listed above as seating capacity permits. Members of the public seeking to attend the meeting in person must register at *https://bbgboardmeetingoctober2014.eventbrite.com* by 12:00 p.m. (EDT) on October 29. For more information, please contact BBG Public Affairs at (202) 203–4400 or by email at *pubaff@bbg.gov.*

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Oanh Tran at (202) 203–4545.

Oanh Tran,

Director of Board Operations.

[FR Doc. 2014–25381 Filed 10–22–14; 11:15 am]

BILLING CODE 8160–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Non-commercial Permit and Reporting Requirements in the Main Hawaiian Islands Bottomfish Fishery.

OMB Control Number: 0648–0577.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 100.

Average Hours per Response: Permit applications, 10 minutes; appeals, 2 hours; trip logsheets, 20 minutes.

Burden Hours: 102.

Needs and Uses: Regulations at 50 CFR 665, Subpart C, require that all participants (including vessel owners, operators, and crew) in the boat-based non-commercial bottomfish fishery in

the Exclusive Economic Zone around the main Hawaiian Islands obtain a federal bottomfish permit. This collection of information is needed for permit issuance, to identify actual or potential participants in the fishery, determine qualifications for permits, and to help measure the impacts of management controls on the participants in the fishery. The permit program is also an effective tool in the enforcement of fishery regulations and serves as a link between the National Marine Fisheries Service (NMFS) and fishermen.

Regulations at 50 CFR 665 require that all vessel owners or operators in this fishery are required to submit a completed logbook form at the completion of each fishing trip. These logbook reporting sheets document the species and amount of species caught during the trip. The reporting requirements are crucial to ensure that NMFS and the Western Pacific Fishery Management Council (Council) will be able to monitor the fishery and have fishery-dependent information to develop an Annual Catch Limit for the fishery, evaluate the effectiveness of management measures, determine whether changes in fishery management programs are necessary, and estimate the impacts and implications of alternative management measures.

Affected Public: Individuals or households; business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: October 20, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–25269 Filed 10–23–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Region Permit Family of Forms.

OMB Control Number: 0648–0206.

Form Number(s): None.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 662.

Average Hours per Response: Federal Fisheries Permit, 21 minutes; Federal Processor Permit, 25 minutes; Exempted Fisheries Permit, 20 hours.

Burden Hours: 319.

Needs and Uses: This request is for revision and extension of a currently approved information collection.

For a person to participate in Federal fisheries, NMFS requires a Federal Fisheries Permit (FFP), a Federal Processor Permit (FPP), or an Experimental Fisheries Permit (EFP). NMFS Alaska Region created a set of groundfish permits that operators of vessels and managers of processors must have onboard or onsite when fishing for, receiving, buying, or processing groundfish. These permits provide NMFS with a way to monitor participation in groundfish fisheries.

Section 303(b)(1) of the Magnuson-Stevens Act specifically recognizes the need for permit issuance. The requirement of a permit for marine resource users is one of the regulatory steps taken to carry out conservation and management objectives. The issuance of a permit is an essential ingredient in the management of fishery resources needed for identification of the participants and expected activity levels and for regulatory compliance (e.g., withholding of permit issuance pending collection of unpaid penalties).

Revision: the Federal Processor Permit application has been revised.

Affected Public: Business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: October 20, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–25305 Filed 10–23–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Sea Grant Program Application Requirements for Grants, for Sea Grant Fellowships, including the Dean John A. Knauss Marine Policy Fellowships, and for Designation as a Sea Grant College or Sea Grant Institute.

OMB Control Number: 0648–0362.

Form Number(s): NOAA 90–1, 90–2 and 90–4.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 162.

Average Hours per Response: Form 90–1, 30 minutes; Form 90–2, 20 minutes; Form 90–4, 15 minutes; Application for Designation as a Sea Grant College or Regional Consortium, 20 hours; Application for a Sea Grant Fellowship, 2 hours.

Burden Hours: 857.

Needs and Uses: This request is for revision and extension of a currently approved information collection.

The objectives of the National Sea Grant College Program, as stated in the Sea Grant legislation (33 U.S.C. 1121–1131) are to increase the understanding, assessments, development, utilization, and conservation of the Nation's ocean, coastal, and Great Lakes resources. The program accomplishes these objectives by conducting research, education, and outreach programs.

Grant monies are available for funding activities that help obtain the objectives of the Sea Grant Program. Both single and multi-project grants are awarded, with the latter representing about 80 percent of the total grant program. In addition to other standard grant application requirements, three forms are required with the grants. These are the Sea Grant Control Form 90–1, used to identify the organizations and personnel who would be involved in the grant and briefly summarize the

proposed activities under the grant; the Project Record Form 90–2, which collects summary data on projects; and the Sea Grant Budget Form 90–4, which provides information similar to, but more detailed than on, forms SF–424A or SF–424C. In addition, the National Sea Grant College Program Act (33 U.S.C. 1126) provides for application for designation of a public or private institution of higher education, institute, laboratory, or State or local agency as a Sea Grant college or Sea Grant institute.

Revision: The Project Record Form has been revised, based on public comments.

Affected Public: Not-for-profit institutions; business or other for-profit organizations; individuals or households; state, local and tribal governments.

Frequency: Annually and on occasion.

Respondent's Obligation: Required to obtain or maintain benefits.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: October 21, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–25306 Filed 10–23–14; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[10/09/2014 through 10/20/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
Aspen Industries, Inc	4609 McRee Avenue, St. Louis, MO 63110.	10/14/2014	The firm manufactures customized hot tubs and spas.
Lauretano Sign Group, Inc	1 Tremco Drive, Terryville, CT 06786.	10/17/2014	The firm manufacturers building mounted signs for both interior and exterior.
TKT Enterprises d.b.a. The Monarch Companies.	7050 North 76th Street, Poultney, WI 53223.	10/17/2014	The firm manufacturers large fabricated structural metal components such as mining and pumping equipment.
Northern Empire dba Next Innovations.	7981 Town Hall Rd. NW., Walker, MN 56484.	10/17/2014	The firm manufactures cold-rolled steel products such as wall art, shooting targets, lawn and garden décor, wind spinners and decorative brackets.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: October 20, 2014.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2014–25317 Filed 10–23–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement, Article 1904 NAFTA Panel Reviews; First Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On October 16, 2014, Grupo Simec, Orge S.A. DE C.V., and Orge S.A. DE C.V. (''Simec'') filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel Review was requested of the U.S. Department of Commerce's final determination regarding Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances; July 1, 2012–June 30, 2013. This determination was published in the **Federal Register** (79 FR 54967), on September 15, 2014. The NAFTA Secretariat has assigned Case Number USA–MEX–2014–1904–01 to this request.

FOR FURTHER INFORMATION CONTACT: Marsha Ann Y. Iyomasa, Acting United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue NW., Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free Trade Agreement (''Agreement'') established a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada, and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on October 16, 2014, requesting a panel review of the determination and order described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is November 17, 2014);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is December 1, 2014); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in panel review and the procedural and substantive defenses raised in the panel review.

Dated: October 20, 2014.

Marsha Ann Y. Iyomasa,

Acting United States Secretary, NAFTA Secretariat.

[FR Doc. 2014–25331 Filed 10–23–14; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board (SAB)

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Time and Date: The meeting will be held Monday, November 17, 2014 from 8:15 a.m. to 5:30 p.m. EST and on Tuesday, November 18, 2014 from 9:30 a.m. to 1:00 p.m. EST. These times and the agenda topics described below are subject to change. Please refer to the Web page *http://www.sab.noaa.gov/Meetings/meetings.html* for the most up-to-date meeting times and agenda.

Place: The meeting will be held at the Sheraton Silver Spring in the Magnolia Ballroom, 8777 Georgia Avenue, Silver Spring, Maryland 20910. Please check the SAB Web site *http://www.sab.noaa.gov/Meetings/meetings.html* for directions to the meeting location.

Status: The meeting will be open to public participation with a 15-minute public comment period on November 17 from 5:15–5:30 p.m. EST (check Web site to confirm time). The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of two (2) minutes. Individuals or groups planning to make a verbal presentation should contact the SAB Executive Director by November 12, 2014, to schedule their presentation. Written comments should be received in the SAB Executive Director's Office by November 12, 2014, to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after November 12, 2014, will be distributed to the SAB, but may not be reviewed prior to the meeting date. Seating at the meeting will be available on a first-come, first-served basis.

Special Accommodations: These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed no later than 12:00 p.m. on November 12, 2014, to Dr. Cynthia Decker, SAB Executive Director, SSMC3, Room 11230, 1315 East-West Hwy., Silver Spring, MD 20910; Email: *Cynthia.Decker@noaa.gov.*

Matters To Be Considered: The meeting will include the following topics: (1) NOAA Response to the comments from the Gulf Coast Ecosystem Restoration Science Program Advisory Working Group (RSPAWG) on the NOAA RESTORE Act Science Program Draft Science Plan; (2) Proposed New NOAA Criteria for the Review of Cooperative Institutes; (3) Sea Grant Advisory Board Biennial Report to Congress; (4) NOAA Storm Surge and Ecological Forecasting Road Maps: A Synergy for Advancing Resilient Communities; (5) Update on the NOAA Social Science Tiger Team Report; (6) SAB Strategy Session; (7) NOAA Update; and (8) Working Group Updates.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459). Email: *Cynthia.Decker@noaa.gov;* or visit the NOAA SAB Web site at *http://www.sab.noaa.gov.*

Dated: October 16, 2014.

Jason Donaldson,

Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2014–25104 Filed 10–23–14; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD569

Atlantic Highly Migratory Species; Advisory Panel

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

ACTION: Notice; solicitation of nominations.

SUMMARY: NMFS solicits nominations for the Atlantic Highly Migratory Species (HMS) Advisory Panel (AP). NMFS consults with and considers the comments and views of the HMS AP when preparing and implementing Fishery Management Plans (FMPs) or FMP amendments for Atlantic tunas, swordfish, sharks, and billfish. Nominations are being sought to fill approximately one-third (11) of the seats on the HMS AP for a 3-year appointment. Individuals with definable interests in the recreational and commercial fishing and related industries, environmental community, academia, and non-governmental organizations are considered for membership on the HMS AP.

DATES: Nominations must be received on or before November 24, 2014.

ADDRESSES: You may submit nominations and requests for the Advisory Panel Statement of Organization, Practices, and Procedures by any of the following methods:

- *Email: HMSAP.Nominations@noaa.gov.* Include in the subject line the following identifier: ''HMS AP Nominations.''
- *Mail:* Jenni Wallace, Highly Migratory Species Management Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.
- *Fax:* 301–713–1917.

FOR FURTHER INFORMATION CONTACT: Jenni Wallace at (301) 427–8503.

SUPPLEMENTARY INFORMATION:

Introduction

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.,* as amended by the Sustainable Fisheries Act, Public Law 104–297, provided that the Secretary may establish Advisory Panels to assist in the collection and evaluation of information relevant to the development of any Fishery Management Plan (FMP) or FMP amendment for any highly migratory species fishery that is under the Secretary's authority. NMFS has consulted with the HMS AP on: Amendment 1 to the Billfish FMP (April 1999); the HMS FMP (April 1999); Amendment 1 to the HMS FMP (December 2003); the 2006 Consolidated HMS FMP (October 2006); Amendments 1, 2, 3, 4, 5a, 5b, 6, 7, 8, and 9 to the 2006 Consolidated HMS FMP (April and October 2008, February and September 2009, May and September 2010, April and September 2011, March and September 2012, January and September 2013, and April and September 2014); among other relevant fishery management issues.

Procedures and Guidelines

A. Nomination Procedures for Appointments to the Advisory Panel

Nomination packages should include:

1. The name of the nominee and a description of his/her interest in HMS or HMS fisheries, or in particular species of sharks, swordfish, tunas, or billfish;
2. Contact information, including mailing address, phone, and email of the nominee;
3. A statement of background and/or qualifications;
4. A written commitment that the nominee shall actively participate in good faith, and consistent with ethics obligations, in the meetings and tasks of the HMS AP; and
5. A list of outreach resources that the nominee has at his/her disposal to communicate HMS issues to various interest groups.

Qualifications for HMS AP Membership

Qualification for membership includes one or more of the following: (1) Experience in HMS recreational fisheries; (2) experience in HMS commercial fisheries; (3) experience in fishery-related industries (*e.g.,* marinas, bait and tackle shops); (4) experience in the scientific community working with HMS; and/or (5) representation of a private, non-governmental, regional, national, or international organization representing marine fisheries, or environmental, governmental, or academic interests dealing with HMS.

Tenure for the HMS AP

Member tenure will be for 3 years (36 months), with approximately one-third of the members' terms expiring on December 31 of each year. Nominations are sought for terms beginning January 2015 and expiring December 2017.

B. Participants

Nominations for the HMS AP will be accepted to allow representation from commercial and recreational fishing interests, and the environmental/non-governmental organization community, who are knowledgeable about Atlantic HMS and/or Atlantic HMS fisheries. Current representation on the HMS AP, as shown in Table 1, consists of 12 members representing commercial interests, 12 members representing recreational interests, 4 members representing environmental interests, 4 academic representatives, and the International Commission for the Conservation of Atlantic Tunas (ICCAT) Advisory Committee Chairperson. Each HMS AP member serves a 3-year term with approximately one-third of the total number of seats (33) expiring on December 31 of each year. NMFS seeks to fill 1 academic, 5 commercial, 3 recreational, and 2 environmental/non-governmental organization vacancies by December 31, 2014. NMFS will seek to fill vacancies based primarily on maintaining the current representation from each of the sectors. NMFS also considers species expertise and representation from the fishing regions (Northeast, Mid-Atlantic, South Atlantic, Gulf of Mexico, and Caribbean) to ensure the diversity and balance of the AP. Table 1 includes the current representation on the HMS AP by sector, region, and species with terms that are expiring identified in bold. It is not meant to indicate that NMFS will only consider persons who have expertise in the species or fishing regions that are listed. Rather, NMFS will aim toward having as diverse and balanced an AP as possible.

TABLE 1—CURRENT REPRESENTATION ON THE HMS AP BY SECTOR, REGION, AND SPECIES

[Terms that are expiring are in bold. NMFS tries to maintain diversity and balance in representation among fishing regions and species]

Sector	Fishing region	Species	Date appointed	Date term expires
Academic	All	Swordfish/Tuna	1/1/2012	12/31/2014
Academic	All	Tuna	1/1/2013	12/31/2015

TABLE 1—CURRENT REPRESENTATION ON THE HMS AP BY SECTOR, REGION, AND SPECIES—Continued

[Terms that are expiring are in bold. NMFS tries to maintain diversity and balance in representation among fishing regions and species]

Sector	Fishing region	Species	Date appointed	Date term expires
Academic	Southeast/Gulf of Mexico	Shark	1/1/2013	12/31/2015
Academic	Southeast	Swordfish/HMS	1/1/2013	12/31/2015
Commercial	MidAtlantic	HMS	1/1/2012	12/31/2014
Commercial	Northeast	Tuna	1/1/2012	12/31/2014
Commercial	Gulf of Mexico	Tuna/Swordfish	1/1/2012	12/31/2014
Commercial	Northeast	Tuna	1/1/2012	12/31/2014
Commercial	Northeast	Tuna	1/1/2012	12/31/2014
Commercial	Southeast	Shark	1/1/2013	12/31/2015
Commercial	Southeast	Swordfish/Tuna	1/1/2013	12/31/2015
Commercial	Northeast	Tuna	1/1/2014	12/31/2016
Commercial	Mid-Atlantic	HMS/Shark	1/1/2014	12/31/2016
Commercial	Southeast	Swordfish	1/1/2014	12/31/2016
Commercial	Gulf of Mexico	Shark	1/1/2014	12/31/2016
Commercial	Gulf of Mexico	Shark	1/1/2014	12/31/2016
Environmental	All	Shark	1/1/2012	12/31/2014
Environmental	Gulf of Mexico	HMS	1/1/2012	12/31/2014
Environmental	All	Tuna	1/1/2014	12/31/2016
Environmental	All	Tuna	1/1/2014	12/31/2016
Recreational	Gulf of Mexico/Southeast	Billfish/Tuna	1/1/2012	12/31/2014
Recreational	Mid-Atlantic	HMS	1/1/2012	12/31/2014
Recreational	Mid-Atlantic	Tuna	1/1/2012	12/31/2014
Recreational	Northeast	Tuna/Shark	1/1/2013	12/31/2015
Recreational	Southeast	Swordfish	1/1/2013	12/31/2015
Recreational	Northeast	Tuna	1/1/2013	12/31/2015
Recreational	Southeast	HMS	1/1/2013	12/31/2015
Recreational	Northeast	HMS	1/1/2013	12/31/2015
Recreational	Southeast	HMS	1/1/2014	12/31/2016
Recreational	Mid-Atlantic	HMS	1/1/2014	12/31/2016
Recreational	Southeast	Billfish	1/1/2014	12/31/2016
Recreational	Gulf of Mexico	HMS	1/1/2014	12/31/2016

The intent is to have a group that, as a whole, reflects an appropriate and equitable balance and mix of interests given the responsibilities of the HMS AP.

Five additional members on the HMS AP include one member representing each of the following Councils: New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, and the Caribbean Fishery Management Council. The HMS AP also includes 22 ex-officio participants: 20 Representatives of the coastal states and two representatives of the interstate commissions (the Atlantic States Marine Fisheries Commission and the Gulf States Marine Fisheries Commission).

NMFS will provide the necessary administrative support, including technical assistance, for the HMS AP. However, NMFS will not compensate participants with monetary support of any kind. Depending on availability of funds, members may be reimbursed for travel costs related to the HMS AP meetings.

C. Meeting Schedule

Meetings of the HMS AP will be held as frequently as necessary but are routinely held twice each year—once in the spring, and once in the fall. The meetings may be held in conjunction with public hearings.

Dated: October 21, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–25359 Filed 10–23–14; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the procurement list.

SUMMARY: This action adds products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products from the Procurement List previously furnished by such agencies.

DATES: *Effective Date:* 11/24/2014.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 5/30/2014 (79 FR 31095–31096); 6/20/2014 (79 FR 35320); 8/22/2014 (79 FR 49756); 9/12/2014 (79 FR 54683) and 9/19/2014 (79 FR 56345), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to furnish the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government

under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

NSN: 6230–00–NIB–0052—Flashlight, Tactical, Lithium-Ion Rechargeable, Multi-color LEDs
NSN: 6230–00–NIB–0053—Penlight, Tactical-Style, LED, 2 AAA, 5'' Long
NSN: 6230–00–NIB–0054—Flashlight, Tactical-Style, LED, 2 AAA, 6'' Long
NPA: Central Association for the Blind & Visually Impaired, Utica, NY
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA
Coverage: B-List for the Broad Government Requirement as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.
NSN: MR 919—Brush, Scrubber Plastic Block
NSN: MR 1078—Broom, Corn Whisk
NPA: Alphapointe, Kansas City, MO
Contracting Activity: Defense Commissary Agency, Fort Lee, VA
Coverage: C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency, Fort Lee, VA.
NSN: 6140–01–545–0940—Battery, Storage, 12V
NPA: Eastern Carolina Vocational Center, Inc., Greenville, NC
Contracting Activity: Defense Logistics Agency Land and Maritime, Columbus, OH
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Land and Maritime, Columbus, OH.

Services

Service Type/Location: Janitorial, Grounds and Refuse Collection Service, U.S. Air Force, Arnold Air Force Base, 100 Kindel Drive, Arnold AFB, TN
NPA: CW Resources, Inc., New Britain, CT
Contracting Activity: Dept of the Air Force, FA9101 AEDC PKP, Procurement Branch, Arnold AFB, TN

Additional Information: The Arnold Engineering Development Complex (AEDC) and U.S. AbilityOne Commission (Commission) have agreed to a mutually beneficial approach to adding the AEDC's requirement for Custodial, Grounds, and Refuse Service to the Commission's Procurement List (PL) while assuring reasonable stability in the AEDC workforce. Due to unique workforce considerations at AEDC, the Commission will issue a Purchase Exception (PE) for the period October 1, 2014 to September 30, 2019; therefore, the PL addition will not be implemented or ''active'' until October 1, 2019.

During the PE period, the AEDC and Commission have agreed to ensure a plan is developed to transition the custodial, grounds, and refuse collection (Big Three) requirements from the incumbent Facility Support Service (FSS) contractor to the designated NPA—including the process for negotiating a firm-fixed price contract. A key component of the transition plan will be a communications strategy of how the Big Three effort will be transitioned to performance under the AbilityOne Program in accordance with the PL.

As AEDC implements its acquisition strategy to acquire FSS for the PE period, it has agreed to incorporate language into the FSS contract that (1) provides notice that the requirement for custodial, grounds, and refuse service is on the PL, and requirements for these services will be performed by the NPA designated by the Commission no later than October 1, 2019 and (2) encourages the contractor to employ people with disabilities.

Service Type/Locations:
Custodial and Grounds Maintenance Service, GSA, PBS, Region 2, Federico Degetau Federal Building and Clemente Ruiz Nazario US Courthouse, 150 Carlos Chardon Street, Hato Rey, PR
GSA, PBS, Region 2, GSA Center, Insular Road No. 28, Guaynabo, PR
NPA: The Corporate Source, Inc., New York, NY
Contracting Activity: GSA/Public Buildings Service, Hato Rey, PR
Service Type/Location: Janitorial Service, National Oceanic & Atmospheric Administration, National Weather Service Office, 2500 Challenger Drive, Midland, TX
NPA: World Technical Services, Inc., San Antonio, TX
Contracting Activity: Department of Commerce, National Oceanic and Atmospheric Administration, Boulder, CO
Service Type/Location: Custodial Service, US Army, Warrior Transition Battalion, 4–2027 Normandy Drive, Fort Bragg, NC
NPA: The Chimes, Inc., Baltimore, MD
Contracting Activity: Dept of the Army, W074 ENDIST Wilmington, Wilmington, NC

Deletions

On 9/19/2014 (79 FR 56345), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entity to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

Liner, Flyer's Jacket, Air Force, Green Quilted

NSN: 8415–00–844–9811—Small.
NSN: 8415–00–844–9812—Medium.
NSN: 8415–00–844–9813—Large.
NSN: 8415–00–844–9814—X Large.
NPA: Peckham Vocational Industries, Inc., Lansing, MI.
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2014–25334 Filed 10–23–14; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletion from the Procurement List.

SUMMARY: The Committee is proposing to add products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes a product previously furnished by such agency.

DATES: *Comments Must be Received on Or Before:* 11/24/2014.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

For Further Information Or to Submit Comments Contact: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and service are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN: 7220–00–NIB–0439—Step/Ramp Kit, Anti-Slip Treads, Peel-and-Stick, Black, 6″ x 24″
NPA: Louisiana Association for the Blind, Shreveport, LA.
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.

NSN: MR 10668—Tumbler, Drinking, 16 oz, Licensed.
NSN: MR 10667—Thermos, 25 oz, Licensed.
NSN: MR 10666—Jar, Drinking, 19 oz, Licensed.
NPA: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC.
Contracting Activity: Defense Commissary Agency, Fort Lee, VA.
Coverage: C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency, Fort Lee, VA.

Service

Service Type/Location: Facilities Maintenance Service, US Coast Guard, US Coast Guard Yard, Curtis Bay, 2401 Hawkins Point Road, Baltimore, MD.
NPA: Skookum Educational Programs, Bremerton, WA.
Contracting Activity: Dept of Homeland Security, U.S. Coast Guard, SFLC Procurement Branch 3, Baltimore, MD.

Deletion

The following product is proposed for deletion from the Procurement List:

Product

Tire Inflator Gage

NSN: 4910–00–441–8685.
NPA: Beaufort County Developmental Center, Inc., Washington, NC.
Contracting Activity: Defense Logistics Agency Land and Maritime, Columbus, OH.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2014–25335 Filed 10–23–14; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 14–50]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 14–50 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: October 21, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

OCT 10 2014

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 14-50, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Australia for defense articles and services estimated to cost $76 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 14–50

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Australia

(ii) *Total Estimated Value:*

Major Defense Equipment* ..	$62 million
Other	$14 million
Total	$76 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* up to 3 Close-In Weapon System (CIWS) Block 1B Baseline 1 to Baseline 2 upgrade kits: The overhaul and upgrade of up to 9 CIWS Block 1A mounts to Block 1B Baseline 2 systems; 11 Remote Control Stations; 11 Local Control Stations, spare and repair parts; support equipment; test equipment; personnel training and training equipment; publications and technical documentation; U.S. Government and contractor logistics and technical support services; and other related elements of logistics and program support.

(iv) *Military Department:* Navy (LFC)

(v) *Prior Related Cases, if any:*

FMS case SAY–$184M–15Nov77
FMS case SBJ–$275M–5May80
FMS case LWZ–$79M–12Nov81
FMS case LXN–$15M–23Jul82

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* 10 Oct 14

* as defined in Section 47(6) of the Arms Export Control Act.

Policy Justification

Australia—Close-In Weapon System Block 1B Baseline 2 Upgrade

The Government of Australia has requested a possible sale of up to 3 Close-In Weapon System (CIWS) Block 1B Baseline 1 to Baseline 2 upgrade kits: the overhaul and upgrade of up to 9 CIWS Block 1A mounts to Block 1B Baseline 2 systems; 11 Remote Control Stations; 11 Local Control Stations, spare and repair parts; support equipment; test equipment; personnel training and training equipment; publications and technical documentation; U.S. Government and contractor logistics and technical support services; and other related elements of logistics and program support. The estimated cost is $76 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a major ally which has been, and continues to be a staunch coalition partner and important force for political stability throughout the world.

The proposed sale will improve Australia's maritime defense capability to contribute to national defense and future coalition operations. Australia will use the enhanced capability as a deterrent to regional threats and to strengthen its shipboard defense. Australia will have no difficulty absorbing this new upgrade into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Raytheon Missile Systems Company in Tucson, Arizona. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Australia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 14–50

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The CIWS Block 1B Baseline 2 upgrade represents an increase in threat acquisition and firepower accuracy over the Block 1B Baseline 1 and CIWS Block 1A configurations. The Baseline 2 variant includes a radar improvement upgrade and an electro-optical sensor to improve weapon system performance against low-observable; sea-skimming threats, and provides improved capability to concentrate hard-kill ordnance in a tighter pattern on the threat. The CIWS mount and spare hardware are Unclassified. The radar improvement/upgrade is the most sensitive portion of the Baseline 2 configuration. The hardware, software, and the majority of the technical documentation are Unclassified.

2. The CIWS Block 1B Baseline 2 upgrade will result in the transfer of highly accurate close-in engagement technology and ship self-defense capability. The equipment, hardware, and the majority of documentation are Unclassified. The embedded software and operational performance are classified Confidential. The seeker/electro-optical control section and the target detector are Unclassified, but contain sensitive state-of-the-art technology. Twelve sets of Technical Manuals used to support the operation and provisioning of organizational-level maintenance are Confidential. The technical and operational data identified above is classified to protect vulnerabilities, design and performance parameters, and similar critical information.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar advanced capabilities.

4. A determination has been made that the recipient country can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Australia.

[FR Doc. 2014–25311 Filed 10–23–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Termination of Defense Legal Policy Board

AGENCY: DoD.

ACTION: Termination of Federal Advisory Committee.

SUMMARY: The Department of Defense is publishing this notice to announce that it is terminating the Defense Legal Policy Board, effective September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee is being terminated under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix), 41 CFR 102–3.55, and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), effective September 30, 2014.

Dated: October 21, 2014.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2014–25315 Filed 10–23–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS 2014–0053]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Special Contracting Methods

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

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a)

Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the 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 the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection under Control Number 0704–0214 for use through January 31, 2015. DoD is proposing that OMB extend its approval for use for three additional years.

DATES: DoD will consider all comments received by December 23, 2014.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0214, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

○ *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0214 in the subject line of the message.

○ *Fax:* (571) 372–6094.

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

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Janetta Brewer, at (571) 372–6104.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 217, Special Contracting Methods; and related provisions and clauses at DFARS 252.217–7012, Liability and Insurance; DFARS 252.217–7026, Identification of Sources of Supply; and 252.217–7028, Over and Above Work; OMB Control Number 0704–0214.

Needs and Uses: DFARS Part 217 prescribes policies and procedures for acquiring supplies and services by special contracting methods. Contracting officers use the required information as follows:

The clause at DFARS 252.217–7012 is used in master agreements for repair and alteration of vessels. Contracting officers use the information required by paragraph (d) of the clause to determine that the contractor is adequately insured. This requirement supports prudent business practice, because it limits the Government's liability as a related party to the work the contractor performs. Contracting officers use the information required by paragraphs (f) and (g) of the clause to keep informed of lost or damaged property for which the Government is liable, and to determine the appropriate course of action for replacement or repair of the property.

Contracting officers use the information required by the provision at DFARS 252.217–7026 to identify the apparently successful offeror's sources of supply so that competition can be enhanced in future acquisitions. This collection complies with 10 U.S.C. 2384, Supplies: Identification of Suppliers and Sources, which requires the contractor to identify the actual manufacturer or all sources of supply for supplies furnished under contract to DoD.

Contracting officers use the information required by the clause at 252.217–7028 to determine the extent of ''over and above'' work before the work commences. This requirement allows the Government to review the need for pending work before the contractor begins performance.

Contracting officers use the information required by DFARS 217.7004(a) where offerors shall state prices for the new items being acquired both with and without any exchange (trade-in allowance).

Contracting officers use the information from 217.7404–3(b), to evaluate a contractor's ''qualifying proposal'' in accordance with the definitization schedule. This subpart allows the contracting officer to require receipt of a qualifying proposal containing sufficient information for the DoD to do complete a meaningful analyses and audit of the information in the proposal, and any other information that the contracting officer has determined DoD needs to review in connection with the contract.

Contracting officers use the information from 217.7505(d), where the offeror supply's with its proposal, price and quantity data on any Government orders for the replenishment part issued within the most recent 12 months.

Affected Public: Businesses and other for-profit entities.

Number of Respondents: 5,688.

Responses per Respondent: Approximately 18.

Annual Responses: 102,139.

Average Burden per Response: Approximately 8.7 hours.

Annual Response Burden Hours: 886,703.

Reporting Frequency: On occasion.

Summary of Information Collection

Each provision or clause requires the offeror or contractor to submit certain information:

Paragraph (d)(3) of the clause at DFARS 252.217–7012 requires the contractor to show evidence of insurance under a master agreement for vessel repair and alteration.

Paragraphs (f) and (g) of the clause at DFARS 252.217–7012 require the contractor to notify the contracting officer of any property loss or damage for which the Government is liable, and to submit to the contracting officer a request for reimbursement of the cost of replacement or repair with supporting documentation.

The provision at 252.217–7026 requires the apparently successful offeror to identify its sources of supply.

Paragraphs (c) and (e) of the clause at DFARS 252.217–7028 require the contractor to submit to the contracting officer a work request and a proposal for ''over and above'' work.

Paragraph (a) of DFARS 217.7004 requires that solicitations which contemplate exchange (trade-in) of personal property and application of the exchange allowance to the acquisition of similar property (see 40 U.S.C. 481), shall include a request for offerors to state prices for the new items being acquired both with and without any exchange (trade-in allowance).

Paragraph (b) of 217.7404–3, Undefinitized Contract Actions, requires the contractor to submit a ''qualifying proposal'' in accordance with the definitization schedule. A qualifying proposal is defined in 217.7401(c) as a proposal containing sufficient information for the DoD to do complete and meaningful analyses and audits of the information in the proposal, and any other information that the contracting officer has determined DoD needs to review in connection with the contract.

Paragraph (d) of 217.7505, Acquisition of Replenishment Parts permits contracting officers to include in sole-source solicitations that include acquisition of replenishment parts, a provision requiring that the offeror supply with its proposal, price and quantity data on any Government orders for the replenishment part issued within the most recent 12 months (see 10 U.S.C. 2452 note, Spare Parts and

Replacement Equipment, Publication of Regulations).

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–25308 Filed 10–23–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Meeting for the Berths 226–236 [Everport] Container Terminal Improvements Project at the Port of Los Angeles, in the City and County of Los Angeles, California (SPL–2013–00756–TS)

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The purpose of this notice is to initiate the scoping process for preparation of an Environmental Impact Statement (EIS) for the Los Angeles Harbor Department (LAHD) Berths 226–236 [Everport] Container Terminal Improvements Project.

DATES: Submit comments concerning this notice on or before November 24, 2014. A public scoping meeting will be held on November 13, 2014 at 6:00 p.m. (PST).

ADDRESSES: The scoping meeting location is: Los Angeles Harbor Department, Board of Harbor Commissioners hearing room, 425 S. Palos Verdes Street, San Pedro, California 90731.

Mail written comments concerning this notice to: U.S. Army Corps of Engineers, Los Angeles District, Regulatory Division, Ventura Field Office, ATTN: SPL–2013–00756–TS, 2151 Alessandro Drive, Suite 110, Ventura, CA 93001. Comment letters should include the commenter's physical mailing address, the project title and the Corps file number in the subject line.

FOR FURTHER INFORMATION CONTACT: Theresa Stevens, Ph.D., U.S. Army Corps of Engineers, Los Angeles District, Regulatory Division, Ventura Field Office, ATTN: SPL–2013–00756–TS, 2151 Alessandro Drive, Suite 110, Ventura, CA 93001, (805) 585–2146, *theresa.stevens@usace.army.mil.*

SUPPLEMENTARY INFORMATION: In accordance with the National Environmental Policy Act (NEPA), the Corps is requiring the preparation of an Environmental Impact Statement (EIS) prior to any permit action. The Corps may ultimately make a determination to permit or deny the proposed project or a modified version of the proposed project. The primary Federal concerns are dredging, dredged material disposal, addition of permanent structures in and over navigable waters of the U.S., and transport of dredged material for the purpose of ocean disposal.

Pursuant to the California Environmental Quality Act (CEQA) the LAHD will serve as Lead Agency in preparing an Environmental Impact Report (EIR) for its consideration of development approvals within its jurisdiction. The Corps and LAHD have agreed to jointly prepare a Draft EIS/EIR to optimize efficiency and avoid duplication. The Draft EIS/EIR is intended to be sufficient in scope to address the Federal, state and local requirements and environmental issues concerning the proposed activities and permit approvals.

Authority: 33 U.S.C. 403; 33 U.S.C. 1344; 33 U.S.C. 1413.

1. Project Site and Background Information. The 205-acre project site is located on Terminal Island along the east side of the Main Channel and immediately south of the State Route 47 bridge. The site is within the Port of Los Angeles Community Plan area in the City and County of Los Angeles, near the communities of San Pedro and Wilmington, and approximately 20 miles south of downtown Los Angeles. The purpose of the project is to improve marine shipping and maritime commerce to optimize the container-handling efficiency and capacity at Berths 226–236, and to accommodate berthing and servicing of the largest container ships that may call at the Port of Los Angeles. The terminal is operated by Seaside Transportation Services (STS). Everport Terminal Services Inc. (ETS) (a wholly owned subsidiary of Evergreen Marine Corporation) is the permit holder under a lease agreement (Permit No. 888, as amended) between LAHD and ETS.

2. Proposed Action. The LAHD has proposed to redevelop the existing container terminal at Berths 226–236. The following actions require a Department of the Army permit. Berths 226–229: Approximately 25,000 cubic yards (cy) of dredging would increase the design depth from −45 feet to −53 feet mean lower low water (MLLW), approximately 1,400 linear feet of king piles and sheet piles would be installed to stabilize the wharf, and three new 100-foot gauge overwater gantry cranes would be installed and three existing cranes would be modified to increase their overall height and reach. Berths 230–232: Approximately 7,000 cy of dredging would restore the design depth of −47 feet MLLW and approximately 1,400 linear feet of sheet piles would be installed to stabilize the wharf. Approximately 1,300 cy of dredging would restore a design depth of −45 feet MLLW between the berthing areas (Berth 229). All proposed depths would include an overdredge depth of an additional two feet below the proposed depths described above. Dredged material would be beneficially re-used, disposed at an approved upland facility, confined disposal facility (CDF) or offshore at LA–2. Construction activities are scheduled to begin in 2016, would take approximately 24 months to complete and would be phased to maintain terminal operations. The following actions do not require a Corps permit but indirect and cumulative impacts of these actions will be evaluated in the Draft EIS/EIR as required by NEPA: Development of approximately 22 acres of existing developed land and 1.5 acres of vacant land as new backlands; installation of infrastructure to support the new backland area (e.g., cable, electricity, lighting, drainage, etc.); closure of portions of Terminal Way, Barracuda Street, Tuna Street, and Ways Street within the Project site and rerouting of Terminal Way traffic to Cannery Street; improvements to Cannery Street; lease amendments to include the new 23.5 acre backland plus 25 acres of existing backlands under space assignment; and, extension of the lease from the current termination date of 2028 to 2038.

3. Issues: Potentially significant issues associated with the project may include: Aesthetics/visual impacts, air quality emissions, biological resource impacts, environmental justice, geologic impacts related to seismicity, hazards and hazardous materials, hydrology and water quality, noise, traffic and transportation, and cumulative impacts from past, present and reasonably foreseeable future projects.

4. Alternatives. The Draft EIS/EIR will include a co-equal analysis of several alternatives. Project alternatives will be further developed during this scoping process. Additional alternatives that may be developed during scoping will also be considered in the Draft EIS/EIR.

5. Scoping Process. The Corps and LAHD will jointly conduct a public scoping meeting for the proposed project to receive public comment regarding the appropriate scope and preparation of the Draft EIS/EIR. Participation by Federal, state, and local agencies and other interested

organization and persons is encouraged. This meeting will be conducted in English and Spanish.

6. The Draft EIS/EIR is expected to be available for public review and comment in the fall of 2015, and a public meeting will be held after its publication.

Dated: October 2, 2014.

David J. Castanon,

Chief, Regulatory Division.

[FR Doc. 2014–25267 Filed 10–23–14; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare a Supplement to the Draft Environmental Impact Statement/Overseas Environmental Impact Statement for Military Readiness Activities in the Northwest Training and Testing Study Area

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy (DoN) announces its intent to prepare a Supplement to the Draft Environmental Impact Statement (DEIS)/Overseas Environmental Impact Statement (OEIS) for the Northwest Training and Testing (NWTT) Study Area. This Supplemental DEIS/OEIS will focus on substantial changes in the proposed action and significant new information relevant to environmental concerns per 40 Code of Federal Regulations CFR 1502.9. The Supplemental DEIS/OEIS will also provide additional updated information to further the purposes of the National Environmental Policy Act (NEPA).

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(c) of the NEPA, regulations implemented by the Council on Environmental Quality (40 CFR parts 1500–1508), and Presidential Executive Order 12114, the DoN announced its intent to prepare an EIS/OEIS for the NWTT Study Area in the **Federal Register** (FR) on February 27, 2012 (77 FR 11497), and invited the public to comment on the scope of the EIS/OEIS. A Draft EIS/OEIS was subsequently released on January 24, 2014 (79 FR 4158), in which the potential environmental effects associated with military readiness training and research, development, test, and evaluation activities (training and testing) conducted within the NWTT Study Area were evaluated.

Since the release of the DEIS/OEIS on January 24, 2014, the DoN has determined that a Supplemental DEIS/OEIS is warranted for two reasons. First, one activity, known as Tracking Exercises—Maritime Patrol (Extended Echo Ranging Sonobuoys), substantially changes the type and number of sonobuoys to be used. This change in the proposed action warrants preparation of a Supplemental DEIS/OEIS under 40 CFR 1502.9(c)(1)(i). Second, new information relevant to air quality emissions of inland water vessel movements associated with Maritime Security Operations warrants further consideration and preparation of an Supplemental DEIS/OEIS under 40 CFR 1502.9(c)(1)(ii).

All public comments received during the DEIS/OEIS comment period (January 24, 2014, through April 15, 2014) are still valid and are being considered in the Final EIS/OEIS for this action. Previously submitted comments need not be resubmitted. The Supplemental DEIS/OEIS is expected to be available in early December 2014. A Notice of Availability of the Supplemental DEIS/OEIS will be published in the **Federal Register** at that time, and the Supplemental DEIS/OEIS will be released for a public comment period of 45 days. No decision will be made to implement any alternative in the NWTT Study Area until the NEPA process is complete and a Record of Decision is signed by the DoN.

FOR FURTHER INFORMATION CONTACT: Naval Facilities Engineering Command Northwest, Attention: Ms. Kimberly Kler—NWTT EIS/OEIS Project Manager, 1101 Tautog Circle, Suite 203, Silverdale, WA 98315–1101.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: October 20, 2014.

N.A. Hagerty-Ford,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2014–25316 Filed 10–23–14; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–555–000]

Dominion Transmission, Inc.: Notice of Application

Take notice that on September 30, 2014, Dominion Transmission, Inc. (Dominion), 120 Tredegar Street, Richmond, Virginia 23219 filed an application in the above referenced docket pursuant to section 7(c) of the Natural Gas Act (NGA) requesting authorization to construct and operate its Lebanon West II Project (Project), located in Armstrong, Allegheny, and Beaver Counties, Pennsylvania and Licking, Fayette, Coshocton, Tuscarawas, Harrison, Carroll, and Columbiana Counties, Ohio. Dominion asserts that the proposed project will provide 130,000 dekatherms per day of pipeline capacity on its TL–400 line from Pennsylvania to Ohio. The proposed project involves: (i) 10.08 miles of pipeline replacements; (ii) additional 10,915 horsepower at its existing Rural Valley Compressor Station; (iii) additional regulation at the Newark and Beaver Compressor Stations; and (iv) new valves and other minor facilities. Dominion estimates the cost of the Project to be $112 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site 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, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Matthew R. Bley, Director Gas Transmission Certificates, Dominion Transmission Inc., 701 East Cary Street, Richmond, Virginia 23219, by telephone at (804) 771–4399, by facsimile at (804) 771–4804, or by email at *Matthew.R.Bley@dom.com.*

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 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 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 seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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 commenters 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 the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters 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 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.

Comment Date: October 31, 2014.

Dated: October 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–25321 Filed 10–23–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12486–008]

Twin Lakes Canal Company; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* 12486–008.

c. *Date Filed:* November 27, 2013.

d. *Applicant:* Twin Lakes Canal Company (Twin Lakes).

e. *Name of Project:* Bear River Narrows Hydroelectric Project.

f. *Location:* The proposed project would be located on the Bear River, near the city of Preston, in Franklin County, Idaho. The project would occupy 243 acres of federal land managed by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Nick E. Josten, Geosense, 2742 Saint Charles Avenue, Idaho Falls, ID 83404, (208) 528–6152.

i. *FERC Contact:* Shana Murray at *shana.murray@ferc.gov* or (202) 502–8333.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

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 *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 five copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of that document on each person 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. This application has been accepted for filing and is now ready for environmental analysis.

l. *The proposed project facilities include:* (1) A new 109-foot-high roller compacted concrete dam and spillway creating a new 4.5-mile-long reservoir with a gross storage capacity of 12,467 acre feet; (2) a 48-foot-long, 16-foot-wide, and 20-foot-high concrete intake structure near the upstream toe of the dam; (3) a 14-foot-diameter, 600-foot-long steel penstock; (3) an 80-foot-long, 52-foot-wide, and 24-foot-high powerhouse containing two, 5-megawatt vertical Francis turbines with a combined maximum hydraulic capacity of 1,400 cubic feet per second (cfs); (4) a 0.74-mile, 46-kilovolt transmission line connecting a proposed substation near the base of the powerhouse to an existing, PacifiCorp-owned transmission line; and (5) appurtenant facilities.

Except for irrigation withdrawals during dry years, Twin Lakes proposes to operate in the project run-of-river, with daily releases from the new reservoir matching releases from the upstream Oneida Project (FERC No. 20). During dry water years, Twin Lakes proposes to release additional water for irrigation purposes but maintain a minimum flow downstream of the proposed project equal to the minimum flow requirement at the upstream Oneida Project (a year-round minimum flow of 250 cfs plus 1 cfs for leakage or inflow into Oneida reservoir, whichever is less). Twin Lakes estimates that the average annual generation would be about 48,531 megawatt-hours.

m. A copy of the application is available for 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, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. 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, and .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.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (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 submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

n. Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

o. *Procedural Schedule:*

The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.	December 2014.
Commission issues Draft EIS.	June 2015.
Comments on Draft EIS	August 2015.
Modified Terms and Conditions.	October 2015.
Commission Issues Final EIS.	January 2016.

p. A license applicant must file no later than 60 days following the date of issuance of the notice of acceptance and ready for environmental analysis provided for in 5.22: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Include the following paragraphs for original licenses only:

r. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Dated: October 17, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–25329 Filed 10–23–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2101–096]

Sacramento Municipal Utility District; Notice of Application Accepted for Filing, Ready for Environmental Analysis, Soliciting Comments, Motions To Intervene, Protests, Recommendations, Terms and Conditions, and Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 2101–096.

c. *Date Filed:* August 27, 2014.

d. *Applicant:* Sacramento Municipal Utility District.

e. *Name of Project:* Upper American River Hydroelectric Project.

f. *Location:* The project is located on Silver Creek and the Rubicon and South Fork American rivers in El Dorado and Sacramento counties, California. The project occupies federal lands administered by the Bureau of Land Management and by the U.S. Forest Service within the Eldorado National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. David Hanson, Project Manager, Hydro Licensing & Permitting, Sacramento Municipal Utility District, P.O. Box 15830, Mail Stop K203, Sacramento, CA 95852–0830, (888) 742–7683.

i. *FERC Contact:* Mr. Steven Sachs (202) 502–8666 or *Steven.Sachs@ferc.gov*.

j. Deadline for filing motions to intervene and protests, comments, recommendations, terms and conditions, and fishway prescriptions is 60 days from the issuance date of this notice by the Commission; reply comments are due 105 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file any motion to intervene, protest, comments, and/or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at

FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2101–096.

k. *Description of Request:* The applicant proposes to construct a new powerhouse located approximately 1,320 feet downstream of the existing Slab Creek dam on the South Fork American River. The powerhouse would be used to supplement required minimum flows and contain a single turbine/generator unit with an installed capacity of 2.7 megawatts and a hydraulic capacity of 156 cubic feet per second. The applicant also proposes to construct a new 400-foot-long, 8-foot-diameter steel penstock through the existing White Rock Tunnel Adit No. 3 to feed the new powerhouse with flows from the existing White Rock power tunnel. The applicant also proposes to install a new boating flow release valve immediately downstream of the new powerhouse and connected to the new penstock.

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/docs-filing/efiling.asp.* 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 (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', ''MOTION TO INTERVENE'', ''TERMS AND CONDITIONS'' or ''FISHWAY PRESCRIPTIONS'' 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 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 and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener 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. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: October 17, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–25328 Filed 10–23–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–554–000; PF14–2–000]

Florida Southeast Connection, LLC: Notice of Application

Take notice that on September 26, 2014, Florida Southeast Connection, LLC (FSC), 700 Universe Boulevard, Juno Beach, FL 33408, filed an application under section 7(c) of the Natural Gas Act and Parts 157 and 284 of the Commission's regulations requesting authorization to construct, own and operate a new natural gas pipeline system (FSC Project) consisting of approximately 126 miles of pipe, associated valves, piping, and appurtenant facilities, commencing at an interconnection with the proposed Sabal Trail Transmission, LLC (Sabal Trail) pipeline near Intercession City, Florida, and terminating at a delivery point at the Florida Power & Light Company (FPL) Martin Clean Energy Center (Martin), near Indiantown, Florida. FSC will have an initial transportation capacity of 640,000 dekatherms per day.

In addition, FSC requests that the Commission issue to FSC a blanket certificate authorizing FSC to construct, operate, and abandon certain facilities under Part 157, Subpart F of the Commission's regulations, a blanket certificate authorizing FSC to transport natural gas, on an open access and self-implementing basis, under Part 284, Subpart G of the Commission's regulations, and authorizations necessary to charge initial recourse rates for certain services to be rendered by FSC, all as more fully set forth in the application which is on file with the Commission and open for 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, please contact FERC at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, (202) 502–8659.

Any questions regarding the proposed project should be directed to Robert E. Sharra, Director Business Development, Florida Southeast Connection, LLC, 700 Universe Boulevard, Juno Beach, Florida 33408, or by calling (561) 691–7274 (telephone) or (561) 304–5233 (fax) or email at *robert.sharra@nee.com.*

On October 16, 2013, the Commission staff granted FSC's request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF14–2–000 to staff activities involving the project. Now, as of the filing of this application on September 26, 2014, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP14–554–000, as noted in the caption of this Notice.

Because the environmental review of the FSC Project must also include both Sabal Trail (currently in the NEPA Pre-Filing Process under Docket No. PF14–1–000) and Transcontinental Gas Pipe

Line Company LLC's Hillabee Expansion Project (currently in the NEPA Pre-Filing Process under Docket No. PF14–6–000), the Commission cannot begin preparation of the Environmental Impact Statement (EIS) to comply with the NEPA of 1969, until after both remaining applications are filed. Within 90 days after the Commission issues a Notice of Application for the final received application, the Commission staff will issue a Notice of Schedule for Environmental Review that will indicate the anticipated date for the Commission's staff issuance of the final EIS analyzing all three proposals. The issuance of a Notice of Schedule for Environmental Review will also 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 final EIS.

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.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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 commenters 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 the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters 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 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.

Comment Date: October 31, 2014.

Dated: October 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–25325 Filed 10–23–14; 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 electric rate filings:

Docket Numbers: ER14–2576–001.
Applicants: Public Service Company of Colorado.
Description: Compliance filing per 35: 2014–10–17_Att-P SGIP Order 792 Errata—Filing to be effective 8/4/2014.
Filed Date: 10/17/14.
Accession Number: 20141017–5062.
Comments Due: 5 p.m. ET 11/7/14.

Docket Numbers: ER15–121–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–10–16_SA 788 Termination ATC-Consumers Energy to be effective 10/17/2014.
Filed Date: 10/16/14.
Accession Number: 20141016–5149.
Comments Due: 5 p.m. ET 11/6/14.

Docket Numbers: ER15–122–000.
Applicants: Southern Company Services, Inc.
Description: Southern Company Services, Inc. submits Notice of Termination of Integrated Transmission System Investment Responsibility Reconciliation Agreement between Georgia Transmission Corporation and Georgia Power Company.
Filed Date: 10/16/14.
Accession Number: 20141016–5163.
Comments Due: 5 p.m. ET 11/6/14.

Docket Numbers: ER15–123–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–10–17 2nd Quarter Tariff Pricing Clean-Up—Filing to be effective 10/18/2014.
Filed Date: 10/17/14.
Accession Number: 20141017–5074.
Comments Due: 5 p.m. ET 11/7/14.

Docket Numbers: ER15–125–000.
Applicants: Premcor Refining Group Inc.
Description: Notice of Cancellation of Market-Based Rate Tariff and Tariff ID of The Premcor Refining Group Inc.
Filed Date: 10/17/14.
Accession Number: 20141017–5097.
Comments Due: 5 p.m. ET 11/7/14.

Docket Numbers: ER15–126–000.
Applicants: Valero Power Marketing LLC.
Description: Notice of Cancellation of Market-Based Rate Tariff and Tariff ID of Valero Power Marketing LLC.
Filed Date: 10/17/14.
Accession Number: 20141017–5099.
Comments Due: 5 p.m. ET 11/7/14.

Docket Numbers: ER15–127–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 3234; Queue No. W4–060 to be effective 9/17/2014.
Filed Date: 10/17/14.
Accession Number: 20141017–5129.
Comments Due: 5 p.m. ET 11/7/14.

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: October 17, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–25342 Filed 10–23–14; 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 Intent To Prepare an Environmental Assessment for the Proposed Connecticut Expansion Project, Request for Comments on Environmental Issues, Notice of Public Scoping Meetings, and Notice of Environmental Site Reviews

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Connecticut Expansion Project (Project) involving construction and operation of facilities by Tennessee Gas Pipeline Company, L.L.C. (Tennessee) in Albany County, New York; Berkshire and Hampden Counties, Massachusetts; and Hartford County, Connecticut. The Commission will use the EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the Project. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on November 10, 2014.

You may submit comments in written form or verbally. Further details on how to submit written comments are in the Public Participation section of this notice. In lieu of or in addition to sending written comments, the Commission invites you to attend one of the FERC public scoping meetings scheduled for the Project as follows:

FERC PUBLIC SCOPING MEETINGS

Tuesday, October 28, 2014	Wednesday, October 29, 2014	Thursday, October 30, 2014
7:00 p.m.–9:00 p.m.	7:00 p.m.–9:00 p.m.	7:00 p.m.–9:00 p.m.
East Granby Community Center, 20 Center Street, East Granby, CT 06026.	Sandisfield Art Center, 5 Hammertown Road, Sandisfield, MA 01255.	Town Hall Auditorium, 445 Delaware Avenue, Delmar, NY 12054.

The public scoping meetings are designed to provide you with more detailed information and another opportunity to offer your comments on the proposed Project. Tennessee representatives will be present one hour before each meeting with Project maps and will be available to answer questions. Interested groups and individuals are encouraged to attend the meetings and to present comments on the issues they believe should be addressed in the EA. A transcript of each meeting will be made so that your comments will be accurately recorded.

On October 28, 29, and 30, 2014, the Commission staff will also conduct an onsite environmental review of the proposed locations for Tennessee's Project. The onsite review will commence at the meeting locations identified below and will proceed by vehicle and on foot to view the proposed pipeline routes from public access points and Tennessee's existing pipeline right-of-way. Each site review will require about three hours to complete. Any interested parties planning to attend must provide their own transportation and should meet at 8:30am at the following locations:

FERC ONSITE ENVIRONMENTAL REVIEWS

Tuesday, October 28, 2014	Wednesday, October 29, 2014	Thursday, October 30, 2014
8:30 a.m.–11:30 a.m.	8:30 a.m.–11:30 a.m.	8:30 a.m.–11:30 a.m.
East Granby Community Center, 20 Center Street, East Granby, CT 06026.	Old Town Hall, 3 Silverbrook Road, Sandisfield, MA 01255.	Town Hall Annex, 445 Delaware Avenue, Delmar, NY 12054.

For additional information regarding the onsite environmental reviews, please contact FERC's Office of External Affairs at (866) 208–FERC.

This notice is being sent to the Commission's current environmental mailing list for this Project. State and local government representatives should notify their constituents of this proposed Project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the Project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Tennessee provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically-asked questions, including the use of eminent domain

and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Summary of the Proposed Project

Tennessee proposes to construct, install, and operate new natural gas pipeline loops to provide an additional 72,100 dekatherms per day of firm transportation capacity to Tennessee's existing 200 Line and 300 Line pipeline system. Pipeline loops are segments of pipe constructed parallel to an existing pipeline to increase capacity.

The Project would include construction and operation of the following facilities:

- About 1.35 miles of new 36-inch-diameter natural gas pipeline in Albany County, New York;
- about 3.81 miles of new 36-inch-diameter natural gas pipeline in Berkshire County, Massachusetts;
- about 8.10 miles of new 24-inch-diameter natural gas pipeline in Hampden County, Massachusetts and Hartford County, Connecticut;
- modifications to the existing Agawarm Compressor Station in Hampden County, Massachusetts; and
- other appurtenant and ancillary facilities.

The general location of the Project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 106 acres of land for the pipeline and aboveground facilities. Following construction, Tennessee would maintain about 35 acres for permanent operation of the Project's facilities; the remaining acreage would be restored and revert to former uses. Tennessee would locate the pipeline loops within or adjacent to its existing system rights-of-way where practicable and feasible.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We note that many comments were filed prior to this notice. We want to assure those commentors that their concerns will be considered in the scope of our environmental review; you do not need to resubmit comments. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed Project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed Project or portions of the Project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section below.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this Project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. Currently the New York State Department of Agriculture and Markets has expressed their intention to participate as a cooperating agency in the preparation of the EA to satisfy their NEPA responsibilities related to this Project.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Offices (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.[4] We will define the Project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the Project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before November 10, 2014.

For your convenience, there are three methods which you can use to submit written comments to the Commission. In all instances please reference the project docket number (CP14–529–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the *eComment*

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address:

Kimberly D. Bose, Secretary,
Federal Energy Regulatory Commission,
888 First Street NE., Room 1A,
Washington, DC 20426.

Alternatively, you may attend one of the public scoping meetings identified on page 1 of this notice and provide your comments verbally. Verbal comments will be transcribed and made part of the public record for this proceeding. Please note that we give equal consideration to all comments whether submitted in written format or provided verbally at one of the scoping meetings.

Environmental Mailing List

The environmental mailing list includes: Federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP14–529). Be sure you have selected an appropriate date range. 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. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: October 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–25324 Filed 10–23–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–124–000]

Tucson Electric Power Company; Notice of Filing

Take notice that on October 17, 2014, pursuant to section 205 of the Federal Power Act (FPA); 16 U.S.C. 824d, Part 35 of the Federal Energy Regulatory Commission's Regulations (Commission), and Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602, Tucson Electric Power Company filed an Offer of Settlement between itself and Salt River Project Agricultural Improvement and Power District (SRP); and (ii) tenders for filing four long-term transmission service agreements, as more fully explained in the filing.

Since the settlement was filed as a section 205 filing, the Rule 602 comment and reply comment periods do not apply.

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 November 7, 2014.

Dated: October 17, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–25327 Filed 10–23–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD14–18–000]

Joint Technical Conference on New York Markets & Infrastructure; Supplemental Notice of Technical Conference

As announced in the Notice issued on September 17, 2014,[1] the Federal Energy Regulatory Commission (Commission), jointly with the New York Public Service Commission will hold a technical conference on November 5, 2014 from 9:00 a.m. to approximately 4:00 p.m., to discuss issues of mutual interest and concern regarding the installed capacity market and energy infrastructure in New York and review the role of New York's centralized capacity market in attracting investment and ensuring resource adequacy and reliability. The conference will be held in the New York Institute of Technology Auditorium located at 1871 Broadway, between 61st and 62nd Streets, New York, NY 10023. A preliminary agenda for this conference is attached. Conference panelists will be identified in a subsequent notice. This conference is free of charge and open to the public.

The technical conference will be transcribed. The conference will also be Webcast. The Webcast will allow persons to listen to the technical conference, but not participate. Further details on the Webcast, including the link, will be provided in a subsequent notice.

Information on the technical conference will be posted on the Web site *http://www.ferc.gov/EventCalendar/EventDetails.aspx?ID=7531&CalType=%20&CalendarID=116&Date=11/05/2014&View=Listview,* as well as the Calendar of Events on the Commission's Web site, *http://www.ferc.gov,* prior to the conference.

Commission 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 1–866–208–3372 (voice) or 202–502–8659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For more information about the technical conference, please contact:

Kathleen Schnorf (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8547, *Kathleen.Schnorf@ferc.gov.*

Betty Watson (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8552, *Betty.Watson@ferc.gov.*

Kate Hoke (Legal Information), Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8404, *Katheryn.Hoke@ferc.gov.*

Sarah McKinley (Logistical Information), Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8004, *Sarah.McKinley@ferc.gov.*

Dated: October 10, 2014.

Kimberly D. Bose,

Secretary.

Joint FERC–NYPSC Technical Conference on New York Markets & Infrastructure

Docket No. AD14–18–000

November 5, 2014

Preliminary Agenda

8:00 a.m.–9:00 a.m. Registration

9:00 a.m.–9:30 a.m. Opening remarks by Commissioners

9:30 a.m.–10:15 a.m. NYISO and Independent Market Monitor presentation

NYISO and the Independent Market Monitor will report on the recent performance of NYISO's capacity market. NYISO will also describe current initiatives it is undertaking, and hurdles it is facing, as it seeks to improve performance of its capacity market to attract adequate investment in resources and infrastructure to efficiently meet New York State's reliability/resource adequacy needs. NYISO will provide information on recent investments made in resources and infrastructure through NYISO's markets and transmission planning efforts, and discuss the implementation of the new capacity zone in the Lower Hudson Valley. NYISO will provide a brief update on preparedness for the upcoming winter. Finally, the Independent Market Monitor will provide its recommendations for improved performance of NYISO's capacity market.

10:15 a.m.–12:15 p.m. Panel One: Assessing the performance of NYISO's capacity market design in attracting investment in resources and infrastructure to meet reliability/resource adequacy needs

This session will discuss the role of NYISO's capacity market in attracting investment in both resources and infrastructure in order to meet New York State's reliability and/or resource adequacy needs. In particular, panelists should discuss the particular capacity market design features that encourage merchant investment in resources and infrastructure. Panelists will be asked to discuss how the capacity market is addressing local and state-wide resource adequacy and reliability issues at just and reasonable rates. Finally, panelists should discuss what changes, if any, should be considered going forward to improve the performance of NYISO's capacity market.

Panelists should be prepared to discuss the following questions:

a. How do particular market design features impact infrastructure investment decisions by merchant entities? How can these market design aspects best address the interests of both buyers and sellers? How do buyer-side mitigation measures affect investment? Should the NYISO capacity market provide a longer revenue certainty period (e.g., 3, 5, or 10 years)? Does the existing NYISO capacity market appropriately incent investment as compared with three-year forward market designs in other capacity markets (e.g., PJM, ISO–NE)? Are long-term bilateral contracts a feasible alternative procurement mechanism for New York (e.g., California model)?

b. Are changes to NYISO's capacity market necessary to better ensure resource performance during peak demand conditions (summer or winter)?

c. Why are Reliability Support Services (RSS) needed? What is the effect of RSS agreements on the ability of the NYISO capacity market to efficiently meet the intended goal of incentivizing investment in resources and infrastructure? Are there other market and infrastructure impacts of the use of RSS agreements?

d. How does NYISO coordinate its planning processes and its capacity market? Are there possible improvements in the coordination efforts?

[1] Joint Technical Conference on New York Markets & Infrastructure, Docket No. AD14–00018–000 (September 17, 2014).

e. How is the planning of transmission, generation and other resources coordinated between retail and wholesale markets?

12:15 p.m.–1:00 p.m. Lunch Break

1:00 p.m.–3:00 p.m. Panel Two: Role of NYISO's capacity market in attracting investment in resources and infrastructure needed to meet public policy objectives

This session will focus on whether, and to what extent, NYISO's capacity market should play a role in attracting investment in resources and infrastructure to meet public policy objectives. There may be a range of public policy objectives, including increasing renewable resources; maintaining or increasing clean energy resources to meet emission reduction goals; increasing distributed resources; increasing energy efficiency and demand response resources; maintaining fuel diversity; maintaining price stability for customers (wholesale, retail, commercial and industrial); economic development; and spurring investment in resources and infrastructure (both power lines and gas pipelines). Panelists should address whether these objectives are appropriately addressed through the NYISO capacity market. If so, this session will also include a discussion of whether certain aspects of the current NYISO capacity market design—in particular the capacity market product definition—need to change to achieve the requisite public policy objectives. The discussion may also explore whether some of these objectives are complementary or in conflict with other objectives.

Panelists should be prepared to discuss the following questions:

a. Are changes to the capacity market needed to account for fuel availability/firmness of fuel, or to differentiate the value of capacity resources based on the ''firmness'' of fuel arrangements?

b. Should the capacity market specifically account for or otherwise value resources that are intended to meet current or future public policy goals (e.g., fuel diversity or emission reduction goals)? How should there be modifications to the buyer-side mitigation rules to help achieve those goals?

c. What price signals and tariff changes may be needed to achieve the objectives under discussion in the PSC's Reforming the Energy Vision (REV) proceeding?

d. Are there market, environmental, or other barriers to entry in certain locations or for certain kinds of resources (e.g., repowering assets in New York City)?

e. Are there broader market design features outside of the capacity market (e.g., scarcity and shortage pricing) that could be adjusted to account for public policy objectives (e.g., increasing renewables)?

3:00 p.m.–3:15 p.m. Break

3:15 p.m.–4:00 p.m. Roundtable discussion among Commissioners/Wrap up

Discussion of possible paths forward for identified issues and solutions.

[FR Doc. 2014–25323 Filed 10–23–14; 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: Scarcity and Shortage Pricing, Offer Mitigation, and Offer Caps in RTO and ISO Markets

As announced in a Notice issued on September 5, 2014, the Federal Energy Regulatory Commission (Commission) will hold a workshop on Tuesday, October 28, 2014 to commence a discussion with industry on scarcity and shortage pricing, offer mitigation, and offer caps 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 p.m. and will 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. Those who plan to attend the workshop are encouraged to complete the registration form located at *https://www.ferc.gov/whats-new/registration/10-28-14-form.aspx.* 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: *Astoria Generating Company L.P.* v. *New York Independent System Operator, Inc.,* Docket Nos. EL11–42 and EL11–50; California Independent System Operator Corporation, Docket No. ER14–1386 and ER14–2484; *Hudson Transmission Partners, LLC* v. *New York Independent System Operator, Inc.,* Docket No. EL12–98; *Independent Power Producers of New York, Inc.* v. *New York Independent System Operator, Inc.,* Docket No. EL13–62; ISO New England, Inc. and New England Power Pool, Docket Nos. EL14–52, ER 14–1050, ER14–2419, and ER14–2929; Midcontinent Independent System Operator, Inc., Docket Nos. ER14–2156, and ER11–4081; PJM Interconnection, L.L.C., Docket Nos. ER14–1144 and ER14–1145; New York Independent System Operator, Inc., Docket No. EL07–39; Old Dominion Electric Cooperative, Docket No. ER14–2242; Seneca Power Partners, *L.P.* v. *New York Independent System Operator, Inc.,* Docket No. EL12–6; and Southwest Power Pool, Inc., Docket No. ER15–21.

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:

Logistical information: Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8368, *sarah.mckinley@ferc.gov.*

Scarcity/shortage pricing: Bob Hellrich-Dawson, Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6360, *bob.hellrich-dawson@ferc.gov.*

Offer mitigation and offer caps: Emma Nicholson, Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8846, *emma.nicholson@ferc.gov.*

Dated: October 10, 2014.

Kimberly D. Bose,

Secretary.

Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators

Scarcity and Shortage Pricing, Offer Mitigation, and Offer Caps Workshop

Docket No. AD14–14–000

October 28, 2014

Agenda

On October 28, 2014 a second conference will be held to address matters of price formation in the energy and ancillary services markets administered by the Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs).[1] It will have three areas of focus: Scarcity and shortage pricing, offer mitigation and offer caps in the RTO/ISO markets. The RTO/ISO markets rely on security constrained economic dispatch and locational marginal pricing to ensure efficient dispatch of, and compensation to, resources. Ideally, RTO/ISO market designs would rely on competitive pressure to ensure that resource offers reflect marginal cost. Because the markets are imperfect at times (e.g., structural issues, inelastic demand), the RTO/ISO tariffs include specific rules to ensure prices remain just and reasonable. These rules take the form of market power mitigation, offer caps and scarcity pricing. Working together, these rules are intended to protect against the exercise of market power while allowing prices in the markets to rise in response to predetermined triggers (e.g., an operating reserve deficiency) to elicit a market response (e.g., generator performance, load response) to support the reliable and efficient operation of the market. These rules would ideally reflect the value to load of maintaining reliability and avoiding involuntary load curtailments.

Through this conference and any papers Commission staff may release in advance, Commission staff will explore the technical, operational and market issues related to shortage pricing, offer mitigation, and offer caps.

8:45 a.m.–9 a.m.—Welcome and Opening Remarks

9 a.m.–10:30 a.m.—Panel 1: Goals of Scarcity and Shortage Pricing and Performance of Existing Pricing Rules

Generally speaking, shortage pricing is the method RTOs/ISOs employ to price energy and operating reserves during scarcity and shortage conditions. Scarcity and shortage prices are intended to achieve two primary goals. The first goal of scarcity and shortage pricing is to send a short-term price signal to incentivize operation of existing resources to help maintain reliability. In the short term, these prices should be high enough to induce existing resources to be available to the maximum extent possible and to induce imports to offer from neighboring areas. The high prices should also signal consumers to reduce demand.

The second goal of scarcity and shortage pricing is to contribute to efficient long-term economic entry and exit. When scarcity and shortage prices accurately reflect consumers' valuation of avoidance of an involuntary load curtailment, the resulting energy and ancillary services prices can contribute to efficient long-run market participation (entry and exit) by addressing part of the ''missing money'' problem.[2]

While scarcity and shortage pricing rules are designed to achieve these two goals, in practice, system operator practices and experiences may influence how the rules are administered and thus their efficacy.

Panel 1 will explore how the goals of scarcity and shortage pricing are balanced against the operational realities of employing administrative pricing rules. The discussion will also focus on the following:

- How the definition of a scarcity or shortage event and the pricing triggers compare across RTO and ISO markets;
- The frequency and duration of scarcity or shortage events;
- To what extent the frequency and duration of scarcity or shortage events support efficient entry and exit;
- How the actions system operators take to avert a scarcity or shortage event are reflected in energy and ancillary service prices;
- Whether scarcity and shortage pricing rules and import/export timing are sufficiently coordinated such that market participants can schedule exports and imports efficiently to respond to shortage conditions.

Panelists:

- Matthew White, ISO New England Inc.
- Todd Ramey, Midcontinent Independent System Operator, Inc.
- Robert Pike, New York Independent System Operator, Inc.
- Adam Keech, PJM Interconnection, L.L.C.
- Richard Dillon, Southwest Power Pool, Inc.

10:30 a.m.–10:45 a.m.—Break

10:45 a.m.–12:30 p.m.—Panel 2: Lessons Learned from Existing Scarcity and Shortage Pricing Rules

Panel 2 will explore lessons learned from existing scarcity and shortage pricing rules. Possible discussion items could include the topics discussed in Panel 1 in addition to any other concerns panelists may have. The RTOs/ISOs and the RTO/ISO market monitoring units will be given an opportunity to discuss any issues raised by panelists.

Panelists:

- Joseph Cavicchi, Compass Lexecon, speaking on behalf of Electric Power Supply Association.
- Erica Bowman, America's Natural Gas Alliance.
- John Citrolo, PSEG Power.
- Charlie Bayless, North Carolina Electric Membership Corporation.
- Joseph Bowring, Monitoring Analytics.

12:30 p.m.–1:30 p.m.—Lunch

1:30 p.m.–3:30 p.m.—Panel 3: Goals of Offer Caps and Market Power Mitigation

Panel 3 will provide the RTO/ISO Market Monitors an opportunity to discuss the goals of the current incremental energy offer cap and market power mitigation provisions in their respective markets, and to provide a performance assessment with respect to those goals. The market monitors will be asked to discuss the role the $1,000/MWh offer cap plays in both the

[1] *Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators,* Notice of Workshop, Docket No. AD14–14–000 (Sept. 4, 2014).

[2] *See,* e.g., Johannes P. Pfeifenberger and Kathleen Spees, The Brattle Group, and Kevin Carden and Nick Wintermantel, Astrape Consulting, *Resource Adequacy Requirements: Reliability and Economic Implications* at 83–84 (Sept. 2013), *available at http://www.brattle.com/system/publications/pdfs/000/004/984/original/Resource_Adequacy_Requirements_Pfeifenberger_Spees_FERC_Sept_2013.pdf?1392303166.*

mitigation rules and the shortage pricing rules. The market monitors will also be asked to discuss whether: (1) Market power mitigation provisions have a material impact on the price formation process; (2) the short-run marginal costs estimates that underlie market power mitigation provisions sufficiently account for all resource supply costs, including opportunity costs; (3) RTO/ISO offer rules provide sufficient flexibility for resources to reflect cost changes that occur between day-ahead and real-time and across hours in real-time; and (4) RTO/ISO rules provide sufficient protection against the exercise of market power.

Panelists:

• Eric Hildebrandt, California Independent System Operator Corporation.

• Jeffrey McDonald, ISO New England Inc.

• Shaun Johnson, New York Independent System Operator, Inc.

• Joseph Bowring, Monitoring Analytics.

• Catherine Mooney, Southwest Power Pool, Inc.

• David Patton, Potomac Economics.

3:30 p.m.–3:45 p.m.—Break

3:45p.m.–4:45p.m.—Panel 4: Impacts of Offer Caps and Market Power Mitigation

Panel 4 will focus on the impacts that offer caps and offer mitigation have on both buyers and sellers in wholesale markets. Discussion will include comments from resource owners about whether the current $1,000/MWh offer cap permits them to reflect their costs fully in supply bids. Resource owners will also be asked to discuss: (1) Whether the RTOs/ISOs permit all of the relevant costs, including opportunity costs, to be included in the marginal cost estimates that underlie market power mitigation provisions; and (2) whether RTO/ISO offer rules permit resources to reflect changes in resource supply costs that occur between day-ahead and real-time and across hours in real-time. Panelists will be asked to comment on the role that offer caps and market power mitigation procedures play in ensuring just and reasonable rates. Of particular interest will be the extent to which offers capped at some value (like the current $1000/MWh cap) play a meaningful role in consumer protection. The RTOs/ISOs and the RTO/ISO market monitoring units will be given an opportunity to discuss any issues raised by panelists.

Panelists:

• Joseph Cavicchi, Compass Lexecon, speaking on behalf of Electric Power Supply Association.

• Abraham Silverman, NRG Energy, Inc.

• Edward Tatum, Old Dominion Electric Cooperative.

• Jeffrey Nelson, Southern California Edison.

• Charlie Bayless, North Carolina Electric Membership Corporation.

• Patrick Connors, WPPI Energy, speaking on behalf of Transmission Access Policy Study Group.

4:45 p.m.–5 p.m.—Closing

[FR Doc. 2014–25322 Filed 10–23–14; 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: Notice of Workshop

As announced in the Notice issued on June 19, 2014, the Federal Energy Regulatory Commission (Commission) directed its staff to convene workshops as necessary to commence a discussion with industry on existing market rules and operational practices affecting price formation issues in energy and ancillary services markets operated by Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs). The June 19 Notice listed four areas of interest: uplift payments, offer price mitigation and offer price caps, scarcity and shortage pricing, and operator actions that affect prices. The first workshop, held on September 8, 2014, addressed uplift payments and the second workshop, scheduled for October 28, 2014, will address offer price mitigation and offer price caps and scarcity and shortage pricing. The third workshop will address technical, operational, and market issues related to operator actions in energy and ancillary services markets operated by RTOs and ISOs, and will be held on Tuesday, December 9, 2014 from 8:45 a.m. to 5 p.m. in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commission members may participate in the workshop.

The workshop will be open for the public to attend. Advance registration is not required, but is encouraged. Attendees may register at the following Web page: *https://www.ferc.gov/whats-new/registration/12-09-14-form.asp.*

Those wishing to participate in the program for this event should nominate themselves through the online registration form no later than October 29, 2014 at the following Web page: *https://www.ferc.gov/whats-new/registration/12-09-14-speaker-form.asp.* At this Web page, please provide an abstract (1,500 character limit) of the issue(s) you propose to address. Due to time constraints, we may not be able to accommodate all those interested in speaking.

Further details and a formal agenda will be issued prior to the workshop.

Information on this event will be posted on the Calendar of Events on the Commission's Web site, *www.ferc.gov,* prior to the event. The workshop will also be Webcast and transcribed. Anyone with Internet access who desires to listen to this event can do so by navigating to the Calendar of Events at *www.ferc.gov* and locating this event in the Calendar. The event will contain a link to the Webcast. The Capitol Connection provides technical support for Webcasts 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.

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 1–866–208–3372 (voice) or 202–502–8659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For further information on this workshop, please contact:

Logistical Information

Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8368, *sarah.mckinley@ferc.gov.*

Technical Information

Emma Nicholson, Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8846, *emma.nicholson@ferc.gov.*

Dated: October 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–25320 Filed 10–23–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9017–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/*.

Weekly Receipt of Environmental Impact Statements

Filed 10/13/2014 Through 10/17/2014

Pursuant to 40 CFR 1506.9.

Notice:

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html*.

EIS No. 20140305, Draft EIS, FHWA, UT, 1800 North (SR–37) Transportation Improvements, Comment Period Ends: 12/08/2014, Contact: Paul Ziman 801–955–3525.

EIS No. 20140306, Draft EIS, USACE, CA, River Islands at Lathrop, Phase 2B, Comment Period Ends: 12/08/2014, Contact: William Guthrie 916–557–5269.

EIS No. 20140307, Final EIS, FHWA, NY, Interstate 87 (I–87) Exit 4 Access Improvements, Review Period Ends: 11/24/2014, Contact: Jonathan McDade 518–431–4127.

EIS No. 20140308, Third Draft Supplement, USN, HI, Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) Sonar Systems, Comment Period Ends: 12/08/2014, Contact: CDR C. V. Morgan 703–695–8266.

EIS No. 20140309, Draft EIS, NOAA, WA, Harvest Specifications and Management Measures for 2015–2016 and Biennial Periods Thereafter (Pacific Coast Groundfish Fishery Management Plan), Comment Period Ends: 12/08/2014, Contact: Becky Renko 206–526–6110.

Dated: October 21, 2014.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2014–25355 Filed 10–23–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL- 9916–86–Region 1]

2014 Fall Joint Meeting of the Ozone Transport Commission and the Mid-Atlantic Northeast Visibility Union

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency (EPA) is announcing the joint 2014 Fall Meeting of the Ozone Transport Commission (OTC) and the Mid-Atlantic Northeast Visibility Union (MANE–VU). The meeting agenda will include topics regarding reducing ground-level ozone precursors and matters relative to Regional Haze and visibility improvement in Federal Class I areas in a multi-pollutant context.

DATES: The meeting will be held on November 19, 2014 starting at 9:15 a.m. and ending at 4:00 p.m.

ADDRESSES: The meeting will be held at the Hyatt Regency Crystal City, 2799 Jefferson Davis Hwy., Arlington, VA 22202, (703) 418–1234.

FOR FURTHER INFORMATION CONTACT: For documents and press inquiries contact: Ozone Transport Commission, 444 North Capitol Street NW., Suite 322, Washington, DC 20001; (202) 508–3840; email: *ozone@otcair.org;* Web site: *http://www.otcair.org*.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at Section 184 provisions for the Control of Interstate Ozone Air Pollution. Section 184(a) establishes an Ozone Transport Region (OTR) comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia. The purpose of the OTC is to deal with ground-level ozone formation, transport, and control within the OTR.

The Mid-Atlantic/Northeast Visibility Union (MANE–VU) was formed in 2001, in response to EPA's issuance of the Regional Haze rule. MANE–VU's members include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, the Penobscot Indian Nation, the St. Regis Mohawk Tribe along with EPA and Federal Land Managers.

Type of Meeting: Open.

Agenda: Copies of the final agenda will be available from the OTC office (202) 508–3840; by email: *ozone@otcair.org* or via the OTC Web site at *http://www.otcair.org.*

Dated: September 17, 2014.

H. Curtis Spalding,

Regional Administrator, Region I.

[FR Doc. 2014–25352 Filed 10–23–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9917–89–OEI; EPA–HQ–OEI–2013–0752]

Amendment of the External Compliance Program Discrimination Complaint Files, EPA–21

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 USC 552a), the Environmental Protection Agency (EPA) is giving notice that it is amending the External Compliance Program Discrimination Complaint Files system of records. The system is being amended to change the (1) system name; (2) addresses of system locations and system managers; (3) categories of individuals covered by the system; (4) routine uses; and (5) storage, retrievability and safeguard requirements.

DATES: Persons wishing to comment on this system of records notice must do so by December 3, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2013–0752, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: oei.docket@epa.gov*.
- *Fax:* 202–566–1752.
- *Hand Delivery:* OEI Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2013–0752. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by

statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov*. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment, and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at: *http://www.epa.gov/epahome/dockets.htm*.

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 for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT:

Samuel Peterson, Equal Opportunity Investigator, (202) 564–5393.

SUPPLEMENTARY INFORMATION:

General Information:

The U.S. Environmental Protection Agency (EPA) has created a Privacy Act system of records for the External Compliance Program Discrimination Complaint Files system. The External Compliance Program Discrimination Complaint Files system has been developed to provide the Office of Civil Rights (OCR) with the ability to more effectively manage its program information needs and to integrate the office's various business processes. The External Compliance Program Discrimination Complaint Files system supports the collection of compliance-related data and other information needed by OCR to complete compliance activities and issue determinations. The External Compliance Program Discrimination Complaint Files system has been renamed the Title VI External Compliance Case Tracking System. The system of records is also being amended to more accurately describe the scope of the system of records and to reflect current storage, retrievability, safeguards and other changes that have occurred since the original system of records notice was published in January 2006. In addition, there have been changes to routine uses and the addresses of system locations and system managers.

Access to the records in this system is limited to OCR employees whose official duties require using the information. Specific access is based on need and is determined by the user's role in the organization. Access is managed through the use of electronic control lists which regulate the ability to read, change and delete information in the system. System users have read-only access to designated information in the system with the ability to only modify their own submissions and those of others within their region or group. Access to confidential information is limited. The system maintains an audit trail of all actions taken in the database. All electronic data are stored on servers maintained in locked facilities with computerized access control. The server facility has appropriate environmental security controls, including measures to mitigate damage to automated information system resources caused by fire, electricity, water and inadequate climate controls. Access to servers, individual computers and databases requires a user log-on with a password. The same access controls apply to remote users. System administrators have appropriate security clearances. Printed materials are filed in secure cabinets in secure federal facilities with access based on need, as described above, for the automated component of the system.

FOR FURTHER INFORMATION CONTACT:

Helena Aguilar, Acting Deputy Director, EPA OCR, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Mail Code 1201A, or by email at *wooden-aguilar.helena@epa.gov*.

Dated: September 23, 2014.

Renee P. Wynn,

Acting Assistant Administrator and Chief Information Officer.

EPA–21

SYSTEM NAME:

The External Compliance Program Discrimination Complaint Files (the name is being amended to the Title VI External Compliance Case Tracking System).

SYSTEM LOCATION:

The system is currently hosted under a contract within Micropact, Inc., located at 107 Carpenter Drive, Suite 140, Sterling, Virginia 20164.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed, or had filed on their behalf, discrimination complaints regarding recipients of federal financial assistance on the basis of race, color, national origin, age, sex, or disability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters or other documents initiating discrimination complaints, correspondence, internal memoranda and notes pertaining to the complaints; investigative reports and findings on the complaints and related information regarding the complaints and investigations. A computerized case index includes cases by number, complainants (not all complainants are identified because there are sometimes multiple complainants in a single case) and recipients. Systemic civil rights compliance reviews of recipients of federal assistance; information on recipient employees, contractors or education instructor volunteers, as contained in documents provided by recipients; medical information; eligibility determinations impacting complainants, witnesses or other parties; administrative subpoena files; staff interviews; self-evaluation plans; records of physical or mental impairments; racial/ethnic analyses of workforce and program enrollees; sanction hearings; notice of violations; language assistance plans; recipient staff interviews and interviews with members of the public; appeal files; training programs; civil enforcement files; environmental policies and program files. Any and all information contained on private individuals, as described above, contained in records of accessibility or other civil rights reviews that may pertain to facilities funded by federal financial assistance from the EPA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSE(S):

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.; Tile IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794; Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92–500, section 13), 33 U.S.C. 1251 note; Title III of the Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq.); Title VIII of the Federal Fair Housing Act (42 U.S.C. 3601); Executive Orders 11246 (Sept. 24, 1965), 12250 (Nov. 2, 1980) and 12892 (Jan. 17, 1994); 40 CFR part 7.

PURPOSE(S):

To support and enhance the discrimination complaint process, including the investigation and resolution of complaints, and to assure recipient compliance with the nondiscrimination laws of federal financial assistance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General Routine Uses A, C, D, E, F, G, H, I, K and L apply to this system. Records may also be disclosed to:

1. The Department of Justice or other federal and state agencies when necessary to complete an investigation, enforce the nondiscrimination statutes set forth in the Authority section of this notice, or assure proper coordination between federal agencies.

2. Persons named as alleged discriminators to allow such persons the opportunity to respond to the allegations made against them during the course of the discrimination complaint process.

3. Any potential source of information when necessary to obtain information relevant to an OCR investigation of a discrimination complaint, but only to the extent necessary to inform the source of the purpose(s) of the request and to identify the type of information requested.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

• Storage: All electronic data are stored on servers maintained in locked facilities with computerized access control and all printed materials are filed in secure cabinets in secure federal facilities with access based on need.

• Retrieving: These records can be retrieved by name, case file number, or other unique identifiers.

• Safeguards: Computer records are maintained in a secure, password-protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access controlled areas or buildings.

• Retention and Disposal: Records stored in this system are subject to EPA's records schedule 497.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Complaints Resolution and External Compliance Staff, Office of Civil Rights, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Mail Code 1201A, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about himself/herself, who wants access to his/her record, or who wants to contest the contents of a record, should submit a written request to the EPA FOIA Office, Attn: Privacy Act Officer, WJC West, MC2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

RECORD ACCESS PROCEDURE:

Individuals seeking access to their own personal information in this system of records will be required to provide adequate identification (e.g., driver's license, military identification card, employee badge or identification card and, if necessary, proof of authority). Additional identity verification procedures may be required as warranted. Requests must meet the requirements of EPA regulation 40 CFR part 16.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are described in EPA's Privacy Act regulations 40 CFR part 16.

RECORDS SOURCE CATEGORIES:

Complainants, recipients, witnesses, EPA investigators and/or contract investigators, other EPA personnel, and other persons with information relevant to the case.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in subsection: 5 U.S.C. 552a(c)(3), (d), and (e)(1).

[FR Doc. 2014–25417 Filed 10–23–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0848]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 23, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0848.

Title: Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98–147.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 750 respondents; 9,270 responses.

Estimated Time per Response: 3.54 hours (average burden per response).

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 201 and 251 of the Communications Act of 1934, as amended.

Total Annual Burden: 32,845 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information. Any respondent that submits information to the Commission that they believe is confidential may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The information collection requirements implement sections 201 and 251 of the Communications Act of 1934, as amended, to provide for physical collocation on rates, terms and conditions that are just, reasonable and nondiscriminatory, and to promote deployment of advanced telecommunications services without significantly degrading the performance of other services.

All of the requirements will be used by the Commission and competitive local exchange carriers (LECs) to facilitate the deployment of telecommunications services, including advanced telecommunications services.

Federal Communications Commission.

Marlene H. Dortch,

Secretary. Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–25276 Filed 10–23–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: October 20, 2014.

Federal Deposit Insurance Corporation

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

(In alphabetical order)

FDIC Ref. No.	Bank name	City	State	Date closed
10506	NBRS Financial	Rising Sun	MD	10/17/2014

[FR Doc. 2014–25284 Filed 10–23–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, October 21, 2014 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

Federal Register notice of previous announcement—79 FR 42009.

CHANGE IN THE MEETING: The Commission also discussed: Internal personnel rules and internal rules and practices. Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

This meeting will be continued at the conclusion of the open meeting on October 23, 2014.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2014–25519 Filed 10–22–14; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

October 22, 2014.

TIME AND DATE: 2:00 p.m., Wednesday, October 29, 2014.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (entry from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Black Beauty Coal Co.*, Docket Nos. LAKE 2008–378–R, et al. (Issues include whether the Administrative Law Judge erred in concluding that the resumption of mining in an area following a roof fall

in that area constituted a violation and whether an on-shift examination of another area was required.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2014–25494 Filed 10–22–14; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

October 22, 2014.

TIME AND DATE: 10:00 a.m., Wednesday, October 29, 2014.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (entry from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the matter *Secretary of Labor* v. *Black Beauty Coal Co.*, Docket Nos. LAKE 2008–378–R, et al. (Issues include whether the Administrative Law Judge erred in concluding that the resumption of mining in an area following a roof fall in that area constituted a violation and whether an on-shift examination of another area was required.)

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2014–25493 Filed 10–22–14; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Acting Clearance Officer—John Schmidt—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following report:

Report title: Annual Company-Run Stress Test information collection.

Agency form number: FR Y–16.

OMB control number: 7100–0356.

Effective Date: March 31, 2015.

Frequency: Annually.

Reporters: Bank holding companies (BHCs), savings and loan holding companies (SLHCs) [1] with average total consolidated assets of greater than $10 billion but less than $50 billion, and any affiliated or unaffiliated state member bank (SMB) with average total consolidated assets of more than $10 billion but less than $50 billion excluding SMB subsidiaries of covered companies.[2]

Estimated annual reporting hours: 38,623 hours.

Estimated average hours per response: 469 hours; 3,600 hours, one-time implementation.

Number of respondents: BHCs, 46; SLHCs, 11; SMBs, 10; and one-time implementation, 2.

General description of report: This information collection is authorized pursuant to Section 165(i)(2) of the Dodd-Frank Act that specifically authorizes the Board to issue regulations implementing the annual stress testing requirements for its supervised institutions. 12 U.S.C. 5365(i)(2)(C). More generally, with respect to BHCs, Section 5(c) of the Bank Holding Company Act, 12 U.S.C. 1844(c), authorizes the Board to require a BHC and any subsidiary ''to keep the Board informed as to—(i) its financial condition, [and] systems for monitoring and controlling financial and operating risks. . . .'' Section 9(6) of the Federal Reserve Act, 12 U.S.C. 324, requires SMBs to make reports of condition to their supervising Reserve Bank in such form and containing such information as the Board may require. Finally, with respect to SLHCs, under Section 312 of the Dodd-Frank Act, 12 U.S.C. 5412, the Board succeeded to all powers and authorities of the OTS and its Director, including the authority to require SLHCs to ''file . . . such reports as may be required . . . in such form and for such periods as the [agency] may prescribe.'' 12 U.S.C. 1467a(b)(2).

Obligation to Respond is Mandatory: Section 165(i)(2)(A) provides that ''financial companies that have total consolidated assets [meeting the asset thresholds] . . . and are regulated by a primary Federal financial regulatory agency shall conduct annual stress tests.'' Section 165(i)(2)(B) provides that a company required to conduct annual stress tests ''shall submit a report to the Board of Governors and to its primary financial regulatory agency at such time, in such form, and containing such information as the primary financial

[1] SLHCs are not subject to Dodd-Frank Act annual company-run stress testing requirements until the calendar year after SLHCs become subject to regulatory capital requirements. All SLHCs except those substantially engaged in insurance underwriting or commercial activities are subject to capital requirements beginning in 2015. These ''covered SLHCs'' are required to report using the FR Y–16 beginning in March 2017 (stress test as-of date September 30, 2016).

[2] ''Covered companies'' are defined as BHCs with at least $50 billion in total consolidated assets and nonbank systemically important financial institutions, subject to annual supervisory stress tests and semi-annual company-run stress tests.

regulatory agency shall require.'' 12 U.S.C. 5365(i)(2)(B).

Confidentiality: As noted under Section 165(i)(2)(C)(iv), companies conducting annual stress tests under these provisions are ''require[d] . . . to publish a summary of the results of the required stress tests.'' 12 U.S.C. 5365(i)(2)(C)(iv). Regarding the information collected by the Board, however, as such information will be collected as part of the Board's supervisory process, it may be accorded confidential treatment under Exemption 8 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(8). This information also is the type of confidential commercial and financial information that may be withheld under Exemption 4 of FOIA, 5 U.S.C. 552(b)(4). As required information, it may be withheld under Exemption 4 only if public disclosure could result in substantial competitive harm to the submitting institution, under *National Parks & Conservation Ass'n* v. *Morton,* 498 F.2d 765 (D.C. Cir. 1974).

Abstract: The annual FR Y–16 report collects quantitative projections of income, losses, assets, liabilities, and capital across three scenarios provided by the Board (baseline, adverse, and severely adverse) and qualitative supporting information on the methodologies and processes used to develop these internal projections.

Current Actions: On July 15, 2014 the Federal Reserve published a notice in the **Federal Register** (79 FR 41276) requesting public comment for 60 days on the extension, with revision, of the FR Y–16. The Federal Reserve proposed the following revisions and clarifications to the FR Y–16 report for the report submission due annually beginning on March 31, 2015: (1) Add common equity tier 1 capital as a data item, (2) add common equity tier 1 risk based capital ratio as a data item, and (3) modify the reporting instructions to clarify a number of items. The comment period for this notice expired on September 15, 2014. The Federal received one comment letter addressing the proposed revisions of this information collection. The comment is summarized and addressed below.

Summary of Public Comment

The Federal Reserve received one comment letter on the proposed revisions to the FR Y–16 from a modeling service provider. The commenter questioned the introduction of the new regulatory capital, risk-weighted asset, and regulatory capital ratio calculations in the FR Y–16 for the March 2015 report; asserting that $10–50 billion companies will lack relevant data for the proposed new capital items and definitions in advance of when these items are required to be reported in the Consolidated Report of Condition and Income (Call Report: OMB No. 7100–0036) and the Consolidated Financial Statements for Holding Companies (FR Y–9C: OMB No. 7100–0128), which will lead to inaccurate and misleading company projections.

Detailed Discussion of Public Comment

A. Proposed Revisions

On July 2, 2013, the Federal Reserve approved revised risk-based and leverage capital requirements for banking organizations that implement the Basel III regulatory capital reforms and certain changes required by the Dodd-Frank Act (revised capital framework).[3] The revised capital framework introduces the new common equity tier 1 capital component and a new common equity tier 1 risk-based capital ratio, revises the definition of regulatory capital items, and changes the calculation of risk-weighted assets. All banking organizations that are not subject to the advanced approaches rule must begin to comply with the revised capital framework beginning on January 1, 2015.[4] Under the Federal Reserve's final stress test rule,[5] banking organizations would be required to reflect the new capital rules, including the new common equity tier 1 capital component and ratio, in their company-run stress test planning horizon as the revised capital framework becomes applicable. However, on September 30, 2013, the Federal Reserve provided BHCs and SMBs with total consolidated assets of more than $10 billion but less than $50 billion (other than state member banks that are subsidiaries of BHCs with total consolidated assets of $50 billion or more) with a one-year transition period to incorporate the revised capital framework into their company-run stress tests (interim final stress test rule).[6] Therefore, the FR Y–16 did not require companies to include the effects of the revised capital framework for the initial 2014 stress test cycle.

The Federal Reserve proposed to revise the FR Y–16 by adding a common equity tier 1 capital data item to the Balance Sheet Schedule for each scenario and a common equity tier 1 risk-based capital ratio data item to the Summary Schedule and the Balance Sheet Schedule for each scenario in order to reflect the requirements of the revised capital framework over the stress test planning horizon. These revisions would be effective for the 2015 stress test cycle (with reporting in March 2015). In addition, the Federal Reserve proposed to clarify the FR Y–16 instructions to emphasize that companies should transition to the revised capital framework requirements in its company-run stress test projections in the quarter in which the requirements become effective. Specifically, companies would be required to transition to the revised capital framework and begin including the common equity tier 1 capital data item and common equity tier 1 risk-based capital ratio data item in projected quarter two (1st quarter 2015) through projected quarter nine (4th quarter 2016) for each supervisory scenario for the 2015 stress test cycle to be reported by March 31, 2015.

The commenter indicated that requiring the use of the revised capital framework over the planning horizon in the March 2015 FR Y–16 report will introduce volatility and ambiguity of a respondent's processes and results. Specifically, by requiring the reporting of the common equity tier 1 capital component and ratio beginning with projected quarter two (1st quarter 2015) of the planning horizon before these items are reported in the Call Report and the FR Y–9C will cause the companies to rely on pro forma estimates that will lead to inaccurate and misleading projections.[7] In addition, the commenter asserted that because the changes to the Call Report and FR Y–9C risk-weighted asset schedules are in a proposed status, there will be difficulties for companies to produce accurate estimates without further guidance on the transition to the revised capital framework for this FR Y–

[3] See Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule (July 2, 2013), available at: *http://www.federalreserve.gov/newsevents/press/bcreg/20130702a.htm.*

[4] A banking organization is subject to the advanced approaches rule if it has consolidated assets greater than or equal to $250 billion, if it has total consolidated on-balance sheet foreign exposures of at least $10 billion, or if it elects to apply the advanced approaches rule.

[5] See final rule on annual company-run stress test requirements for banking organizations with total consolidated assets over $10 billion other than covered companies 77 FR 62378 (October 12, 2012) (codified at 12 CFR part, 252 subpart H).

[6] See 78 FR 59791 (September 30, 2013).

[7] The reporting submission date for the March 2015 Call Report is 30 calendar days after March 31, while the submission date for the March 2015 FR Y–9C is 40 calendar days after March 31.

16 line item.[8] Lastly, the commenter indicated that the required public disclosure of the regulatory capital ratios over the planning horizon under different capital rules will cause confusion among bank shareholders and the general public.[9]

The Federal Reserve believes that the proposed additional items to the FR Y–16 would not place an undue burden on $10–50 billion institutions as they have already been given additional time to incorporate the revised capital framework into their company-run stress tests. The interim final stress test rule on September 30, 2013 specifically provided $10–50 billion banking organizations with a one-year transition period to incorporate the revised capital framework into their company-run stress tests. The one-year transition period decreased the operational complexity and risk of error for these companies for the initial 2014 stress test cycle by allowing them to focus on implementing stress testing processes without reflecting the revised capital rules over the planning horizon. The one-year transition also allowed companies additional time to evaluate the revised capital framework's effect on their regulatory capital items reported in the Call Report and FR Y–9C. Further, the Call Report and FR Y–9C regulatory capital schedules were revised effective March 2014 to reflect the revised capital framework for regulatory capital items for advanced approaches institutions; all other institutions, including $10–50 billion institutions, are required to report the same revised regulatory capital schedule for March 31, 2015. In addition, the FR Y–16 reporting form and instructions has been updated to reference the applicable Call Report and FR Y–9C report items that should be reported over the planning horizon, including the new items that were created to capture the revised capital framework. The Federal Reserve will adjust the FR Y–16 schedules to be consistent with the final FR Y–9C and Call Report risk-weighted asset schedule changes once they are published. These adjustments are necessary to align the subcomponents of standardized risk-weighted assets with total standardized risk-weighted assets and will likely alleviate confusion about calculating projected total risk-weighted assets over the planning horizon. Lastly, the public disclosure by companies of the stress test results using the new capital rules applicable in the projected quarters of the planning horizon is required by the Board's final stress test rule and the Federal Reserve believes that this public disclosure will be informative to the public.

In summary, the Federal Reserve will implement the FR Y–16 data items for the March 2015 report to reflect the revised capital framework as proposed. Specifically, the Federal Reserve will add the common equity tier 1 capital data item to the Balance Sheet Schedule for each scenario and a common equity tier 1 risk-based capital ratio data item to the Summary Schedule and the Balance Sheet Schedule for each scenario. The Office of the Comptroller of the Currency and Federal Deposit Insurance Corporation plan to make similar changes to their $10–50 billion company Dodd-Frank Act stress test reporting forms (OCC DFAST 10–50 report: OMB No. 1557–0311 and FDIC DFAST 10–50 report OMB No. 3064–0189) to reflect the revised capital framework for the March 2015 report.

B. Technical Changes/Other Items

In response to a few technical, non-substantive comments received, some additional minor changes will be made in the final reporting form and instructions. These changes include clarified reporting instructions for the disallowed deferred tax asset and unrealized gains (losses) on available-for-sale (AFS) securities line items and updated descriptions of the total capital and total risk-based capital line items.

Board of Governors of the Federal Reserve System, October 20, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–25289 Filed 10–23–14; 8:45 am]

BILLING CODE 6210–01–P

[8] See 79 FR 35634 (June 23, 2014) and 79 FR 45808 (August 6, 2014).

[9] Per the Board's final stress test rule, $10–50 billion companies are required to publicly disclose the beginning value, ending value, and minimum value of each regulatory capital ratio over the planning horizon.

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 November 7, 2014.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The 2011 Colis Delta Trust, Oakbrook, Illinois, and George P. Colis; John N. Colis; Valerie Colis-Livaditus; and Leslie Colis-Ward,* as trustees, to retain voting shares of Oxford Financial Corporation, and thereby indirectly retain voting shares of Oxford Bank and Trust, both in Oak Brook, Illinois.

Board of Governors of the Federal Reserve System, October 20, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–25264 Filed 10–23–14; 8:45 am]

BILLING CODE 6210–01–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 November 10, 2014.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Kenneth R. Lehman,* Arlington, Virginia; to acquire voting shares of Village Bank & Trust Financial Corp., and thereby indirectly acquire voting shares of Village Bank, both in Midlothian, Virginia.

B. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Stock Holdings of Delaware, LLC, Fort Walton Beach, Florida, acting individually, and in concert with a*

control group, which consists of Stock Holdings of Delaware, LLC; Joan A. Schweizer, Fort Walton Beach, Florida; Karnise D. Schweizer, Fort Walton Beach, Florida, in her capacities as sole member and manager of Stock Holdings of Delaware, LLC, executrix of the estate of Arthur F. Schweizer, and trustee under the Last Will and Testament of Arthur F. Schweizer; Jarrod L. Schweizer, Boston, Massachusetts; Jason L. Schweizer, Fort Walton Beach, Florida; W. Todd Schweizer, Fort Walton Beach, Florida, individually and in his capacity as the sole member and manager of Schweizer Brothers Investments L.L.C., Fort Walton Beach, Florida; and Schweizer Brothers Investments L.L.C.; to acquire voting shares of Beach Community Bancshares, Inc., and thereby indirectly acquire voting shares of Beach Community Bank, both in Fort Walton Beach, Florida.

C. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Michael Thomas Cope; Julio Cesar Ramon, Sr.; Beatrice Cortez Ramon, all of Mason, Texas; and Kenneth Charles Burow,* Comfort, Texas; collectively as a group acting in concert, to acquire voting shares of Commercial Company, Inc., and thereby indirectly acquire voting shares of Commercial Bank, both in Mason, Texas.

Board of Governors of the Federal Reserve System, October 21, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–25333 Filed 10–23–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 17, 2014.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Wintrust Financial Corporation,* Rosemont, Illinois, to merge with Delavan Bancshares, Inc., Delavan, Wisconsin, and thereby indirectly acquire Community Bank CBD, Delavan, Wisconsin.

B. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Financial Services Holding Corporation,* Henderson, Kentucky; to acquire 100 percent of the voting shares of Ohio Valley Bancorp, Inc., and thereby indirectly acquire voting shares of Ohio Valley Financial Group, both in Henderson, Kentucky.

Board of Governors of the Federal Reserve System, October 20, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–25265 Filed 10–23–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 20, 2014.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Seminole Bancorp, Inc.,* Hollywood, Florida; to become a savings and loan holding company by acquiring 100 percent of the voting shares of Mackinac Savings Bank, F.S.B., Boynton Beach, Florida.

Board of Governors of the Federal Reserve System, October 21, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–25332 Filed 10–23–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Draft Guidance on Disclosing Reasonably Foreseeable Risks in Research Evaluating Standards of Care

AGENCY: Office of the Secretary, Office of the Assistant Secretary for Health, Office for Human Research Protections, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS), through the Office for Human Research Protections (OHRP) is announcing the availability of a draft guidance for the research community entitled ''Guidance on Disclosing Reasonably Foreseeable Risks in Research Evaluating Standards of Care.'' OHRP is specifically addressing what risks to subjects are presented by research evaluating or comparing risks

associated with standards of care, and which of these risks are reasonably foreseeable and should be disclosed to prospective research subjects as part of their informed consent. OHRP is soliciting written comments from all interested parties, including, but not limited to IRB members, IRB staff, institutional officials, research institutions, investigators, research subject advocacy groups, ethicists, the regulated community, and the public at large. This draft guidance represents OHRP's current thinking on this topic.

Certain treatments and procedures that are commonly used in health care for a given type of disease or condition have come to be known as ''standards of care.'' Multiple ''standards of care'' involving widely differing treatments and risks may be available for the same disease or medical condition. Where multiple ''standard of care'' options are available for a given disease or condition, the use of the term does not imply that the options will produce similar benefits or incur similar risks. Furthermore, patients may not find those options equally acceptable, nor do physicians always use them interchangeably. Importantly there is not necessarily a limit on how different the risks from two versions of a standard of care might be. For example, it may already be known that one of those versions imposes a significantly higher risk of death than the other.

Adequate knowledge about the effectiveness and risks of standards of care and how these standards compare to each other is sometimes lacking. In recent years research studies designed to evaluate such treatments and procedures have become commonplace. These studies are often called ''comparative effectiveness research'' or ''standard of care research.''

As this type of research has become more common, so too have questions about how the HHS human subject protection regulations (45 CFR part 46) apply to such research. There is uncertainty in the research community about which risks of the research should be determined to be reasonably foreseeable risks of research and how they should be described to prospective subjects in the process of informed consent. OHRP's interpretation of the HHS research regulations has been that if people are being asked to undergo procedures in a research study that involve risks that they would not otherwise be exposed to, these are 'research risks' that people must be informed about. Only in that way are they able to make a truly informed decision about whether they are willing to participate. For comparative effectiveness or standard of care research, OHRP's general position is that the reasonably foreseeable risks of research include already-identified risks of the standards of care being evaluated as a purpose of the research when the risks being evaluated are different from the risks subjects would be exposed to outside of the study. This guidance addresses these issues in the form of frequently asked questions. OHRP will consider comments received before issuing the final guidance document.

DATES: Submit written comments by December 23, 2014.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled, Disclosing Reasonably Foreseeable Risks in Research Evaluating Standards of Care to the Division of Policy and Assurances, Office for Human Research Protections, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–402-2071. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance document.

You may submit comments identified by docket ID number HHS–OPHS–2014–0005 by one of the following methods:

Federal eRulemaking Portal: *http://www.regulations.gov.* Enter the above docket ID number in the Enter Keyword or ID field and click on ''Search.'' On the next page, click the ''Submit a Comment'' action and follow the instructions.

Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Irene Stith-Coleman, Ph.D., Office for Human Research Protections, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852.

Comments received, including any personal information, will be posted without change to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Irene Stith-Coleman, Ph.D., Office for Human Research Protections, Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852; phone 240–453–6900; email *Irene.Stith-Coleman@hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. HHS Protection of Human Subjects Regulations

HHS, through OHRP, regulates research involving human subjects conducted or supported by HHS. The HHS human subjects protection regulations pertain to several different entities, including the institutional review board (IRB) charged with reviewing non-exempt human subjects research.

The IRB is an administrative body that takes the form of a board, committee, or group, and is responsible for conducting the initial and continuing review of research involving human subjects. The IRB must have authority to approve, require modification of (in order to secure approval), or disapprove all research activities regulated by HHS as required by 45 CFR 46.109(a). An IRB's primary purpose in reviewing research is to ensure the protection of the rights and welfare of human research subjects. In order to approve research, an IRB is required to make certain determinations, including that the following 46.111(a)(2) criterion is met:

> Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research (as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research).

The HHS human subjects protections regulations further require that an investigator must obtain informed consent from research subjects prior to the subjects' participation in the research, unless this requirement is waived by the IRB. In this informed consent process, the subjects must be provided with ''a description of any reasonably foreseeable risks or discomforts to the subject'' as required by 46.111(a)(4) and 46.116(a)(2).

B. OHRP's Compliance Oversight Investigation of SUPPORT

On March 7, 2013, OHRP issued a compliance oversight determination letter regarding its investigation into ''The Surfactant, Positive Pressure, and Oxygenation Randomized Trial'' (SUPPORT) (*http://www.hhs.gov/ohrp/detrm_letrs/YR13/mar13a.pdf*). OHRP determined that certain risks related to the interventions being studied in the SUPPORT trial were required by 45 CFR part 46 to be disclosed to the research subjects, and that the subjects were not informed of these risks. OHRP's view of the SUPPORT trial, as described in this determination letter, triggered extensive public discussion regarding (1) what risks to subjects are presented by clinical trials studying interventions that are standards of care in the clinical

treatment context, such that an IRB must evaluate those risks in relation to the anticipated benefits of the research; and (2) how an IRB should assess whether those risks are reasonably foreseeable such that the risks must be described to prospective subjects as part of obtaining a person's informed consent.

The critical disagreement in the research community relates to the issue of what risks must be disclosed to prospective subjects in a research study where participants will be receiving a treatment that is different from the treatment they would have received outside the study, but still within the range of ''standard of care'' that some doctors use for clinical purposes. Multiple ''standards of care'' involving widely differing treatments and risks may be available for the same disease or medical condition. Where multiple ''standard of care'' options are available for a given disease or condition, the use of the term does not imply that the options will produce similar benefits or incur similar risks. Furthermore, patients may not find those options equally acceptable, nor do physicians always use them interchangeably. Importantly there is not necessarily a limit on how different the risks from two versions of a standard of care might be. For example, it may already be known that one of those versions imposes a significantly higher risk of death than the other.

In the SUPPORT trial, an infant had a 50% chance of being assigned to the ''lower oxygen'' arm (where the oxygen saturation percentage would be maintained between 85% and 89%) or the ''higher oxygen'' range (between 91% and 95%). The level of oxygen the infants received was chosen by randomization. This design was intended to move these infants far enough away from the center value (90%), so that the differences in the amount of oxygen the two groups received would allow detection of different health outcomes in the groups. Therefore, for the great majority of infants in the trial, it is likely that their participation altered the level of oxygen they received compared to what they would have received had they not participated. Some in the research community maintain that because the lower (85% to 89%) and higher (91% to 95%) ranges of oxygen saturation provided to the infants were within the standard of care range, there were no known risks to participants in the study from being randomized to these two oxygen saturation levels. OHRP disagrees with this perspective, and maintains that the key issue is that the treatment and possible risks infants were exposed to in the research were different from the treatment and possible risks they would have been exposed to if they had not been in the trial, not that the treatment provided in the trial was within the standard of care. OHRP's interpretation of the research regulations has been that, if a person in a research study is being asked to undergo procedures that involve reasonably foreseeable risks that they would not have otherwise been exposed to, then that person needs to be told about those risks. Only in this way can people make a truly informed decision about whether they are willing to participate.

OHRP has become aware, through the public reaction to OHRP's determination letter, of differing perspectives in the scientific, research, and ethics communities about these issues and how the relevant requirements of the HHS protection of human subjects regulations should apply to research studying standard of care interventions. This draft guidance is intended to clarify how to apply the HHS regulations at 45 CFR part 46 to studies that are designed to evaluate one or more standards of care.

C. Public Meeting

On August 28, 2013, a public meeting was held at the HHS Hubert H. Humphrey Building to provide an opportunity for broad public participation and public comments concerning how the HHS human subjects protections requirements should be applied to research studying one or more interventions which are used as standard of care treatment in the non-research context. HHS specifically requested input regarding how an IRB should assess the risks of research involving randomization to one of more standard of care interventions, and what reasonably foreseeable risks of the research should be disclosed to research subjects in the informed consent process. The public meeting and comments were intended to assist OHRP in developing guidance regarding what constitutes reasonably foreseeable risk in research involving standard of care interventions such that the risk is required to be disclosed to research subjects. There were 27 oral presentations at the public meeting and 72 written comments submitted during the open comment period of June 26, 2013 through September 9, 2013.

The meeting was conducted by HHS officials, including the Director of OHRP. The meeting was reserved for presentations of comments, recommendations, and data from presenters. The time for each presentation was 7 minutes. The allocation of time was based on the number of registered presenters. Presenters were scheduled to speak in the order in which they registered. Only HHS panel members questioned presenters during or at the conclusion of their presentation. The meeting was recorded and transcribed. The recording and transcription are accessible through the OHRP Web site, *http://www.hhs.gov/ohrp/newsroom/rfc/Public%20Meeting%20August%2028,%202013/aug28public.html.* In addition to materials submitted for discussion at the public meeting, individuals were offered the opportunity to submit other written comments after the public meeting. All submitted comments were considered by HHS during the guidance development phase. A discussion of the public comments is below.

II. Discussion of Public Comments

HHS invited comments at the public meeting regarding how an IRB should assess the risks of research involving randomization to one or more standard of care interventions, and which research risks should be disclosed to subjects in the informed consent process. HHS was specifically interested in public input on the following questions:

1. How should an IRB assess the risks of standard of care interventions provided to subjects in the research context?

a. Under what circumstances should an IRB consider those to be risks that may result from the research?

b. Under what circumstances should an IRB refrain from considering those risks as unrelated to the research?

c. What type of evidence should an IRB evaluate in identifying these risks?

Several commenters presented arguments for always disclosing standard of care risks to potential subjects of a clinical trial. Many felt that all risks, including those of the standard of care, must be disclosed in order to allow subjects and parents of subjects to make a fully informed choice to participate in research. Some expressed the view that the risks of standard of care interventions are magnified when incorporated into a clinical trial, and to mitigate the potential harms these commenters recommended mandating data safety monitoring plans to detect and identify perceived reasonable foreseeable risk. The outcome measures produced from data safety monitoring plans would identify the reasonably foreseeable risks of the research.

Opposing arguments were expressed against incorporating standard of care

risks for clinical intervention as risks of standard of care or comparative effectiveness research. Many commenters stated that it is inaccurate to describe standard of care intervention risks as research risks, and that good evidence of such risks is often lacking; they pointed out that many widely used medical practices are based on clinician judgments alone. Proponents of this view expressed the opinion that IRBs should not require standard of care risks to be disclosed as research risks, but rather, indicated that standard of care inventions should be addressed in the clinical treatment consent prior to enrolling potential subjects in the clinical trial.

Response: OHRP agrees that to the extent participation in a clinical trial does not impose risks that are different from those to which a subject would have been exposed had they not been in the trial, those risks should not be considered risks attributable to the research. The key issue is not whether an intervention provided to subjects is within a standard of care, but whether the treatment a subject receives (and thus the risks they are exposed to) is different from that which these subjects would have been exposed to outside of the research study. The risks that result from such a difference in treatment are risks derived from participation in the research study. Patients randomized to different standards of care in a comparative effectiveness trial should accordingly be made aware of the risks of the standards of care that are being compared. OHRP agrees that the distinction between receiving clinical care and participating in research must be made clear to subjects.

2. What factors should an IRB consider in determining that the research-related risks of standard of care interventions, provided to research subjects in the research context, are reasonably foreseeable and therefore required to be disclosed to subjects?

Many commenters recommended first defining the term ''standard of care'' prior to defining the term ''reasonably foreseeable risk.'' Various commenters stated that the term ''standard of care'' is used to refer to a medically recognized standard of care that has been accepted by medical experts as a proper treatment or procedure for a given disease or condition, and been widely used by healthcare professionals. These commenters pointed to the need for an evidentiary basis for a given standard of care, and felt that whether it was acquired through publication, through conduct of randomized clinical trials, or through expert opinion, the basis for assessing standard of care may vary throughout the medical community, and therefore the research and other evidence regarding the associated risks of a standard of care being evaluated may vary as well.

The varying definitions for ''reasonably foreseeable risk'' presented in the comments were representative of the lack of consensus of the interpretation of the term among the experts in the medical and clinical research community.

Several commenters identified a number of kinds of standards and quantitative measures to help define reasonably foreseeable risks. The proposed levels of evidence offered by the commenters included clinical trial evidence, peer and literature review analysis, professional prior experience, risk and benefit ratio analyses and baseline risks of the identified population. A few commenters expressed the view that reasonably foreseeable risks are those risks supported in peer reviewed medical literature that occur in 5% of the patients or that hold p-values of less than 0.10 in one or more trials.

One comment stated, ''events for which one can hypothesize a plausible risk but which have not been shown to be caused by the intervention should not be classified as reasonably foreseeable.'' Other commenters were opposed to attempting a suggested definition.

There was an overall agreement among the commenters about disclosing research risks of standard of care treatment to the prospective participants, but disagreement on where in the informed consent document this information should be disclosed.

Response: OHRP believes that all research and other evidence underlying medically recognized standards of care should be given appropriate consideration in determining whether risks are reasonably foreseeable. The draft guidance does not address specific quantitative approaches to evaluating or identifying reasonably foreseeable risk. With regard to which risks should be considered ''reasonably foreseeable,'' OHRP concluded that at a minimum, identified risks associated with a standard of care that are being evaluated as a purpose of the research, should certainly be considered ''reasonably foreseeable.'' A core purpose of the Common Rule is to allow prospective subjects to make informed decisions about whether to participate in research. If a specific risk has been identified as significant enough that it is important for the Federal government to spend taxpayer money to better understand the extent or nature of that risk, then that risk is one that prospective subjects should be made aware of so that they can decide if they want to be exposed to it. It would be seem inappropriate to have both the federal agency funding a study and the researchers conducting it aware of an identified risk, and yet not disclose that risk to the very subjects who would be exposed to it, while at the same time claiming that their ''informed'' consent to participation has been obtained in a very meaningful way.

3. How should randomization be considered in research studying one or more interventions within the standards of care? Should the randomization procedure itself be considered to present a risk to the subjects? Why or why not? If so, is the risk presented by randomization more than minimal risk? Should an IRB be allowed to waive informed consent for research involving randomization of subjects to one or more standard of care interventions? Why or why not?

Many commenters felt that randomization alone does not pose a research risk, while others disagreed. In certain instances, some commenters said that randomization can impose harms to research subjects. One commenter stated that ''if a research study involves random assignment of two different interventions that are sometimes used for treating an acute stroke, and death and neurological impairment are the primary endpoints being measured in the study, such research should be considered to present much greater than minimal risk to subjects.'' A subset of commenters expressed that such outcomes should be made clear in the informed consent process and document. One commenter stated ''research involving randomization to one or more standard of care interventions should follow the same requirements for informed consent as other research studies and should not be assumed to involve no more than minimal risk.''

Some commenters recommended that clinical trials involving randomization should not be permitted to waive informed consent for subjects involving standard of care interventions. One commenter suggested that the use of randomization with waiver of consent deprives subjects of the trust inherent in the doctor-patient relationship.

A small subset of commenters cited the loss of autonomy of the research participant by incorporating randomization in a protocol. When people are randomly assigned to one of a number of different standards of care, they forego the ability to choose which standard of care they prefer.

However, other comments indicated that consent could be waived for standard of care trials. One commenter stated, ''waivers of consent for randomization are appropriate, ethically defensible and necessary in the case of comparing two standards of care interventions in some cases'' and that ''waiving consent requires active and innovative ways to engage the community and reach patients.''

In addition to the ethical defensibility for waiver of consent, one commenter expressed that there is nothing inherent in randomization that should preclude consideration of a waiver. ''Most research involving prospective randomization seems likely to require informed consent; because it seems unlikely that the research would meet the 46.116 requirement that the IRB finds that the research couldn't feasibly be carried out without a waiver of consent. However, the IRB should be allowed to waive informed consent for any research that does meet all the waiver criteria.''

Others comments stressed that waiver of consent does not eliminate the duty to communicate with the research participant about the risks and benefits of a study. A few commenters expressed that potential research participants should be informed of randomization but that there is no reasonable evidence that randomization increases risk. However, the lack of evidence regarding the risk of randomization does not justify the use or prohibition of waiver of informed consent.

Response: The draft guidance treats randomization no differently than any other mechanism by which a research subject may be assigned to a particular treatment. The underlying question, as discussed above, is whether, in the study, a subject will be assigned to a treatment whose risks may be different from the risks they would have been exposed to outside of the trial. If that happens—whether it is by randomization or some other study design (e.g., all of the subjects could be assigned to the same treatment, with no randomization at all)—then those differences in risks are risks relating to participating in the research. Thus, in this sense, there are no ''special'' or unique risks to randomization. The thing that matters is whether participating in the study may expose a subject to risks that are different from those they would otherwise have been exposed to.

4. How, and to what extent, does uncertainty about risk within the standard of care affect the answers to these questions? What if the risk significantly varies within the standard of care?

One commenter stated that the fact that there is uncertainty about differences in the proposed primary and secondary outcomes between two or more groups receiving different interventions being tested in a clinical trial is one reason that such research involves foreseeable risks to the subjects. If there were no such uncertainty, there would be no reasonable basis for conducting the research in the first place, and it would be unethical to do so. Others felt that uncertainty alone does not affect the risks of standard of care research to a research subject because risks of the standard of care do not affect research risk, regardless of the magnitude or certainty of the risks of the standard of care.

Other comments in this area addressed models for research risk disclosure, such as a transparency model in which investigators would ''explain to potential research participants what scientists and physicians think they know, commonly believe and the basis for such knowledge and beliefs.''

Response: The draft guidance does not address the issue of uncertainty of risk associated with standard of care or comparative effectiveness research overall. However, the guidance does indicate that when one of the purposes of the research is the evaluation or comparison of risks associated with standards of care, and the risks of the standard of care received by the subjects are different from those risks the subjects would be exposed to outside of the research, then these risks should be considered to be reasonably foreseeable.

5. Under what circumstances do potential risks qualify as reasonably foreseeable risks? For example, is it sufficient that there be a documented belief in the medical community that a particular intervention within the standard of care increases the risk of harm, or is it necessary that there be published studies identifying the risk?

Comments focused on methods to evaluate and identify reasonably foreseeable risks, and recommended that the phrases ''reasonably foreseeable'' and ''all imaginable'' risks need to be clarified among the research community. To assist, one commenter recommended that a body of annotated examples, analogous to case law, needed to be created for IRBs to use as precedent to evaluate clinical trials. Another commenter recommended that IRBs need experts who can evaluate the actual risks to subjects.

Several comments recommended various criteria for identifying reasonably foreseeable risks, such as credible evidence, reported safety concerns, and ''significant documented belief'' in the medical community that a particular intervention would increases the risk of harm. Other comments added biological plausibility and clinical experience as qualifiers. All submitted comments concurred with the need to further evaluate the determination of reasonably foreseeable risk.

Response: As discussed above, the guidance concludes that if evaluating a particular risk associated with a standard of care is a purpose of the research, then in general that particular risk should be considered to be ''reasonably foreseeable.'' Reasonably foreseeable risks must be disclosed as risks in the informed consent process in accordance with the regulatory requirements of 45 CFR 46.116(a)(2).

OHRP recognizes that the available evidence regarding the risks of specific standards of care will vary, and may include evidence from one or more clinical trials, other research studies, the opinion of clinical experts, and the history of clinical practice, all of which are taken into account in the formulation of standard of practice guidelines. In any case, if a particular identified risk is considered significant enough to constitute a rationale for conducting the study, then this should in almost all cases imply the conclusion that the risk is ''reasonably foreseeable'' for the purposes of these regulations, and that it would be mistaken to claim that informed consent was obtained if prospective subjects were not made aware of that risk.

General Comments

Some commenters expressed views not directly related to the questions asked by OHRP. Specifically, several commenters made remarks directly related to the SUPPORT trial. In addition, other issues of concern focused on cluster randomization, consent waivers based on the research's potential for public health benefit, and rigorous research evaluations. Although the commenters disagreed with specific aspects of these topics, they agreed that these issues are growing concerns among the research community and should be discussed further.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance document on OHRP's Web site at *http://www.hhs.gov/ohrp/newsroom/rfc/index.html* or on the Federal

Rulemaking Portal at *http://www.regulations.gov/*.

Dated: October 21, 2014.

Wanda K. Jones,

Acting Assistant Secretary for Health.

[FR Doc. 2014–25318 Filed 10–23–14; 8:45 am]

BILLING CODE 4150–36–P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Advisory Council on Historic Preservation Quarterly Business Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Advisory Council on Historic Preservation Quarterly Business Meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation (ACHP) will hold its next quarterly meeting on Thursday, November 6, 2014. The meeting will be held in Room SR325 at the Russell Senate Office Building at Constitution and Delaware Avenues NE., Washington, DC, starting at 8:30 a.m. EST.

DATES: The quarterly meeting will take place on Wednesday, November 6, 2014, starting at 8:30 a.m. EST.

ADDRESSES: The meeting will be held in Room SR325 at the Russell Senate Office Building at Constitution and Delaware Avenues NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Cindy Bienvenue, 202–517–0202, *cbienvenue@achp.gov*.

SUPPLEMENTARY INFORMATION: The Advisory Council on Historic Preservation (ACHP) is an independent federal agency that promotes the preservation, enhancement, and sustainable use of our nation's diverse historic resources, and advises the President and the Congress on national historic preservation policy. The goal of the National Historic Preservation Act (NHPA), which established the ACHP in 1966, is to have federal agencies act as responsible stewards of our nation's resources when their actions affect historic properties. The ACHP is the only entity with the legal responsibility to encourage federal agencies to factor historic preservation into federal project requirements. For more information on the ACHP, please visit our Web site at *www.achp.gov*.

The agenda for the upcoming quarterly meeting of the ACHP is the following:

Call to Order—8:30 a.m.

I. Chairman's Welcome

II. Swearing in Ceremony

III. Presentation of Chairman's Award for Historic Preservation Achievement

IV. Chairman's Report

V. Historic Preservation Policy and Programs

A. Building a More Inclusive Preservation Program

1. Proposed Presidential Heritage Initiative

2. Congressional Black Caucus Foundation Event

3. Asian-American Pacific Islander Initiative

4. American Latino Heritage Initiative

B. Working with Indian Tribes

1. Proposed ACHP Policy for Tribal Historic Preservation Officers

2. Delegation of Authority to Approve Substitution of Tribal Procedures for Section 106 on Tribal Lands

3. ACHP Native American Affairs Committee

C. Funding for Tribal and State Historic Preservation Programs

D. 50th Anniversary of the National Historic Preservation Act

E. ACHP Legislative Agenda

VI. Section 106 Issues

A. 2015 Section 3 Report to the President

B. Alignment of Section 4f and Section 106 Reviews

C. Major Program Initiatives Update

1. Unified Federal Review for Disaster Recovery Projects

2. Model Covenant Guidance and USPS Report Implementation

VII. ACHP Management Issues

A. ACHP Strategic Plan Update

B. Member Communications

C. Alumni Foundation Report

VIII. New Business

IX. Adjourn

The meetings of the ACHP are open to the public. If you need special accommodations due to a disability, please contact Cindy Bienvenue, 202–517–0202 or *cbienvenue@achp.gov*, at least seven (7) days prior to the meeting.

Authority: 16 U.S.C. 470j.

Dated: October 20, 2014.

Javier E. Marques,

Associate General Counsel.

[FR Doc. 2014–25300 Filed 10–23–14; 8:45 am]

BILLING CODE 4310–K6–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Privacy Act of 1974; Consolidation of Department of Homeland Security United States Citizenship and Immigration Services E-Verify Self Check System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice to consolidate one Privacy Act system of records notice.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security is giving notice that it proposes to consolidate the following Privacy Act system of records notice, Department of Homeland Security/United States Citizenship and Immigration Services—013 E-Verify Self Check (76 FR 9034, February 16, 2011), into the existing Department of Homeland Security system of records notices titled Department of Homeland Security/ALL–037 E-Authentication Records System of Records (79 FR 46857, August 11, 2014) and Department of Homeland Security/United States Citizenship and Immigration Services—011 E-Verify Program System of Records (79 FR 46852, August 11, 2014). As a result of this consolidation, DHS is removing DHS/USCIS–013 from its inventory of systems of records.

DATES: These changes will take effect on November 24, 2014.

FOR FURTHER INFORMATION CONTACT: Karen L. Neuman (202–343–1717), Chief Privacy Officer, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, and as part of its ongoing integration and management efforts, the Department of Homeland Security (DHS) is consolidating the system of records notice, Department of Homeland Security/United States Citizenship and Immigration Services—013 E-Verify Self Check (76 FR 9034, February 16, 2011), into two existing system of records notices.

DHS will continue to collect and maintain records regarding E-Verify Self Check and will rely upon the following system of records notices titled DHS/ALL–037 E-Authentication Records System of Records (79 FR 46857, August 11, 2014) and DHS/USCIS–011 E-Verify Program System of Records (79 FR 46852, August 11, 2014). DHS is not requesting comment on this notice because the E-Authentication Records and E-Verify Program System of Records

notices were open to comment and provided notice of this consolidation. DHS received no comments regarding the consolidation.

There are six additional routine uses applicable to this system as a result of this consolidation. Through the E-Authentication System of Records, DHS may share information to relying parties approved by the National Information Exchange Federation Trust Framework Provider for the purpose of providing federated access to systems when the user has been provided with appropriate notice and the opportunity to consent. Information may also be shared with international, federal, state and local, tribal, private or corporate entities for the purpose of the regular exchange of business contact information in order to facilitate collaboration for official business.

By the consolidation of the E-Verify Self Check System of Records into the E-Verify Program System of records, the following routine uses may apply to E-Verify Self Check: (1) To employers participating in the E-Verify program to verify the employment eligibility of their employees working in the United States; (2) to the American Association of Motor Vehicle Administrators Network and participating Motor Vehicle Agencies for the purpose of validating information for a driver's license, permit, or identification card issued by the Motor Vehicle Agency of states or jurisdictions who have signed a Memorandum of Agreement with DHS under the RIDE program; and (3) to the Department of Justice (DOJ) to responding to matters within the DOJ's jurisdiction of the E-Verify program, especially with respect to discrimination.

Both the E-Verify and E-Authentication Systems of Records permit sharing information with the news media or public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Consolidating and retiring this notice will promote the overall streamlining and management of DHS Privacy Act record systems.

Dated: October 2, 2014.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2014–25408 Filed 10–23–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2014–0170]

North Carolina Area Maritime Security Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Notice of solicitation for membership.

SUMMARY: This notice requests individuals interested in serving on the North Carolina Area Maritime Security Committee (AMSC) to submit their applications for membership, to the Captain of the Port, North Carolina.

DATES: Requests for membership should reach the U.S. Coast Guard Captain of the Port North Carolina on or before November 24, 2014.

ADDRESSES: Applications for membership should be submitted to the Captain of the Port at the following address: Commander (sx), United States Coast Guard, Sector North Carolina, 721 Medical Center Drive, Wilmington, NC 28401 or by email to *Douglas.R.Lincoln@uscg.mil.*

FOR FURTHER INFORMATION CONTACT: For questions about submitting an application or about the North Carolina Area Maritime Security Committee in general, contact LCDR Douglas Lincoln at 252–247–4519 or by email to *Douglas.R.Lincoln@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Authority

Section 102 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107–295) added section 70112 to Title 46 of the U.S. Code, and authorized the Secretary of the Department in which the Coast Guard is operating to establish Area Maritime Security Advisory Committees (AMSCs) for any port area of the United States. (See 33 U.S.C. 1226; 46 U.S.C.; 33 CFR 1.05–1, 6.01; Department of Homeland Security Delegation No. 0170.1). MTSA includes a provision exempting these AMSCs from the Federal Advisory Committee Act, Public Law 92–436, 86 Stat. 470 (5 U.S.C. App. 2).

North Carolina AMSC Purpose

The AMSCs shall assist the Captain of the Port in the development, review, update, and exercising of the AMS Plan for their area of responsibility. Such matters may include, but are not limited to: Identifying critical port infrastructure and operations; Identifying risks (threats, vulnerabilities, and consequences); Determining mitigation strategies and implementation methods; Developing strategies to facilitate the recovery of the MTS after a Transportation Security Incident; Developing and describing the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied; and Providing advice to, and assisting the Captain of the Port in developing and maintaining the Area Maritime Security Plan.

AMSC Composition

The composition of an AMSC, to include the North Carolina AMSC and its subcommittees, is controlled by 33 CFR 103.305. Accordingly, members may be selected from the Federal, Territorial, or Tribal government; the State government and political subdivisions of the State; local public safety, crisis management, and emergency response agencies; law enforcement and security organizations; maritime industry, including labor; other port stakeholders having a special competence in maritime security; and port stakeholders affected by security practices and policies. Also, members of the North Carolina AMSC must have at least 5 years of experience related to maritime or port security operations.

AMSC Membership

The North Carolina AMSC has 11 members who represent Federal, State, local, and industry stakeholders from North Carolina. We are seeking to fill 3 positions with this solicitation. Applicants may be required to pass an appropriate security background check prior to appointment to the committee. Members' terms of office will be for 3 years; however, a member is eligible to serve additional terms of office. Members will not receive any salary or other compensation for their service on an AMSC.

Request for Applications

Those seeking membership are not required to submit formal applications to the local Captain of the Port, however, because we do have an obligation to ensure that a specific number of members have the prerequisite maritime security experience, we encourage the submission of resumes highlighting

experience in the maritime and security industries.

In support of the USCG policy on gender and ethnic nondiscrimination, we encourage qualified women and men of all racial and ethnic groups to apply.

Dated: October 1, 2014.

S.R. Murtagh,

Captain, U.S. Coast Guard, Captain of the Port/Federal Maritime Security Coordinator North Carolina.

[FR Doc. 2014–25386 Filed 10–23–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–38]

60-Day Notice of Proposed Information Collection; New Construction Subterranean Termite Protection for New Homes

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 23, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Elissa Saunders, Acting Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Saunders.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

A. Overview of Information Collection

Title of Information Collection: New Construction Subterranean Termite Protection for new homes.

OMB Approval Number: 2502–0525.

Form Number: HUD NPFA–99A and HUD NPFA–99B.

Type of Request: Extension of a currently approved collection.

Description of the need for the information and proposed use: HUD regulations at 24 CFR 200.926d(b)(3) require that the sites for HUD insured structures must be free of termite hazards. The HUD–NPCA–99–A requires the builder to certify that all required treatment for termites was performed by an authorized pest control company and further that the builder guarantees the treated area against infestation for one year. The form HUD–NPCA–99–B requires a licensed pest control company to provide to the builder a record of specific treatment information in those cases when the soil treatment method is used for prevention of subterranean termite infestation. When applicable the HUD–NPCA–99–B must accompany the HUD–NPCA–99–A. If the requested data is not collected, new home purchasers and HUD are subject to the risk of purchasing or insuring a home that could be immediately infested by termites and would have no recourse against the builder.

Agency form numbers, if applicable: HUD NPMA–99–A and HUD NPMA–99–B.

Respondents: Business.

Estimated Number of Respondents: 30,000.

Estimated Number of Responses: 60,000.

Frequency of Response: On Occasions.

Average Hours per Response: 0.083 and .25, respectively.

Total Estimated Burdens: 9,990.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 20, 2014.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing-Associate Deputy Federal Housing, Commissioner.

[FR Doc. 2014–25348 Filed 10–23–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5762–N–02]

60-Day Notice of Proposed Information Report of Additional Classification and Rate

AGENCY: Office of Labor Standards and Enforcement, Office of Field Policy and Management, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval for the proposed information collection requirement described below, and will be submitting to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 23, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Saundra A. Green, Administrative Officer, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 2120 or the number (202–402–5537) this is not a toll free number or email at *Saundra.A.Green@hud.gov* or a copy of the proposed forms or other available information. Persons with hearing or

speech impairments may access this number though TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollards, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–3400 (this is not a toll free number) or email Colette Pollard at *Colette.Pollard@hud.gov* for copies of the proposed forms and other available information. Persons with hearing or speech impairments may access this number though TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Report of Additional Classification and Rate.

OMB Control Number, if applicable: 2501–0011.

Description of the need for the information and proposed use: The information is used by HUD and agencies administering HUD programs to collect information from laborers and mechanics employed on projects subjected to the Federal Labor Standards provisions. The information collected is compared to information submitted by the respective employer on certified payroll reports. The comparison tests the accuracy of the employer's payroll data and may disclose violations. Generally, these activities are geared to the respondent's benefit that is to determine whether the respondent was underpaid and to ensure the payment of wage restitution to the respondent.

Agency form numbers, if applicable: HUD FORM 4230A, HUD FORM 4750, HUD FORM 4751, HUD FORM 4752,

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Estimated number of burden hours is 5,000. Estimated number of respondents is 20,000, the estimated number of responses is 20,000, the frequency of response is on occasion, and the burden hour per response is .25.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: October 17, 2014.

J. David Reeves,

Senior Advisor for Office of Field Policy and Management.

[FR Doc. 2014–25350 Filed 10–23–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5750–N–43]

Federal Property Suitable as Facilities To Assist the Homeless

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

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6672 (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AIR FORCE: Ms. Connie Lotfi, Air Force Real Property Agency, 143 Billy Mitchell Blvd., San Antonio, TX 78226, (210) 925–3047; ENERGY: Mr. David Steinau, Department of Energy, Office of Property Management, 1000 Independence Ave. SW., Washington, DC 20585 (202) 287–1503; INTERIOR: Mr. Michael Wright, Acquisition & Property Management, Department of the Interior, 3960 N. 56th Ave. #104, Hollywood, FL 33021; (443) 223–4639; NASA: Mr. Frank T. Bellinger, Facilities Engineering Division, National Aeronautics & Space Administration, Code JX, Washington, DC 20546, (202)–358–1124; NAVY: Mr. Steve Matteo, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202) 685–9426 (These are not toll-free numbers).

Dated: October 16, 2014.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM, FEDERAL REGISTER REPORT FOR 10/24/2014

Suitable/Available Properties

Building

Arkansas

Tract 01–129, Caruso Property
708 Prospect Avenue
Hot Springs AR 71901
Landholding Agency: Interior
Property Number: 61201440001
Status: Unutilized
Comments: Off-site removal only; maybe extremely difficult to move; 100+ yrs. old; 13086 sq. ft.; fair condition; residential; no public access; contact Interior for more information.

California

Mariposa Grove Ticket Booth
2 Miles on the Mariposa Grove Rd. CA. State Hwy 41
Yosemite CA
Landholding Agency: Interior
Property Number: 61201440008
Status: Unutilized
Comments: Off-site removal only; 24+ yrs. old; 48 aq. ft.; well maintained; wood structure; ticket sales booth; no future agency needed.

Mariposa Grove Gift Shop
2 Miles on the Mariposa Grove Rd.
CA State Hwy 41
Yosemite CA
Landholding Agency: Interior
Property Number: 61201440009
Status: Unutilized
Comments: Off-site removal only; 54+ yrs. old; 825 sq. ft.; wood structure; well maintained; gift & snack shop; no future agency needed.

Oklahoma

District Office—Arbuckle
Project Oklahoma
2440 East Main
Davis OK 73030
Landholding Agency: Interior
Property Number: 61201440007
Status: Unutilized
Comments: Off-site removal only; 48+ yrs. old; brick; maybe difficult to remove; 1,536 sq. ft.; office; foundation cracked; termites; asbestos; contact Interior for more information.

Suitable/Unavailable Properties

Land

California

Marine Corps Base, Camp Lejeune, NC
Intersection of NC HWY 24 & Montford Point Rd
Camp Lejeune CA
Landholding Agency: Navy
Property Number: 77201440009
Status: Underutilized
Comments: 2 acres current use buffer; flat; contact Navy for additional information.

Unsuitable Properties

Building

California

B4863 Inspector General Office
AFRC on Edwards AFB
AFB CA
Landholding Agency: NASA
Property Number: 71201440004
Status: Excess
Comments: Public access denied and no alternative method to gain access w/out compromising Nat'l security.
Reasons: Secured Area

T–72—Trailer M.S.B.L.S.
AFRC on Edwards AFB
AFB CA
Landholding Agency: NASA
Property Number: 71201440005
Status: Excess
Comments: public access denied and no alternative method to gain access w/out compromising Nat'l Security.
Reasons: Secured Area

Building 310
4600 Belleau Ave. B–224
San Diego CA 92140
Landholding Agency: Navy
Property Number: 77201440008
Status: Excess
Comments: documented deficiencies; external cracking/damage; clear threat to personal physical safety.
Reasons: Extensive deterioration

Building 239
4600 Belleau Ave. B–224
San Diego CA 92140
Landholding Agency: Navy
Property Number: 77201440010
Status: Excess
Comments: due to anti-terrorism force/protection; public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Florida

Tract 500–1,Chekika Campground
Comfort Station, East Everglades District
23681 SW 160th St.
Miami FL 33187
Landholding Agency: Interior
Property Number: 61201440002
Status: Unutilized
Comments: property located in the floodway of a 100 year floodplain.
Reasons: Floodway

Building 703, East Everglades District
16850 SW 237th Ave.
Miami FL 33187
Landholding Agency: Interior
Property Number: 61201440003
Status: Unutilized
Comments: documented deficiencies: Sustained a major fire on 9/7/14 & is gutted; represent a clear threat to personal physical safety.
Reasons: Extensive deterioration

Tract 500–01, Chekika Picnic
Aria Comfort Station E. Everglades District
23682 SW 160th St.
Miami FL 33187
Landholding Agency: Interior
Property Number: 61201440004
Status: Unutilized
Comments: property located in the Floodway of a 100 year floodplain.
Reasons: Floodway

Tract 507–01, Former E.
Everglades District Ranger Station
16800 SW 237th Ave.
Miami FL 33187
Landholding Agency: Interior
Property Number: 61201440005
Status: Unutilized
Comments: property located in the Floodway of a 100 year floodplain.
Reasons: Floodway

Tract 92–112, Pine Island
District Long Pine Key Camptenders Quarters
Off Park Route 228
Miami FL 33187
Landholding Agency: Interior
Property Number: 61201440006
Status: Unutilized
Comments: property located in the Floodway of a 100 year floodplain.
Reasons: Floodway

Oklahoma

Caretakers Residence and Shed
1 Mile East
Davis OK 73030
Landholding Agency: Interior
Property Number: 61201440010
Status: Underutilized
Comments: documented deficiencies; foundation cracked; interior & exterior walls cracked; termites; condition represents clear threat to personal physical safety.
Reasons: Extensive deterioration

Tennessee

Nashville IAP Fac. 808
240—Knapp Blvd.
Nashville TN 37217
Landholding Agency: Air Force
Property Number: 18201440001
Status: Underutilized
Comments: public access denied and no alternative method to gain access w/out compromising Nat'l Security.
Reasons: Secured Area

Nashville IAP, Fac. 809
240 Knapp Blvd.
Nashville TN 37217
Landholding Agency: Air Force
Property Number: 18201440002
Status: Underutilized
Comments: public access denied and no alternative method to gain access w/out compromising Nat'l Security.
Reasons: Secured Area

Texas

Pump Houses
Buildings 12–017P1, 12–017P2, 12–019P
Amarillo TX 79120
Landholding Agency: Energy
Property Number: 41201440002
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising Nat'l Sec.
Reasons: Secured Area

Firing Site & Support Facility
Pantex Plant FS–004, FS–004A
Amarillo TX 79120
Landholding Agency: Energy
Property Number: 41201440003
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising Nat'l Sec.
Reasons: Secured Area

[FR Doc. 2014–25112 Filed 10–23–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2014–N223; FXIA16710900000–156–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before November 24, 2014. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by November 24, 2014.

ADDRESSES: Brenda Tapia, U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: Tracey Cearley, Conroe TX; PRT–47544B

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management

program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

B. Endangered Marine Mammals and Marine Mammals

Applicant: Christopher Marshall, Texas A&M University, Galveston, TX; PRT–38835B

The applicant requests a permit to import biological samples taken from dead, stranded dugongs (*Dugong dugon*) from the wild, of either gender or any age, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2014–25314 Filed 10–23–14; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–925]

Certain Communications or Computing Devices and Components Thereof; Notice of Correction Concerning a Commission Determination Not To Review an Initial Determination Granting Intervenor Status to Google, Inc.

AGENCY: U.S. International Trade Commission.

ACTION: Correction of notice.

SUMMARY: Correction is made to the investigation number and caption for notice 79 FR 62465 which was published on Friday, October 17, 2014. The investigation number should be corrected from 337–TA–884 to 337–TA–925, and the caption should be corrected from Certain Consumer Electronics with Display and Processing Capabilities to Communications or Computing Devices and Components Thereof.

Issued: October 21, 2014.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–25349 Filed 10–23–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–922]

Certain Devices Containing Non-Volatile Memory and Products Containing the Same; Commission's Determination Not To Review an Initial Determination Granting Complainants' Motion To Amend the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 9) granting Complainants' motion to amend the Complaint and Notice of Investigation.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2737. 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 August 4, 2014, based on a complaint filed on behalf of Macronix International Co., Ltd. of Taiwan and Macronix America, Inc., of Milpitas, California (collectively ''Complainants''). 79 FR 45221 (Aug. 4, 2014). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the sale for importation, importation, or sale within the United States after importation of certain devices containing non-volatile memory and products containing the same by reason of infringement of certain claims of U.S. Patent No. 5,998,826 (''the '826 patent''); U.S. Patent No. 6,031,757; U.S. Patent No. 8,341,324; and U.S. Patent No. 8,341,330. The notice of investigation named Spansion Inc. of Sunnyvale, California; Spansion LLC of Sunnyvale, California; Spansion (Thailand) Ltd. of Nonthaburi, Thailand; Aerohive Networks, Inc. of Sunnyvale, California; Ciena Corporation of Hanover, Maryland; Delphi Automotive PLC of Kent, United Kingdom; Delphi Automotive Systems, LLC of Troy, Michigan; Polycom, Inc. of San Jose, California; Ruckus Wireless, Inc. of Sunnyvale, California; ShoreTel Inc. of Sunnyvale, California; Tellabs, Inc. of Naperville, Illinois; Tellabs North America, Inc. of Naperville, Illinois; TiVo Inc. of San Jose, California; and Allied Telesis, Inc. of Bothell, Washington as respondents. The Office of Unfair Import Investigations (''OUII'') was also named as a party to the investigation.

On September 5, 2014, Complainants filed a motion to amend the Complaint and Notice of Investigation to add allegations of infringement for claims 6 and 14 of the '826 patent. On September 17, 2014, OUII filed a response in support of the motion and Respondents filed a response opposing the motion.

On October 3, 2014, the ALJ granted Complainants' motion. The ALJ found that good cause exists to amend the Complaint. He further found that Respondents failed to argue that they would suffer any prejudice. No petitions for review were filed.

The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: October 20, 2014

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–25280 Filed 10–23–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On October 20, 2014, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Oklahoma, in the lawsuit entitled *United States* v. *Childress Royalty*

Company, Case No. 14–CV–633–CVE–FHM.

Childress owned property where mining operations took place at the Tar Creek Site. The proposed settlement resolves the United States' claims against Childress under Section 107 of CERCLA for recovery of response costs incurred and to be incurred at the Site. Under the proposed Consent Decree, Childress will pay $810,918.00 to resolve the government's claims.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *Childress Royalty Company, Case No. 14–CV–633–CVE–FHM.* All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $22.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas P. Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–25283 Filed 10–23–14; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0064]

Agency Information Collection Activities: Proposed eCollection eComments Requested; Application for Restoration of Explosives Privileges

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 162, page 49539 on August 21, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until November 24, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact William Joa at *William.Joa@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington DC 20503 or send email to *OIRA_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection 1140–0064

(1) *Type of Information Collection:* Extension without change of an existing collection.

(2) *Title of the Form/Collection:* Application for Restoration of Explosives Privileges.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 5400.29.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Individual or households.

Abstract: ATF F 5400.29 is required in order to determine whether or not explosives privileges may be restored. The form is used to conduct an investigation to establish if it is likely that the applicant will act in a manner dangerous to public safety or contrary to public interest.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 500 respondents will take 30 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 250 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Room 3E.405B, Washington, DC 20530.

Dated: October 21, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–25362 Filed 10–23–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0016]

Agency Information Collection Activities: Proposed eCollection eComments Requested; Application for Registration of Firearms Acquired by Certain Government Entities

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 162, page 49538 on August 21, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until November 24, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gary Schaible at *nfaombcomments@atf.gov* . Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington DC 20503 or send email to *OIRA_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection 1140–0016

(1) *Type of Information Collection:* Extension without change of an existing collection.

(2) *Title of the Form/Collection:* Application for Registration of Firearms Acquired by Certain Government Entities.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 10 (5320.10).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State, Local or Tribal Government.

Other: None.

Abstract: The form is required to be submitted by State and local government entities wishing to register an abandoned or seized and previously unregistered National Firearms Act weapon. The form is required whenever application for such a registration is made.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,133 respondents will take 30 minutes to complete and mail the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 1,067 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: October 21, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–25360 Filed 10–23–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0030]

Agency Information Collection Activities: Proposed eCollection eComments Requested; Records and Supporting Data: Importation, Receipt, Storage, and Disposition by Explosives Importers, Manufacturers, Dealers, and Users Licensed Under Title 18 U.S.C. Chapter 40 Explosives

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 162, page 49540 on August 21, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until November 24, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Anita Scheddel at *eipb-informationcollection@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington DC 20503 or send email to *OIRA_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection 1140–0030

(1) *Type of Information Collection:* Extension without change of an existing collection.

(2) *Title of the Form/Collection:* Records and Supporting Data: Importation, Receipt, Storage, and Disposition by Explosives Importers, Manufacturers, Dealers, and Users Licensed Under Title 18 U.S.C. Chapter 40 Explosives.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: The records show daily activities in the importation, manufacture, receipt, storage, and disposition of all explosive materials covered under 18 U.S.C. Chapter 40 Explosives. The records are used to show where and to whom explosive materials are sent, thereby ensuring that any diversions will be readily apparent and if lost or stolen, ATF will be immediately notified.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 50,519 respondents will take 1 hour to maintain records.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 637,570 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: October 21, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–25361 Filed 10–23–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0068]

Agency Information Collection Activities: Proposed eCollection eComments Requested; Police Check Inquiry and Pre-Screening Qualifications Certification

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 162, page 49539 on August 21, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until November 24, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Renee Reid at *Renee.Reid@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection 1140–0068

(1) *Type of Information Collection:* Revision of an existing collection.

(2) *Title of the Form/Collection:* Police Check Inquiry and Pre-Screening Qualifications Certification.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form numbers: ATF Form 8620.42 and ATF Form 8620.62.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: Business or other for-profit.

Abstract: The information requested is necessary to determine if individuals (potential contractors, task force officers, and volunteers) interested in providing services to ATF meet DOJ and ATF basic qualification requirements to be considered for access to ATF information, information technology systems, and/or facilities. These agency specific requirements include, but are not limited to, residency, citizenship, drug use, financial history, firearms/explosives licensing, criminal history, and conduct qualifications. The revision is modifying ATF Form 8620.62 to conform to DOJ's qualification requirements for non-U.S. citizen contract personnel.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 1,000 respondents will take 5 minutes to

complete ATF Form 8620.42 and 1,500 respondents will take 7 minutes to complete ATF Form 8620.62.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 258 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: October 21, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–25363 Filed 10–23–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–NEW]

Agency Information Collection Activities: Proposed eCollection eComments Requested; Arson and Explosives Training Registration Request

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 162, page 49541 on August 21, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until November 24, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Roderic Spencer at *Roderic.Spencer@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington DC 20503 or send email to *OIRA_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection 1140–NEW

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Arson and Explosives Training Registration Request.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form numbers: ATF Form 6310.1.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State and Local Government.

Other: Federal Government.

Abstract: The form is used to obtain information from Federal, State and local, and international law enforcement, and military investigator personnel applying for training conducted by ATF for the purpose of student registration, program information and program evaluation. The information on the form will be used to determine the eligibility of the applicant to attend the training.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 500 respondents will take 6 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 50 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: October 21, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–25364 Filed 10–23–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OVC) Docket No. 1677]

Meeting of the National Coordination Committee on the American Indian/Alaska Native Sexual Assault Nurse Examiner—Sexual Assault Response Team Initiative

AGENCY: Office for Victims of Crime, Justice Programs Office, Justice.

ACTION: Notice of meeting.

SUMMARY: The National Coordination Committee on the American Indian/Alaska Native (AI/AN) Sexual Assault Nurse Examiner (SANE)—Sexual Assault Response Team (SART) Initiative (''National Coordination Committee'' or ''Committee'') will meet to carry out its mission to provide advice to assist the Office for Victims of Crime (OVC) to promote culturally-relevant, victim-centered responses to sexual violence within AI/AN communities.

DATES: *Dates and Locations:* The meeting will be held on Tuesday, December 9, 2014 on the reservation of the Agua Caliente Band of Cahuilla Indians at the Renaissance Hotel (888 E. Tahquitz Canyon Way, Palm Springs, CA). The meeting will be held in conjunction with the 14th National Indian Nations Conference and is open to the public. There will be a designated time for the public to speak, and the public can observe and submit comments in writing to Shannon May, the Designated Federal Official. To register for the meeting and/or for more

information about the meeting room location, please provide your full contact information to Shannon May (contact information below).

FOR FURTHER INFORMATION CONTACT: Shannon May, Designated Federal Officer (DFO) for the National Coordination Committee, Federal Bureau of Investigation, Office for Victim Assistance, 935 Pennsylvania Ave. NW., Room 3329, Washington, DC 20535; Phone: (202) 323–9468 [note: this is not a toll-free number]; Email: *shannon.may@ic.fbi.gov.*

SUPPLEMENTARY INFORMATION: The National Coordination Committee on the American Indian/Alaskan Native (AI/AN) Sexual Assault Nurse Examiner (SANE)—Sexual Assault Response Team (SART) Initiative (''National Coordination Committee'' or ''Committee'') was established by the Attorney General to provide valuable advice to OVC to encourage the coordination of federal, tribal, state, and local efforts to assist victims of sexual violence within AI/AN communities, and to promote culturally relevant, victim-centered responses to sexual violence within those communities.

Meeting Agenda: The agenda will include: (a) A traditional welcome and introductions; (b) remarks from the Director of OVC; (c) an update on the presentation of the Committee's Recommendations Report to the Attorney General; (d) discussions about the dissemination of the Report and the ongoing role of the Committee; (e) comments by members of the public; and (f) a traditional closing.

Shannon May,

Project Manager—Victims of Crime, National Coordinator, AI/AN SANE–SART Initiative, Designated Federal Official—National Coordination Committee, Federal Bureau of Investigation, Office for Victim Assistance.

[FR Doc. 2014–25313 Filed 10–23–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Report on Current Employment Statistics

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) titled, ''Report on Current Employment Statistics,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 24, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201406-1220-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Current Employment Statistics (CES) program information collection. The Congress has charged the Bureau of Labor Statistics with the responsibility of collecting and publishing monthly information on employment, average wages received, and the hours worked, by area and by industry. *See* 29 U.S.C. 2. The CES program provides current monthly statistics on employment, hours, and earnings, by industry. The statistics are fundamental inputs in economic decision processes at all levels of government, private enterprise, and organized labor. The BLS Authorizing Statute and Wagner-Peyser Act of 1933, as amended section 15 authorize this information collection. *See* 29 U.S.C. 1, 2, and 49l–2.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains approval for this information collection under Control Number 1220–0011.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on October 31, 2014. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 3, 2014 (79 FR 31990).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0011. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–BLS.

Title of Collection: Report on Current Employment Statistics.

OMB Control Number: 1220–0011.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions; State, Local, and Tribal Governments; and Federal Government.

Total Estimated Number of Respondents: 270,417.

Total Estimated Number of Responses: 3,245,004.

Total Estimated Annual Time Burden: 536,851 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: October 20, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–25344 Filed 10–23–14; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

174th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting—Revised

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 174th open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held on November 3–4, 2014. No votes will occur until November 4.

Despite our efforts to get this meeting notice published early, we were unable to do so. The Advisory Council meeting notice appeared on the public inspection desk of the **Federal Register** on October 20, 2014. This revised notice clarifies that final votes on the Council's recommendations to the Secretary will occur on November 4, 2014, as announced by the Council chair at public meetings of the ERISA Advisory Council in June and September. On October 14, 2014, a notice of the meeting appeared on the ERISA Advisory Council Web page of the EBSA Web site.

The meeting will take place in C5320 Room 6, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 on November 3, from 1 p.m. to approximately 5:00 p.m. On November 4, the meeting will start at 8:30 a.m. and conclude at approximately 4:00 p.m., with a break for lunch. The morning session on November 4 will be in C5320 Room 6. The afternoon session on November 4 will take place in Room S–2508 at the same address. The purpose of the open meeting on is for the Advisory Council members to discuss the recommendations they will present to the Secretary on November 3 and, on the morning of November 4, to finalize the recommendations. At the November 4 afternoon session, the Council members will receive an update from the Assistant Secretary of Labor for the Employee Benefits Security Administration (EBSA) and present their recommendations.

The Council recommendations will be on the following issues: (1) Issues and Considerations around Facilitating Lifetime Plan Participation, (2) PBM Compensation and Fee Disclosure, and (3) Outsourcing Employee Benefit Plan Services. Descriptions of these topics are available on the Advisory Council page of the EBSA Web site at *http://www.dol.gov/ebsa/aboutebsa/erisa_advisory_council.html.*

Organizations or members of the public wishing to submit a written statement may do so by submitting 30 copies on or before October 30, 2014 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue NW., Washington, DC 20210. Statements also may be submitted as email attachments in rich text, Word, or pdf format transmitted to *good.larry@dol.gov.* It is requested that statements not be included in the body of an email. Statements deemed relevant by the Advisory Council and received on or before October 30 will be included in the record of the meeting and will be available by contacting the EBSA Public Disclosure Room. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed.

Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact the Executive Secretary by October 30, 2014 at the address indicated.

Signed at Washington, DC, this 21st day of October, 2014.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2014–25444 Filed 10–22–14; 11:15 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Data Users Advisory Committee; Notice of Meeting and Agenda

The Bureau of Labor Statistics Data Users Advisory Committee will meet on Wednesday, November 12, 2014. The meeting will be held in the Postal Square Building, 2 Massachusetts Avenue NE., Washington, DC.

The Committee provides advice to the Bureau of Labor Statistics from the points of view of data users from various sectors of the U.S. economy, including the labor, business, research, academic, and government communities, on technical matters related to the collection, analysis, dissemination, and use of the Bureau's statistics, on its published reports, and on the broader aspects of its overall mission and function.

The meeting will be held in Meeting Rooms 1, 2, and 3 of the Postal Square Building Conference Center. The schedule and agenda for the meeting are as follows:

8:30 a.m. Registration

9:00 a.m. Commissioner's welcome and review of agency developments

9:45 a.m. Disease Based Concepts for Published Medical Statistics

11:00 a.m. Responding to Customers' needs: Redesigning the Occupational Outlook Handbook and the Occupational Outlook Quarterly

1:30 p.m. Topics at a Glance

2:00 p.m. Measurement of household relationships in BLS statistical surveys

3:00 p.m. IT-related suggestions from the DOL/BLS media round-table

3:30 p.m. Feedback on the Office of Productivity's Users Guide

4:00 p.m. Update on perturbed data

4:30 p.m. Future topics and meeting wrap-up

The meeting is open to the public. Any questions concerning the meeting should be directed to Kathy Mele, Data Users Advisory Committee, on 202.691.6102. Individuals who require special accommodations should contact Ms. Mele at least two days prior to the meeting date.

Signed at Washington, DC, this 9th day of October 2014.

Kimberley D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2014–25341 Filed 10–23–14; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

President's Committee on the Arts and the Humanities: Meeting #70

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that the 70th meeting of the President's Committee on the Arts and the Humanities (PCAH) will be held in the Monument Room, Occidental Hotel, 1475 Pennsylvania Avenue NW., Washington, DC 20004. Ending time is approximate.

DATES: November 10, 2014 from 10:00 a.m. to 12:30 p.m.

FOR FURTHER INFORMATION CONTACT: Lindsey Clark of the President's Committee at (202) 682–5409 or *lclark@pcah.gov.*

SUPPLEMENTARY INFORMATION: The meeting, on Monday, November 10th, will begin with welcome, introductions, and announcements. This will be followed by reports on Committee Programs, including the National Arts and Humanities Youth Program (NAHYP), National Student Poets Program, Turnaround Arts, Film Forward Initiative, and a summary of the past year and priorities going forward. There also will be reports from the President's Committee partners—the Institute of Museum and Library Services (IMLS), National Endowment for the Arts (NEA) and National Endowment for the Humanities (NEH), as well as other Partner updates. The meeting will adjourn after closing remarks.

The President's Committee on the Arts and the Humanities was created by Executive Order in 1982, which currently states that the ''Committee shall advise, provide recommendations to, and assist the President, the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum and Library Services on matters relating to the arts and the humanities.''

Any interested persons may attend as observers, on a space available basis, but seating is limited. Therefore, for this meeting, individuals wishing to attend are advised to contact Lindsey Clark of the President's Committee seven (7) days in advance of the meeting at (202) 682–5409 or write to the Committee at Constitution Center, 400 7th St. SW., Washington, DC 20506. Further information with reference to this meeting can also be obtained from Ms. Clark at *lclark@pcah.gov.*

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, Constitution Center, 400 7th St. SW., Washington, DC 20506, (202) 682–5532, TDY–TDD (202) 682–5496, at least seven (7) days prior to the meeting.

Dated: October 20, 2014.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 2014–25282 Filed 10–23–14; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–409; NRC–2014–0225]

Humboldt Bay Power Plant, Unit No. 3

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain emergency planning (EP) requirements for License No. DPR–7 held by Pacific Gas and Electric Company (PG&E, the licensee) for the possession of the Humboldt Bay Power Plant, Unit 3. PG&E is requesting the exemptions from specific emergency planning requirements by letter dated August 14, 2012.

ADDRESSES: Please refer to Docket ID NRC–2014–0225 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:

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John Hickman, Office of Nuclear Materials Safety and Safeguards, telephone: 301–415–3017, email: *John.Hickman@nrc.gov*; U.S. Nuclear Regulatory Commission, Washington, DC 20555–00001.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) staff is considering a request dated August 14, 2012 (ADAMS Accession No. ML12236A327), by PG&E requesting exemptions from specific emergency planning requirements of part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR) for the Humboldt Bay Power Plant, Unit 3 and Independent Spent Fuel Storage Installation (ISFSI). The licensee's request was prompted by changes the NRC made to its EP regulations on November 3, 1980 by publishing a final rule (45 FR 55402) amending the EP requirements for production and utilization facilities. This Environmental Assessment (EA) for the proposed exemption has been developed in accordance with the requirements of 10 CFR 51.21.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would exempt Humboldt Bay, a 10 CFR part 50 licensee, from certain 10 CFR part 50 emergency planning (EP) requirements because Humboldt Bay is permanently shut-down with the fuel now stored in dry concrete and steel casks at the Humboldt Bay ISFSI.

Need for Proposed Action

Humboldt Bay Power Plant (HBPP) Unit 3 was issued an operating license on August 28, 1962. On July 2, 1976, HBPP Unit 3 was shut down for annual refueling and to conduct seismic modifications. The unit was never restarted. In 1983, updated economic analyses indicated that restarting Unit 3

would probably not be cost-effective, and in June 1983, PG&E announced its intention to decommission the unit. On July 16, 1985, the NRC issued Amendment No. 19 to the HBPP Unit 3 Operating License to change the status to possess-but-not-operate (ADAMS Legacy Library Accession No. 8507260045). In December of 2008, the transfer of spent fuel from the fuel storage pool to the dry-cask ISFSI was completed, and the decontamination and dismantlement phase of HBPP Unit 3 decommissioning commenced (ADAMS Accession Number ML090440322). Active decommissioning is currently underway.

On November 23, 2011, the NRC issued a final rule in the **Federal Register** (FR) modifying or adding EP requirements in Section 50.47, Section 50.54, and Appendix E of 10 CFR Part 50 (76 FR 72560). The EP Final Rule was effective on December 23, 2011, with specific implementation dates for each of the rule changes, varying from the effective date of the Final Rule through December 31, 2015. The EP Final Rule codified certain voluntary protective measures contained in NRC Bulletin 2005–02, ''Emergency Preparedness and Response Actions for Security-Based Events,'' and generically applicable requirements similar to those previously imposed by NRC Order EA–02–026, ''Order for Interim Safeguards and Security Compensatory Measures,'' dated February 25, 2002. In addition, the EP Final Rule amended other licensee emergency plan requirements to: (1) Enhance the ability of licensees in preparing and in taking certain protective actions in the event of a radiological emergency; (2) address, in part, security issues identified after the terrorist events of September 11, 2001; (3) clarify regulations to effect consistent emergency plan implementation among licensees; and (4) modify certain EP requirements to be more effective and efficient. However, the EP Final Rule was only an enhancement to the NRC's regulations and was not necessary for adequate protection. On page 72563 of the **Federal Register** notice for the EP Final Rule, the Commission ''determined that the existing regulatory structure ensures adequate protection of public health and safety and common defense and security.''

The licensee claims that the proposed action is needed because the final rule imposed requirements on HBPP that are not necessary to meet the underlying purpose of the regulations in view of the greatly reduced offsite radiological consequences associated with the current plant status as permanently shut down and with the spent nuclear fuel stored in an ISFSI. The EP program at this facility met the EP requirements in 10 CFR Part 50 that were in effect before December 23, 2011, subject to any license amendments or exemptions modifying the EP requirements for the licensee. Thus, compliance with the EP requirements in effect before the effective date of the EP Final Rule demonstrated reasonable assurance that adequate protective measures could be taken in the event of a radiological emergency.

Environmental Impacts of the Proposed Action

The NRC staff evaluated the environmental impacts of the proposed action and concludes that exempting the facility from the emergency planning requirements will not have any adverse environmental impacts. The NRC has determined that no credible events at the HBPP ISFSI would result in doses to the public beyond the owner-controlled area boundary that would exceed the U.S. Environmental Protection Agency Protective Action Guides at the site boundary. The staff also has concluded that the HBPP Emergency Plan, with the exemptions described in its safety evaluation (ADAMS Accession No. ML13016A210), provides for an acceptable level of emergency preparedness at the HBPP facility in its shutdown and defueled condition, and also provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the HBPP facility. Additionally, the proposed action will involve no construction or major renovation of any buildings or structures, no ground disturbing activities, no alteration to land or neither air quality, nor any effect on historic and cultural resources. The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, there will be no construction or renovation of buildings or structures, or any ground-disturbing activities associated with the exemptions. In addition, the proposed action does not affect non-radiological plant effluents and has no other environmental impact. Finally, there will be no impact on historic sites. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC staff concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the exemption request would result in no change in current environmental impacts because there will be no construction or major renovation of any buildings or structures, nor any ground disturbing activities associated. Thus the environmental impacts of the proposed action and no-action alternative are similar. Therefore, the no-action alternative is not further considered.

Conclusion

The NRC staff has concluded that the proposed action will not significantly impact the quality of the human environment, and that the proposed action is the preferred alternative.

Agencies and Persons Consulted

The NRC contacted the California Radiologic Health Branch in the State Department of Health Services concerning this request. There were no comments, concerns or objections from the State official.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA as part of its review of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate. For further details with respect to the proposed action, see the licensee's letter dated August 14, 2012.

Dated at Rockville, Maryland, this 14th day of October, 2014.

For the Nuclear Regulatory Commission.

Andrew Persinko,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2014–25345 Filed 10–23–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 50–282, 50–306 and 72–10; NRC–2014–0236]

Northern States Power Company; Prairie Island Nuclear Generating Plant; Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption for special nuclear materials (SNM) license number SNM–2506 issued initially in July 1993 and held by Northern States Power Company, a Minnesota corporation (NSPM or the licensee) doing business as Xcel Energy, for the operation of the Prairie Island Nuclear Generating Plant (PINGP) independent spent fuel storage installation (ISFSI).

ADDRESSES: Please refer to Docket ID NRC–2014–0236 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–2014–0236. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The request for exemption dated July 11, 2013, is available under ADAMS accession no. ML13193A088.
- *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: Pamela Longmire, Ph.D., Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–0829; email: *Pamela.Longmire@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of an exemption for license number SNM–2506 held by NSPM pursuant to section 73.5 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Specific exemptions,'' from specific portions of the requirements of 10 CFR 73.51, ''Requirements for the physical protection of stored spent nuclear fuel and high-level radioactive waste,'' for the Prairie Island Independent Spent Fuel Storage Installation (ISFSI). Based on the results of the EA that follows, the NRC has determined not to prepare an environmental impact statement for the exemption, and is issuing a finding on no significant impact.

II. Environmental Assessment

Background

The licensee possesses a specific license under 10 CFR Part 72, for the storage of spent fuel in an ISFSI. The licensee is subject to 10 CFR 73.51(d)(3), which provides in part that ''[t]he perimeter of the protected area must be subject to continual surveillance and be protected by an active intrusion alarm system which is capable of detecting penetrations through the isolation zone and that is monitored in a continually staffed primary alarm station and in one additional continually staffed location. The primary alarm station must be located within the protected area; have bullet-resisting walls, doors, ceiling and floor; and the interior of the station must not be visible from outside the protected area. A timely means for assessment of alarms must also be provided. Regarding alarm monitoring, the redundant location need only provide a summary indication that an alarm has been generated.''

Description of the Proposed Action

In a letter dated May 16, 2013 (ADAMS accession no. ML13140A105), NSPM requests an exemption from the requirement in 10 CFR 73.51(d)(3). The proposed exemption request pertains to the location of the primary alarm station. In the preparation of this EA, the staff used guidance in NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs'' (ADAMS accession no. ML032450279).

Need for the Proposed Action

NSPM seeks relief from a provision of 10 CFR 73.51(d)(3) with regard to the location of the primary alarm station. NSPM maintains that the proposed exemption facilitates effective security activities at both the Prairie Island power station and the ISFSI, in that the exemption would provide uniformity and consistency in managing security at the collocated sites.

Environmental Impacts of the Proposed Action

The NRC staff evaluated the exemption request in greater detail in its safety evaluation report (SER). The SER is withheld from public disclosure in accordance with 10 CFR 2.390 because it contains security information.

The NRC has determined that issuance of the proposed exemption will have no significant environmental impact. Additionally, the NRC has concluded that the Prairie Island physical security plan, should the Commission issue the requested exemption, will continue to provide high assurance that activities involving spent nuclear fuel and high-level radioactive waste do not constitute an unreasonable risk to public health and safety, pursuant to 10 CFR 73.51(b)(1).

The proposed action will not have any environmental impact. It will not increase the probability or consequences of accidents. No changes are being made in the types or quantities of effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action. The proposed action does not affect non-radiological effluents and has no other environmental impacts. Thus, there are no significant non-radiological impacts associated with the proposed action. Therefore, the proposed action will not have a significant effect on the quality of the human environment. Based on these findings, the NRC concludes that there are no significant

environmental impacts associated with the approval of the requested exemption.

Alternative to the Proposed Action

Since there are no significant environmental impacts associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the exemption. This alternative would have the same environmental impacts.

Agencies and Persons Consulted

A draft of this EA was sent by email dated April 3, 2014, to both Ms. Aggie Leitheiser, Assistant Commissioner of the Minnesota Department of Health (MDH) (ADAMS accession no. ML14100A328) and Mr. Ron Johnson, President of Tribal Council for the Prairie Island Indian Community (PIIC) (ADAMS accession no. ML14100A354). The MDH response was received by email dated April 7, 2014 (ADAMS accession No. ML14100A098). The email response states that MDH reviewed the draft EA and had no comments. The PIIC response with comments was received by email on April 11, 2014 (ADAMS accession No. ML14154A335). Following revisions to the draft EA, it was reissued to MDH and PIIC for comment.

By email dated July 25, 2014, the revised EA was sent to Ms. Aggie Leitheiser at MDH and Mr. Philip Mahowald, General Counsel for the PIIC. The MDH response was received by email dated August 11, 2014 (ADAMS accession no. ML14266A174). The email response states that MDH reviewed the draft EA and had no comments. The PIIC's email response was received by email dated September 4, 2014 (ADAMS accession no. ML14251A373). The email response states that PIIC reviewed the draft EA and had no comments.

The NRC staff has determined that a consultation under Section 7 of the Endangered Species Act is not required because the proposed action will not affect listed species or critical habitat. The NRC staff has also determined that the proposed action is not a type of activity that has the potential to impact historic properties because the proposed action would occur within the established Prairie Island site boundary. Therefore, no consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon this environmental assessment, the NRC finds that the proposed action, issuance of an exemption from specific physical security requirements in 10 CFR 73.51(d)(3), as further discussed in the safety evaluation, will not significantly impact the quality of the human environment. Accordingly, preparation of an environmental impact statement for the proposed exemption is not warranted, and a finding of no significant impact is appropriate.

Dated at Rockville, Maryland, this 16th day of October, 2014.

For the Nuclear Regulatory Commission.

Michele Sampson,

Chief, Spent Fuel Licensing Branch, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2014–25356 Filed 10–23–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–352 and 50–353; NRC–2011–0166]

Exelon Generation Company, LLC; Limerick Generating Station, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal and record of decision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued renewed facility operating license Nos. NPF–39 and NPF–85 to Exelon Generation Company, LLC (the licensee), the operator of the Limerick Generating Station, Units 1 and 2 (Limerick). Renewed facility operating license Nos. NPF–39 and NPF–85 authorize operation of Limerick by the licensee at reactor core power levels not in excess of 3515 megawatts thermal for each unit, in accordance with the provisions of the Limerick renewed licenses and technical specifications. In addition, the NRC has prepared a record of decision (ROD) that supports the NRC's decision to renew facility operating license Nos. NPF–39 and NPF–85.

DATES: The license renewal referenced in this document is effective on October 20, 2014.

ADDRESSES: Please refer to Docket ID NRC–2011–0166 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–2011–0166. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) 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.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Richard Plasse, Office of Nuclear Reactor Regulation, telephone: 301–415–1427; email: *Richard.Plasse@nrc.gov,* U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the NRC has issued renewed facility operating license Nos. NPF–39 and NPF–85 to Exelon Generation Company, LLC, the operator of Limerick. Renewed facility operating license Nos. NPF–39 and NPF–85 authorize operation of Limerick by the licensee at reactor core power levels not in excess of 3515 megawatts thermal for each unit, in accordance with the provisions of the Limerick renewed licenses and technical specifications. The NRC's ROD that supports the NRC's decision to renew facility operating license Nos. NPF–39 and NPF–85 is available in ADAMS under Accession No. ML14281A259. As discussed in the ROD and the final supplemental environmental impact statement (FSEIS) for LGS, Supplement 49 to NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants Regarding Limerick Generating Station, Units 1 and 2,'' dated August 2014 (ADAMS Accession Nos. ML14238A284 and ML14238A290), the NRC has considered

a range of reasonable alternatives that included natural gas combined-cycle, supercritical pulverized coal, new nuclear, wind power, purchase power, and the no action alternative. The ROD and FSEIS documents the NRC decision for the environmental review that the adverse environmental impacts of license renewal for Limerick are not so great that preserving the option of license renewal for energy planning decisionmakers would be unreasonable.

Limerick Units 1 and 2 are boiling water reactors located in Limerick Township, Pennsylvania. The application for the renewed licenses, ''Limerick Generating Station License Renewal Application,'' dated June 22, 2011 (ADAMS Accession No. ML111790800), complied with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. As required by the Act and the NRC's regulations in 10 CFR Chapter 1, the NRC has made appropriate findings, which are set forth in the licenses. A public notice of the proposed issuance of the renewed licenses and an opportunity for a hearing was published in the **Federal Register** on August 24, 2011 (76 FR 52992).

For further details with respect to this action, see: (1) Exelon Generation Company, LLC, license renewal application for Limerick Generating Station, Units 1 and 2 dated June 22, 2011, as supplemented by letters dated through June 4, 2014; (2) the NRC's safety evaluation report published in January 2013, and supplemented in August 2014, (ADAMS Accession Nos. ML12354A349 and ML14190B070); (3) the licensee's Final Safety Analysis Report; (4) the NRC's final environmental impact statement (NUREG–1437, Supplement 49), for the LGS, Units 1 and 2, published in August 2014; and (5) the NRC's ROD.

Dated at Rockville, Maryland, this 20th day of October, 2014.

For the Nuclear Regulatory Commission.

Christopher G. Miller,

Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–25365 Filed 10–23–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on November 6–8, 2014, 11545 Rockville Pike, Rockville, Maryland.

Thursday, November 6, 2014, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:00 a.m.: Draft Regulatory Guide DG–1299, ''Regulatory Guidance on the Alternate Pressurized Thermal Shock Rule'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the staff regarding DG–1299, ''Regulatory Guidance on the Alternate Pressurized Thermal Shock Rule.''

10:15 a.m.–12:15 p.m.: SECY–14–XXXX, ''Proposed Updates of Licensing Policies, Rules, and Guidance for Future Reactor Applications'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the staff regarding SECY–14–XXXX, ''Proposed Updates of Licensing Policies, Rules, and Guidance for Future Reactor Applications.''

1:15 p.m.–2:45 p.m.: Meeting with Representatives of the Nuclear Energy Institute (Open)—The Committee will hear presentations by and hold discussions with representatives of the Nuclear Energy Institute regarding topics of mutual interest.

3:00 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting. The Committee will also consider a response to the August 28, 2014, letter from the Executive Director for Operations regarding Standard Review Plan Chapter 19 and Section 17.4.

Friday, November 7, 2014, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:45 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments. [**Note:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

10:00 a.m.–11:00 a.m.: Meeting with NRC Commissioner, William C. Ostendorff (Open)—The Committee will meet with NRC Commissioner, *William C. Ostendorff,* on topics of mutual interest.

11:15 a.m.–11:30 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

11:30 a.m.–12:00 p.m.: Assessment of the Quality of Selected NRC Research Programs—FY 2014 (Open)—The Committee will discuss the quality assessment of selected NRC research projects.

1:00 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

Saturday, November 8, 2014, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–11:30 a.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

11:30 a.m.–12:00 p.m.: Miscellaneous (Open)—The Committee will continue its discussion related to the conduct of Committee activities and specific issues that were not completed during previous meetings.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 13, 2014 (79 FR 59307–59308). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), five

days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/.*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: October 20, 2014.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2014–25343 Filed 10–23–14; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and purpose of information collection: Railroad Service and Compensation Reports/System Access Application; OMB 3220–0008.

Under Section 9 of the Railroad Retirement Act (RRA) and Section 6 of the Railroad Unemployment Insurance Act (RUIA) the Railroad Retirement Board (RRB) maintains for each railroad employee, a record of compensation paid to that employee by all railroad employers for whom the employee worked after 1936. This record, which is used by the RRB to determine eligibility for, and amount of, benefits due under the laws it administers, is conclusive as to the amount of compensation paid to an employee during such period(s) covered by the report(s) of the compensation by the employee's railroad employer(s), except in cases when an employee files a protest pertaining to his or her reported compensation within the statute of limitations cited in Section 9 of the RRA and Section 6 of the RUIA.

To enable the RRB to establish and maintain the record of compensation, employers are required to file with the RRB, reports of their employees' compensation, in such manner and form and at such times as the RRB prescribes. Railroad employers' reports and responsibilities are prescribed in 20 CFR 209. The RRB currently utilizes Form BA–3, *Annual Report of Creditable Compensation,* and Form BA–4, *Report of Creditable Compensation Adjustments,* to secure the required information from railroad employers. Form BA–3 provides the RRB with information regarding annual creditable service and compensation for each individual who worked for a railroad employer covered by the RRA and RUIA in a given year. Form BA–4 provides for the adjustment of any previously submitted reports and also the opportunity to provide any service and compensation that had been previously omitted. Requirements specific to Forms BA–3 and BA–4 are prescribed in 20 CFR 209.8 and 209.9.

Employers currently have the option of submitting BA–3 and BA–4 reports electronically by CD–ROM, File Transfer Protocol (FTP), secure Email, or online via the RRB's Employer Reporting System (ERS).

The information collection also includes RRB Form BA–12, Application for Employer Reporting Internet Access, and Form G–440, Report Specifications Sheet. Form BA–12 is completed by railroad employers to obtain system access to ERS. Once access is obtained, authorized employees may submit reporting forms online to the RRB. The form determines what degree of access (view/only, data entry/modification or approval/submission) is appropriate for that employee. It is also used to terminate an employee's access to ERS. Form G–440, Report Specifications Sheet, serves as a certification document for various RRB employer reporting forms (Forms BA–3, BA–4, Form BA–6a, BA–6, Address Report (OMB 3220–0005), BA–9, Report of Separation Allowance or Severance Pay (OMB 3220–0173) and BA–11, Report of Gross Earnings (OMB 3220–0132)). It records the type of medium the report was submitted on, and serves as a summary recapitulation sheet for reports filed on paper. The RRB proposes minor non-burden impacting changes to Form BA–12 and G–440.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Reporting	Responses	Time (minutes)	Burden (hours)
BA–3:			
Paper	24	116.85 (7,011 min)	2,804
Electronic Media	96	46.25 (2,775 min)	4,440
BA–3 (Internet)	593	46.25 (2,775 min)	27,426
Total BA–3	713		34,670
BA–4:			
Paper	160	1.25 (75 min)	200
Electronic Media	285	1.00 (60 min)	285
BA–4 (Internet)	3,852	.33 (20 min)	1,284
Total BA–4	4,297		1,769
BA–12:			
Initial Access	295	.33 (20 min)	98
Access Termination	38	.166 (10 min)	6
Total BA–12	333		105
G–440 (Certification):			
Form BA–3 (zero employees)	19	.25 (15 min)	5
Form BA–11 (zero employees)	60	.25 (15 min)	15
Paper forms (without recap)	7	.25 (15 min)	2
Electronic transactions	94	.50 (30 min)	47
BA–3 and BA–4 (with recap)	125	1.25 (75 min)	156
Total G–440	305		224
Grand Total	5,648		36,768

2. Title and purpose of information collection: Medical Reports; OMB 3220–0038.

Under sections 2(a)(1)(iv) and 2(a)(1)(v) of the Railroad Retirement Act (RRA), annuities are payable to qualified railroad employees whose physical or mental condition makes them unable to (1) work in their regular occupation (occupational disability) or (2) work at all (permanent total disability). The requirements for establishing disability and proof of continuing disability under the RRA are prescribed in 20 CFR 220.

Under Sections 2(c)(1)(ii)(C) and 2(d)(1)(ii) of the RRA, annuities are also payable to qualified spouses and widow(ers), respectively, who have a qualifying child who became disabled before age 22. Annuities are also payable to surviving children on the basis of disability under section 2(d)(1)(iii)(C) if the child's disability began before age 22 as well as to widow(er)s on the basis of disability under section 2(d)(1)(i)(B). To meet the disability standard, the RRA provides that individuals must have a permanent physical or mental condition that makes them unable to engage in any regular employment.

Under section 2(d)(1)(v) of the RRA, annuities are also payable to remarried widow(er)s and surviving divorced spouses on the basis of, among other things, disability or having a qualifying disabled child in care. However, the disability standard in these cases is that found in the Social Security Act. That is, individuals must be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment. The RRB also determines entitlement to a Period of Disability and entitlement to early Medicare based on disability for qualified claimants in accordance with Section 216 of the Social Security Act.

When making disability determinations, the RRB needs evidence from acceptable medical sources. The RRB currently utilizes Forms G–3EMP, Report of Medical Condition by Employer; G–197, Authorization to Release Medical Information to the Railroad Retirement Board; G–250, Medical Assessment; G–250A, Medical Assessment of Residual Functional Capacity; G–260, Report of Seizure Disorder; RL–11B, Disclosure of Hospital Medical Records; RL–11D, Disclosure of Medical Records from a State Agency; and RL–250, Request for Medical Assessment, to obtain the necessary medical evidence. One response is requested of each respondent. Completion is voluntary.

The RRB proposes to add a fraud statement; request a doctor's National Provider Number; and make other minor non-burden impacting editorial and cosmetic changes to Forms G–250, G–250A, and G–260. The RRB also proposes to revise Form G–197 to include authorization to disclose educational records from various sources, as well as make other minor non-burden impacting editorial changes.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–3EMP	600	10	100
G–197	6,000	10	1,000
G–250	11,950	30	5,975
G–250A	50	20	17
G–260	100	25	42
RL–11B	5,000	10	833

ESTIMATE OF ANNUAL RESPONDENT BURDEN—Continued

Form No.	Annual responses	Time (minutes)	Burden (hours)
RL–11D	250	10	42
RL–250	11,950	10	1,992
Total	35,900		10,001

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.* Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or emailed to *Charles.Mierzwa@RRB.GOV.* Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2014–25312 Filed 10–23–14; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31296; File No. 812–14296]

Tennenbaum Opportunities Fund V, LLC, et al.; Notice of Application

October 20, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order pursuant to sections 6(c), 17(b), and 57(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 17(a) and 57(a) of the Act permitting certain transactions.

SUMMARY OF THE APPLICATION: Applicants request a time-limited exemptive order (the ''Order'') that would permit applicant investment companies registered under the Act to sell certain assets to applicant business development companies (''BDCs'') that share a common investment adviser in transactions that would otherwise be prohibited by sections 17(a)(2) and 57(a)(1) of the Act.

APPLICANTS: Tennenbaum Opportunities Fund V, LLC (''TOF''); Tennenbaum Opportunities Partners V, LP (''TOP,'' and, together with TOF, the ''Registered Fund''); TCP Capital Corp. (''TCPC''); Special Value Continuation Partners, LP (''SVCP,'' and, together with TCPC, the ''BDC Applicant''); and Tennenbaum Capital Partners, LLC (the ''Manager'') (collectively, the ''Applicants'').

FILING DATES: The application was filed on April 2, 2014, and amended on May 16, 2014, June 9, 2014, July 11, 2014, August 8, 2014, October 14, 2014, and October 17, 2014.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 14, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Howard M. Levkowitz, c/o Tennenbaum Capital Partners, LLC, 2951 28th Street, Suite 1000, Santa Monica, CA 90405.

FOR FURTHER INFORMATION CONTACT: Anil K. Abraham, Senior Special Counsel, at (202) 551–2614, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. TOF is a limited liability company organized in Delaware and registered under the Act as a non-diversified closed-end management investment company. TOP is a limited partnership organized in Delaware and registered under the Act as a non-diversified closed-end management investment company. TOF invests substantially all of its assets in, and operates through, TOP. All of TOP's common limited partner interests are owned by TOF. TOP also has preferred limited partner interests and debt outstanding.

2. TCPC is a Delaware corporation and a non-diversified closed-end management investment company that has elected to be regulated as a BDC under the Act.[1] TCPC's common shares trade on the NASDAQ Global Select Market. SVCP is a Delaware limited partnership and a non-diversified closed-end management investment company that also has elected to be regulated as a BDC under the Act. TCPC invests substantially all of its assets in, and operates through, SVCP. All of SVCP's common limited partner interests are owned by TCPC. SVCP also has issued preferred limited partner interests under its leverage program to the same institutions that acquired its debt.

3. The Manager is a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Manager serves as investment adviser both to the Registered Fund and the BDC Applicant (each, a ''Fund,'' and, collectively, the ''Funds'') and manages both Funds in accordance with their respective investment objectives and strategies. Each Fund is governed by a board of directors (''Board'').

4. The Registered Fund seeks to achieve high total returns while minimizing losses and invests in high yielding debt, distressed debt, equity

[1] Section 2(a)(48) of the Act 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.

securities and mezzanine investments of all kinds (the Registered Fund's investment objectives, strategies, and limitations, as stated in its registration statement and periodic shareholder reports, are the ''Registered Fund Objectives and Strategies''). The BDC Applicant's investment objective is to achieve high total returns through current income and capital appreciation, with an emphasis on principal protection. It seeks to achieve this investment objective primarily through investments in debt securities of middle-market companies, and its primary investment focus is investing in and originating leveraged loans to performing middle-market companies (the BDC Applicant's investment objectives, strategies, and limitations, as stated in its registration statement and periodic shareholder reports, are the ''BDC Applicant Objectives and Strategies'').

5. The BDC Applicant expects to continue to grow as attractive investment opportunities arise and as additional capital becomes available on attractive terms. However, both TOF and TOP are scheduled to terminate their existence in October 2016. TOF may extend its existence for up to two one-year extensions if requested by the Manager and approved by the holders of a majority of its common shares, and TOP may do so if requested by the Manager and approved by the holders of a majority of its common and preferred limited partner interests.

6. The Registered Fund is considering how best to conduct its remaining operations and plan for the unwinding of its leverage and its scheduled termination, including the disposition of its portfolio assets. The Applicants seek the requested relief to permit the Registered Fund to sell to the BDC Applicant certain portfolio assets that are consistent with the BDC Applicant Objectives and Strategies.[2]

7. As of September 30, 2014, the Registered Fund's portfolio included 52 assets with a fair value of $460,735,948 that were consistent with the BDC Applicant Objectives and Strategies (''Eligible Assets''). As of that date, the Eligible Assets were composed of: (1) $289.1 million of floating rate fully performing commercial loans; (2) $127.5 million of fixed rate fully performing commercial debt maturing between 2015 and 2021; (3) $12.8 million in equity received in connection with the foregoing debt investments; and (4) $31.3 million in aircraft mortgage and lease interests.[3]

8. Any follow-on investments in the securities of issuers of Eligible Assets owned by the Registered Fund that may be made subsequent to the issuance of the requested Order (''follow-on investments'') also would be considered Eligible Assets for purposes of the requested relief. The Applicants represent that the Registered Fund might undertake such follow-on investments to protect or enhance existing investments by, for example, enhancing the Registered Fund's legal rights in a bankruptcy of the issuer.

9. Subject to the terms and conditions of the Order, the Registered Fund would seek to sell to the BDC Applicant all of the Eligible Assets owned by the Registered Fund prior to the expiration of the requested Order. The only Eligible Assets held by the Registered Fund that would not be sold to the BDC Applicant would be those that are sold in Bona Fide Third-Party Transactions to a third party pursuant to Conditions 3 and 4 below, those that do not satisfy the Conditions below, and those that the Manager believes would not be appropriate for the BDC Applicant to acquire based on investment considerations, such as concerns about credit quality or overconcentration in a particular industry sector.

10. The Manager's determination to sell any particular Eligible Asset of the Registered Fund to the BDC Applicant would be required to be approved by a ''Required Majority''[4] of the Board of each Fund.[5] The Applicants note that there is no overlap among the directors of the Registered Fund and the BDC Applicant who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of their respective Funds (''Independent Directors''), so that both sets of Independent Directors would have no conflict of interest in reviewing and determining whether to approve each Proposed Transaction (defined below) undertaken in reliance on the requested relief. The Eligible Assets that the Manager determines to sell from the Registered Fund to the BDC Applicant, that satisfy the Conditions below, and that are approved for such sale by a Required Majority of each Fund are referred to hereinafter as the ''Qualifying Assets,'' and the proposed sales of the Qualifying Assets by the Registered Fund to the BDC Applicant are referred to hereinafter as the ''Proposed Transactions.''

11. The Applicants believe that the Proposed Transactions would be in the best interests of both Funds. The Registered Fund earns income on those assets that may be Qualifying Assets at a rate in excess of the expense associated with its outstanding debt and preferred stock, and in excess of the rate at which it expects it could prudently reinvest the proceeds of a sale of Qualifying Assets, in light of its scheduled termination. As a result, the Applicants believe that it would be beneficial to the Registered Fund and its shareholders to own its assets, including Qualifying Assets, for as long as practicable before needing to sell them in order to repay its debt and wind down its operations. The Applicants believe that having a known potential buyer—the BDC Applicant—for substantially all of the Eligible Assets would permit the Registered Fund to hold and earn a favorable return on such assets for a longer period of time than if the requested relief was not granted. Additionally, a sale of such assets directly from the Registered Fund to the BDC Applicant would permit the Registered Fund to conduct the transactions without paying intermediary compensation, such as a sales commission or a known spread.

12. The Applicants also believe that the BDC Applicant's acquisition of the Qualifying Assets directly from the Registered Fund would be in the best interests of the BDC Applicant and its shareholders. The Manager believes that the Proposed Transactions would benefit the BDC Applicant and its shareholders because the BDC Applicant is growing, is familiar with the assets held in the Registered Fund's portfolio,[6] would have an interest in acquiring all or a portion of the Registered Fund's Eligible Assets, and could do so without paying any commission or spread.

13. As of September 30, 2014, approximately 97.8% by value of the Eligible Assets were owned by both Funds and were valued identically. Each of the Funds employs the same valuation methods, policies, and

[2] The Registered Fund and the BDC Applicant have co-invested in various Eligible Assets (defined below) in reliance on a prior Commission order pursuant to rule 17d–1 under the Act (the ''Co-Investment Order'') permitting certain joint transactions among themselves and certain other entities. Special Value Opportunities Fund, LLC, et al., Investment Company Act Release Nos. IC–27287 (April 11, 2006) (notice) and 27316 (May 9, 2006) (order).

[3] All of the Eligible Assets are securities under the Act except for the aircraft lease interests, which, as of September 30, 2014, comprised approximately 7% of the value of the Eligible Assets.

[4] In the case of the Registered Fund, the Board members that make up the Required Majority will be determined as if the Registered Fund were a BDC subject to section 57(o) of the Act.

[5] In approving any Proposed Transaction, as defined below, the Required Majority of each Fund will be required specifically to consider the effect that such transaction, and the Proposed Transactions taken together, would have on the investment advisory fees paid by the relevant Fund.

[6] *See* note 2, *supra.*

procedures, which have been reviewed and approved by each Fund's Board.[7] Each Fund's Independent Directors review and approve the valuations quarterly.

14. Before selling a Qualifying Asset to the BDC Applicant in reliance on the requested relief, the Registered Fund would establish a bona fide market price by selling an institutional-sized portion of the Qualifying Asset, as prescribed in Conditions 3 and 6 below, to an independent third-party buyer at arm's-length. Such third-party transactions are defined in the application as ''Bona Fide Third-Party Transactions.'' Applicants will be able to enter into a Proposed Transaction in reliance on the requested Order only if the price of the related Bona Fide Third-Party Transaction falls within a certain range above or below the Registered Fund's valuation of the relevant Qualifying Asset, as described in Condition 4.[8] In such cases, the BDC Applicant would contemporaneously pay the same price in the Proposed Transaction for the balance of the asset held by the Registered Fund (less any intermediary compensation, such as a sales commission or known spread, paid by the Registered Fund on the Bona Fide Third-Party Transaction).

15. Finally, the Manager would be required to represent to the Independent Directors of each Fund that it has no reason to believe that the sale price of the Qualifying Asset in each Bona Fide Third-Party Transaction does not reasonably approximate (on a pro rata basis) the sale price of such Qualifying Asset—had the Registered Fund's entire interest been sold—and that, in the Manager's judgment, the Proposed Transaction would not preclude the BDC Applicant from acquiring an asset more beneficial to its shareholders' interests.

Applicants' Legal Analysis

1. The Applicants request an Order under sections 6(c), 17(b), and 57(c) of the Act granting them exemptive relief from sections 17(a) and 57(a) of the Act in order to permit the Registered Fund to sell to the BDC Applicant the Qualifying Assets.

2. Section 17(a)(2) of the Act generally prohibits an affiliated person of a registered investment company, acting as principal, from purchasing from such company any security or other property. Section 2(a)(3)(C) of the Act defines an ''affiliated person'' of another person to include any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 57(a)(1) of the Act generally prohibits a person related to the BDC in a manner described in section 57(b) from selling any security or other property to such BDC. Section 57(b) includes, among others, any person directly or indirectly controlling, controlled by, or under common control with the BDC. By virtue of being under the common control of the Manager or common executive officers, the BDC Applicant could be viewed as an affiliated person of the Registered Fund within the meaning of section 2(a)(3)(C), and the Registered Fund could be viewed as a person related to the BDC Applicant within the meaning of section 57(b). Consequently, section 17(a)(2) would prohibit the BDC Applicant from purchasing the Qualifying Assets from the Registered Fund, and section 57(a)(1) would prohibit the Registered Fund from selling the Qualifying Assets to the BDC Applicant.

3. Sections 17(b) and 57(c) of the Act authorize the Commission upon application to exempt a transaction from the prohibitions of sections 17(a)(2) and 57(a)(1), respectively, if the evidence establishes that (1) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (2) the proposed transaction is consistent with the policy of each registered investment company or business development company involved; and (3) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) authorizes the Commission upon application to conditionally or unconditionally exempt any person or transaction or any class or classes of persons or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants state that the Proposed Transactions satisfy the standards of sections 6(c), 17(b), and 57(c) of the Act. Applicants believe that the proposed safeguards described in the application provide a basis for the Commission to conclude that the Proposed Transactions will satisfy such standards.

5. The Applicants believe the terms of the Proposed Transactions would benefit both Funds and are in the best interests of their respective shareholders. The Applicants also believe that the fact that the Proposed Transactions would involve substantially all of the Eligible Assets held by the Registered Fund would serve to reduce any potential for overreaching. The Applicants further point to the fact that both Funds already own many of the same Eligible Assets and have the same valuation methods, policies, and procedures, which have been approved by each Fund's Board.[9]

6. The Applicants also state that, before selling any Qualifying Assets to the BDC Applicant in reliance on the requested Order, the Registered Fund would be required to establish a bona fide market price for the Qualifying Asset by executing a Bona Fide Third-Party Transaction in that asset, as prescribed in Conditions 3 and 6 below.[10] The price for such Bona Fide Third-Party Transaction would be required to fall within a certain range above or below the Registered Fund's valuation of the relevant Qualifying Asset, as described in Condition 4 below, in order for a Proposed Transaction to occur in reliance on the requested Order. The Applicants believe that these price range constraints will help to ensure that the sale is fair and approximates the appropriate price of each Qualifying Asset, while recognizing that it is unlikely that the sale price of each Qualifying Asset will be exactly the same as the value assigned by the Registered Fund to such Qualifying Asset.

7. Finally, the Proposed Transactions will be presented to the Required Majority of each Fund and must be approved by such Required Majority in order to be consummated. The Required Majority of each Fund will be required specifically to consider the effect that each such transaction, and such transactions taken together, would have

[7] The Funds' valuation policies and procedures differ with respect to the procedures to obtain approvals from their respective Boards, but those differences are immaterial for purposes of the requested relief.

[8] As described in the application, the Applicants proposed the ranges specified in Condition 4 below based on the results of forensic testing that compared the sale prices of assets to their most recent valuations over a period of several years.

[9] *See* note 7, *supra.*

[10] The Applicants note that the asset sale amounts set forth in Condition 3 below seek to balance the interest of the Funds in transacting with each other for as much of the Qualifying Assets as possible against the interest of ensuring that the Bona Fide Third-Party Transactions are executed at a genuine and current market price. The Applicants believe that the Bona Fide Third-Party Transactions would achieve an appropriate balance by providing for a sale of a portion of the Qualifying Asset in an amount approximating what the Manager believes is, for this type of asset, a bid size that will attract sufficient attention from the institutional debt market. The Manager believes that the dollar and percentage amounts set forth in Condition 3 below will result in the sale of a sufficiently large amount of each Qualifying Asset to obtain a representative market price for the asset.

on the investment advisory fees paid by the relevant Fund.

Applicants' Conditions

Applicants agree that the Order granting the requested relief will be subject to the following Conditions:

1. The Registered Fund will sell to the BDC Applicant, prior to the expiration of the requested Order, all of the Qualifying Assets owned by the Registered Fund. In approving any Proposed Transaction under the requested Order, the Required Majority of each Fund will be required specifically to consider the effect that such transaction, and the Proposed Transactions taken together, would have on the investment advisory fees paid by the relevant Fund. If any Eligible Assets are acquired in follow-on investments made after the date the Order was granted, the Manager will document contemporaneously why it believes each follow-on investment helps protect the assets previously owned by the Registered Fund to which the follow-on investment relates.

2. Each of the Eligible Assets shall have been subject to periodic valuation in accordance with methods adopted and reviewed at least annually by the independent directors, as defined in section 2(a)(19) of the 1940 Act, of each Fund in accordance with rule 38a–1 under the 1940 Act.

3. The Registered Fund shall have sold in Bona Fide Third-Party Transactions subject to broad market exposure or competitive bidding to independent third-party buyers (none of whom are the issuer of the respective asset to the knowledge of the Applicants or are affiliated persons of the Applicants under the 1940 Act) (i) for each Qualifying Asset valued at greater than $10 million, at least the greater of (A) 10% of the holdings by the Registered Fund of each Qualifying Asset or (B) $5,000,000 in proceeds of such Qualifying Asset or (ii) for each Qualifying Asset valued at $10,000,000 or less, at least 30% of the holdings by the Registered Fund of each Qualifying Asset.

4. In any transaction between the Funds under the requested Order, (i) the trade date for sale to the BDC Applicant shall be the same as the trade date for the independent sale of a portion of the Qualifying Asset under Condition 3, (ii) the transaction price shall be such independent sale price less any intermediary compensation, such as a sales commission or known spread, paid by the Registered Fund in the open market sale, (iii) 66.7%, or two-thirds, of the transactions will have a sale price within 1.5% of the fair value most recently assigned by the Registered Fund pursuant to its valuation methods, policies, and procedures, and 100% of the transactions will have a sale price in the market within 2.5% of the fair value most recently assigned by the Registered Fund pursuant to its valuation methods, policies, and procedures (iv) the Manager shall represent to the Independent Directors of the Registered Fund and the BDC Applicant that it has no reason to believe that the sale price received by the Registered Fund pursuant to Condition 3 above does not reasonably approximate (on a pro rata basis) the sale price that would have been received by the Registered Fund had the Registered Fund's entire interest been sold in such transaction and that, in the Manager's judgment, the Proposed Transaction between the Funds would not, at the time of such transaction, preclude the BDC Applicant from acquiring an asset more beneficial to its shareholders' interests, and (v) the price shall be payable in cash at settlement.

5. Any transaction under the requested Order involving Eligible Assets jointly owned under the Co-Investment Order (including a decision not to include an Eligible Asset as a Qualifying Asset) shall comply with the terms and conditions of the Co-Investment Order, as applicable.

6. No Proposed Transaction or Bona Fide Third-Party Transaction shall involve any consideration other than cash payment against prompt delivery of Qualifying Assets. No brokerage commission, fee, or other remuneration shall be paid in connection with any Proposed Transaction. A Bona Fide Third-Party Transaction may include customary transaction expenses paid to persons who are not affiliated persons of the Applicants, but no Bona Fide Third-Party Transaction will involve any arrangement, understanding, or any direct or indirect quid pro quo that goes beyond the market terms of such transaction. No Bona Fide Third-Party Transaction shall involve any arrangement or understanding directed at facilitating the Applicants' reliance on the requested Order. For any Bona Fide Third-Party Transaction, the Registered Fund will not knowingly sell any Qualifying Asset to the issuer of such asset. The Applicants will not attempt to circumvent the above restrictions by entering into any arrangements or understandings that are economically similar to the ones proscribed by the above restrictions.

7. The Registered Fund and the BDC Applicant shall maintain records demonstrating satisfaction of each of the foregoing Conditions in the manner and for the periods set forth in rule 17a–7(g) under the 1940 Act.

8. The requested Order, if granted, shall expire upon the earlier of the date of termination of TOF or October 10, 2018.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–25302 Filed 10–23–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73391; File No. SR–FICC–2014–07]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Clearing Rules of the Mortgage-Backed Securities Division To Establish a Membership Category and Minimum Financial Requirements for Insured Credit Unions

October 20, 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 October 15, 2014, Fixed Income Clearing Corporation (''FICC'') 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 FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this filing is to amend the Clearing Rules (the ''Rules'') of the Mortgage-Backed Securities Division (''MBSD'') of FICC in order to establish a membership category and financial minimum requirements for insured credit unions.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

in Item IV below. FICC has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of this proposed rule change is to establish a membership category and minimum financial requirements for ''insured credit unions'' as such term is defined in the Federal Credit Union Act (''FCUA'').[3] The FCUA defines ''insured credit unions'' to mean ''any credit union the member accounts of which are insured in accordance with Title II of [FCUA]''.[4] Because Title II of the FCUA requires all credit unions that are chartered by the National Credit Union Administration [5] (''federal credit unions'') to have insured accounts, the term ''insured credit union'' includes all insured federal credit unions. Because Title II of the FCUA permits the NCUA Board to insure (i) State credit unions and (ii) credit unions operating under the jurisdiction of the Department of Defense (''Defense Credit Unions''), as long as such credit unions comply with FCUA and implementing NCUA regulations, the term ''insured credit unions'' also includes both federally-insured State credit unions and federally-insured Defense Credit Unions. It should be noted, however, that the proposed category for ''insured credit unions'' does not encompass credit unions whose accounts have private or other types of non-federal insurance. As a result, any such credit unions will not be permitted to join MBSD.

FICC believes the participation of this category as guaranteed service members will contribute to the safety, efficiency, and transparency of the market by allowing FICC to capture a greater part of the activity of its existing members and by introducing activity of current non-members to FICC. FICC also believes that insured credit unions will benefit from the MBSD clearing service and the associated operational efficiencies of a central counterparty service.

Specifically, this filing proposes to revise MBSD Rule 2A (''Initial Membership Requirements'') to include a category for insured credit unions that are in good standing with their primary regulators and to establish minimum financial requirements for such category. Such applicants will be required to have a level of equity capital as of the end of the month prior to the effective date of their membership of at least $100 million and achieve the ''well capitalized'' statutory net worth category classification defined by the NCUA under 12 CFR Part 702.

In addition to meeting the required financial resources and creditworthiness requirements (which are based on entity type, the types of services the applicant will use and the type of accounting principles used to prepare their audited financial statements), applicants in this new category will have to demonstrate that (1) they have an established profitable business history of a minimum of 6 months or personnel with sufficient operational background and business experience for the firm to conduct its business and to be a member (as is required of all other membership categories) and (2) they are able to satisfactorily communicate with FICC, fulfill anticipated commitments to and meet the operational requirements of FICC with necessary promptness and accuracy, and conform to any condition and requirement that FICC reasonably deems necessary for its protection or that of its Members.[6]

The proposed changes to MBSD Rule 2A provide that insured credit unions will be designated as ''Tier One Clearing Members'' for loss allocation purposes.[7]

(2) Statutory Basis

The present filing is consistent with the requirements of Section 17A(b)(3)(F) of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder applicable to FICC because the proposed rule change permits the participation of insured credit unions, thereby providing these firms with the benefits of the central counterparty service, which includes, among other things, trade comparison, to-be-announced netting, electronic pool notification allocation, pool comparison, pool netting, settlement, and risk management for eligible securities. In addition, this proposal allows FICC to capture a greater market share of the activity of its existing members and non-members thus promoting the prompt and accurate clearance and settlement of securities transactions. Under the proposed rule change, existing members will be able to submit their eligible trading activity with entities in the proposed membership category to MBSD and thereby obtain the benefits of the central counterparty service for such trading activity.

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule changes have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

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 such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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–FICC–2014–07 on the subject line.

[3] Federal Credit Union Act, 12 U.S.C. 1752(7)(2013).

[4] 12 U.S.C. 1752(7).

[5] The National Credit Union Administration (NCUA) is the independent federal agency that regulates, charters and supervises federal credit unions. With the backing of the full faith and credit of the U.S. Government, NCUA operates and manages the National Credit Union Share Insurance Fund (NCUSIF), insuring the deposits of more than 95 million account holders in all federal credit unions and the overwhelming majority of state-chartered credit unions. *See www.ncua.gov.*

[6] MBSD Rule 2A Section 2, Mortgage-Backed Securities Division Clearing Rules.

[7] MBSD Rule 4 Section 7, Mortgage-Backed Securities Division Clearing Rules.

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–FICC–2014–07. 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 20549–1090 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 FICC and on FICC's Web site: *http://www.dtcc.com/~/media/Files/Downloads/legal/rule-filings/2014/ficc/SR-FICC-2014-07.pdf*.

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–FICC–2014–07 and should be submitted on or before November 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–25301 Filed 10–23–14; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 8931]

Department of State Performance Review Board Members; Appointments

In accordance with section 4314(c)(4) of 5 United States Code, the Department of State has appointed the following individuals to the Department of State Performance Review Board for Senior Executive Service members:

Christopher H. Flaggs, Chairperson, Comptroller, Bureau of the Comptroller and Global Financial Services, Department of State;

Kelly Clements, Deputy Assistant Secretary, Bureau of Population, Refugees, and Migration, Department of State;

Hoyt B. Yee, Deputy Assistant Secretary, Bureau of European and Eurasian Affairs, Department of State; and

Mary Catherine Malin, Assistant Legal Advisor, Office of the Legal Advisor, Department of State.

Dated: October 14, 2014.

Hans Klemm,

Acting Director General of the Foreign Service and Director of Human Resources, Department of State.

[FR Doc. 2014–25353 Filed 10–23–14; 8:45 am]

BILLING CODE 4710–15–P

[8] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Innovative Public Transportation Workforce Development Program (Ladders of Opportunity Initiative)

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Funding Availability.

SUMMARY: The Federal Transit Administration (FTA) announces a Notice of Funding Availability (NOFA) for the Innovative Public Transportation Workforce Development Program (Ladders of Opportunity Initiative). FTA has budgeted approximately $9 million for this solicitation. This NOFA solicits proposals that promote innovative nationally and regionally significant public transportation workforce development models and programs that invest in America's economic growth and help build ladders of opportunity into the middle class for American workers.

DATES: Complete proposals are due by 11:59 p.m. EST on December 23, 2014.

ADDRESSES: All proposals must be submitted electronically through the *GRANTS.GOV* ''APPLY'' function. All entities intending to apply should initiate the process of registering on the *GRANTS.GOV* Web site immediately to ensure completion of registration before the submission deadline. Instructions for applying can be found in the ''FIND'' module of *GRANTS.GOV.* Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: For specific information regarding the areas of research targeted within this NOFA, please contact Betty Jackson, Workforce Development Program Manager, Office of Research, Demonstration and Innovation, phone: (202) 366–1730, fax: (202) 366–3765, or email: *betty.jackson@dot.gov.* A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION:

I. Discretionary Program Overview

A. Authority

Section 5322(b) of Title 49, United States Code authorizes FTA's discretionary Innovative Public Transportation Workforce Development Program, pursuant to which FTA makes grants to transit agencies and other entities to undertake workforce development activities, including those that create employment training programs, conduct outreach programs to increase minority and female employment in transit, conduct research on public transportation personnel and training needs, and provide training and assistance for minority business opportunities. Under this authority, FTA is issuing this funding opportunity for the Innovative Public Transportation Workforce Development, Ladders of Opportunity Initiative. FTA plans to fund nationally or regionally significant public transportation workforce projects that will assist in building ladders of opportunity for American workers to move into the middle class, as well as build the critical skillset needed in the public transportation industry.

FTA has budgeted approximately $9,000,000 for the program. FTA may choose to fund the program for more or less than the announced amount, including applying any future appropriated funds toward the projects proposed in response to this NOFA. Future funding will depend in part on Congressional appropriation.

B. Policy Priorities

Supporting a highly-skilled transit workforce is critical to maintaining a competitive and efficient public transportation system. As public transportation experiences significant growth in the United States and investments continue in the physical capital of the nation's transit systems, it is essential to build and maintain the nation's human capital in public transportation as well.

FTA is seeking projects that create a new nationally or regionally significant workforce development program, or augment or replicate a successful

existing program that will have benefits for transit agencies or the transit industry. While either type of effort will be considered, programs or approaches with an existing track record of success are likely to receive significant consideration.

FTA is prioritizing applications that focus on one or more of the following activity areas:

- Targeting areas with high rates of unemployment;
- helping persons in local communities to directly benefit from employment opportunities created by the construction and operation of new transit capital projects or other public transportation activities within their region;
- providing career pathways that support the movement of targeted populations (e.g., new transit entrants and other underserved populations) from initial or short-term employment opportunities to sustainable careers;
- helping to increase through outreach and training the employment of minorities, women, individuals with disabilities, veterans, low-income populations and other underserved populations in public transportation activities;
- addressing gaps in areas with current or projected workforce shortages in fields related to public transportation;
- pre-employment training/preparation/tracking; and/or
- recruitment and hiring.

II. Program Information

A. Program Description and Purpose

The Innovative Public Transportation Workforce Development Program assists in the development of innovative programs and activities in public transportation that address the human resources needs of public transportation operators, as well as build pathways to long-term careers in the public transportation industry.

B. Eligibility Information

1. Eligible Applicants

Eligible applicants are urban and rural transit agencies; state departments of transportation (DOTs) providing public transportation services; Metropolitan Planning Organizations; Indian Tribes; nonprofit institutions; and institutions of higher education. Only these types of organizations are eligible to apply to this program. The cooperative agreement will be between FTA and the selected organization, which must have a substantial interest in the project and must not simply act as a pass-through for funds. Applicants may apply individually or in a consortium of eligible applicants. The consortium of eligible applicants must include a lead applicant as the primary recipient of federal funds.

Individuals, for-profit entities other than for-profit educational institutions, and Federal agencies are not eligible to apply to this program.

2. Strategic Partnerships

To be eligible for funding under this NOFA, applicants must demonstrate that the proposed project is supported by the primary applicant in partnership with one or more external strategic partner(s) with a substantial interest and involvement in the project. An external partner must be an entity that has no direct relationship to the primary applicant. For example, the external partner may not be a department within the applicant's organization. If the primary applicant is not a transit agency or consortia of transit agencies, the external partners must include at least one transit agency as an external partner.

In addition to transit agencies, an external partner entity could include, but is not limited to:

a. Educational institutions, which include entities providing professional accreditation, degree, and/or certification programs, such as universities, community colleges, or trade schools, either non-profit or for-profit.

b. Public workforce investment systems, such as local Workforce Investment Boards and their one-stop systems.

c. Labor organizations, such as labor unions and labor management organizations.

d. Non-profit organizations that support the mission of transit and transportation workforce development.

Applicants should include a letter of confirmed support from each potential partner as part of their application.

Applicants must include sufficient evidence of the partnership. Sufficient evidence may include a memorandum of agreement or letter of intent signed by all parties that describes the parties' roles, responsibilities and financial commitment in the proposed project. FTA may contact each partner to determine its level of involvement and financial commitment in the proposed application.

3. Cost Sharing

Funds used for this NOFA were authorized by both SAFETEA–LU and MAP–21. There is a minimum 50 percent non-Federal cost share for all funds awarded. Regardless of minimum share requirements, cost sharing is an evaluation criterion and proposals with higher non-Federal cost share will be considered more favorably. Cash and other high-quality match will be considered more favorably than in-kind cost matching, though all are acceptable. FTA will not approve deferred local share. Recipients must comply with all applicable FTA requirements.

a. Eligible sources of matching funds include:

i. Cash from non-governmental sources other than revenues from providing public transportation services;

ii. Non-farebox revenues from the operation of public transportation service, such as the sale of advertising and concession revenues. A voluntary or mandatory fee that a college, university, or similar institution imposes on all its students for free or discounted transit service is not farebox revenue;

iii. Amounts received under a service agreement with a State or local social service agency or private social service organization;

iv. Undistributed cash surpluses, replacement or depreciation cash funds, reserves available in cash, or new capital;

v. In-kind contributions, such as the market value of in-kind contributions integral to the project, may be counted as a contribution toward local share.

4. Other Eligibility Requirements

a. Allowable Activities

Projects must provide direct support to workforce development projects. Capital expenses *such as equipment purchases* are not considered to be eligible costs unless they directly relate to the workforce development program being supported by FTA funds. Acceptable costs can include, but are not limited to: Faculty/instructors, including salaries and fringe benefits, support staff, classroom space, books, materials and supplies, transportation stipends for students.

b. Unallowable Costs

FTA funds under this program are not intended as an offset to regular *transit agency* employee salaries and may not be used to cover the regular or overtime salaries of employees at transit agencies *offering training.* Funds *may* be used to cover the costs of staff directly engaged in a program management or training role at an agency.

C. Evaluation Criteria, Review and Selection

When evaluating competing projects for discretionary grant awards otherwise eligible under the program, FTA will

consider whether the project can help Americans move up to the middle class by providing transportation options that are more affordable and reliable, and improving their quality of life through greater access to education and new job opportunities, including jobs in the transportation industry. These considerations are the foundation of FTA's ''Ladders of Opportunity Initiative'' and will serve as distinguishing factors for purposes of project selection. FTA will evaluate the applications submitted according to the criteria set forth below. Proposals must have a minimum threshold of $200,000 and a maximum of $1,000,000.

FTA will assess the extent to which a proposal addresses the following criteria:

a. National or Regional Applicability

FTA will evaluate whether the project has national or regional applicability and whether it will provide a replicable model of workforce development practices.

b. Statement of Need

FTA will evaluate the extent to which the project identifies a clear and specific industry need for the Federal investment in the proposed transit workforce development activities. An applicant must submit data and provide evidence of the industry need and value for the proposed program.

c. Innovation

FTA will evaluate the extent to which a project identifies a unique, significant, or innovative approach to address workforce development issues in a transit agency.

d. Project Management and Organizational Capacity

FTA will evaluate the capacity of the applicant and its required partners to effectively staff the proposed initiative and deliver the proposed outcomes, as well as the fiscal, administrative, and performance management capacity to implement the key components of this project. FTA will also evaluate the strength of the strategic partnership applying for the project. Additionally, FTA will evaluate the track record of the applicant and its required partners to implement projects of similar focus, size, and scope.

e. Strategy and Project Work Plan

FTA anticipates awarding proposals for projects that will be completed within 18 to 24 months of receipt of the funding award. The period of performance will be up to 24 months from the date of execution of the grant documents. This performance period includes all necessary implementation and start-up activities, execution of the program, and completion of final deliverables as specified in the applicant's Scope of Work.

FTA will evaluate the project work plan pursuant to the following factors: (1) The presentation of a coherent plan that demonstrates the applicant's complete understanding of all the activities, responsibilities, and costs required to implement each phase of the project and achieve projected outcomes; (2) the demonstrated feasibility and reasonableness of the timeline for accomplishing all necessary implementation activities, including the ability to expeditiously begin training; and (3) the extent to which the budget aligns with the proposed work plan and is justified with respect to the adequacy and reasonableness of resources requested.

f. Outcomes and Deliverables

FTA will evaluate the extent to which the applicant and required partners demonstrate a results-oriented approach to managing and operating the project by providing projections for all applicable outcome categories relevant to measuring the success or impact of the project, describing the products and deliverables that will be produced as a result of the project activities, and fully demonstrating the appropriateness and feasibility of achieving these results. The applicant must include projected outcomes, which will be used as goals for the project.

g. Furthering Ladders of Opportunity

FTA has prioritized and will use the following activity areas of: (1) Targeting areas with high rates of unemployment; (2) helping persons in local communities to directly benefit from employment opportunities created by the construction and operation of new transit capital projects or other public transportation activities within their region; (3) providing career pathways that support the movement of targeted populations (e.g. new transit entrants and other underserved populations, etc.) from initial or short-term employment opportunities to sustainable careers; (4) helping to increase through outreach and training the employment of minorities, women, individuals with disabilities, veterans, low income populations and other underserved populations in public transportation activities; (5) addressing gaps in areas with current or projected workforce shortages in fields related to public transportation; (6) pre-employment training/preparation/tracking; and/or (7) recruitment and hiring. Further, these activity areas will be used to evaluate the extent to which an applicant and its required partners demonstrate how this program or project can assist in building ladders of opportunity to the middle class; how the proposed program can connect people and economic opportunities in public transportation; and how it can build pathways to new job opportunities in the transit field.

D. Review and Selection Process

A technical evaluation committee will review proposals under the project selection criteria. Members of the technical evaluation committee and the FTA Workforce Program Manager reserve the right to screen and rate the applications FTA receives and to seek clarification from any applicant about any statement in its application that FTA finds ambiguous and/or to request additional documentation to be considered during the evaluation process to clarify information contained within the proposal.

After consideration of the findings of the technical evaluation committee, the FTA Administrator will determine the final selection and amount of funding for each project. Additionally, as provided at 49 U.S.C. 5322(b)(2), the FTA will consider and select, to the maximum extent feasible, recipients that:

- Are geographically diverse;
- Address the workforce and human resources needs of large public transportation providers;
- Address the workforce and human resources needs of small public transportation providers;
- Address the workforce and human resources needs of urban public transportation providers;
- Address the workforce and human resources needs of rural public transportation providers;
- Advance training related to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation;
- Target areas with high rates of unemployment; and
- Address current or projected workforce shortages in areas that require technical expertise.

III. Proposal Preparation and Submission

A. Proposal Submission Process

Applicants may submit more than one proposal. However, each proposal must support a new idea or program and not be duplicative. Submission of multiple proposals from a single entity will not

increase that entity's chances of being awarded a grant.

Complete proposals for the Innovative Public Transportation Workforce Development Program Ladders of Opportunity Initiative must be submitted electronically through the GRANTS.GOV Web site by 11:59 EST on December 23, 2014. Late applications will not be accepted. Proposers are encouraged to begin the process of registration on the GRANTS.GOV site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted. Registered proposers may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) Registration in the Systems for Award Management (SAM) (formerly the Central Contracting Registry (CCR) system) is required; and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in GRANTS.GOV by the AOR to make submissions.

Eligible entities *must* have or must secure a DUNS number for the purposes of formal application and potential entry into a cooperative agreement with FTA. The DUNS number is a unique nine-character number that identifies your organization. It is a tool of the federal government to track how federal money is distributed. Each FTA applicant's DUNS number will be maintained as part of the applicant's profile. This number can be obtained free through the Dun and Bradstreet (D&B) Web site (*http://www.dnb.com/US/duns_update*).

In addition, each entity that applies and does not have an exemption under 2 CFR § 25.110 should:

(1) Be registered in the System for Award Management (SAM) prior to submitting an application or plan (*www.sam.gov*), and

(2) Maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by an agency.

B. Proposal Content

The applicant should submit a project narrative statement describing the project objectives, proposed work tasks, outputs, and benefits of the proposed project for which Federal assistance is being requested. If the project is a proposal seeking support for an existing program, it should describe the proposed FTA-supported project within the context of the larger effort.

The narrative also should indicate whether matching funds will be provided, the expected duration of the project, and other information that would assist FTA to understand and evaluate the project. Each submission for a project narrative statement should not exceed 12 pages (single-spaced, single-sided, 12 point font on 8.5x11 inch paper) and must include the information listed below:

1. Project Title, Objective(s), and Contact Person

At the top of the document, state the title of the project and provide 2–3 sentences describing the intended project goals and outcomes. List the contact person for this application along with his or her address, title, phone number, fax number, and email address.

2. Statement of the Problem(s)

Provide a description of the new or existing program to be supported by the proposed project. Describe the national or regional impact of this project. Characterize the workforce issue or problem present in the public transportation industry that the project directly addresses. Describe how the project will specifically address the issue for the applying organization. Explain why the specified approach is being taken as opposed to others, and how its innovative aspects have potential for nationwide or regional application. In addition to innovative workforce practices, cite the unique features of the project, such as design or technological innovations, reductions in cost or time, environmental benefits, benefits to riders, or social and community involvement. Finally, identify uncertainties and external factors that could affect the schedule, cost, or success of the program. Supporting documentation may be provided as an attachment that will not count toward the total page limit. Such information will be considered supplementary and will not necessarily be considered by FTA in the project selection process.

3. Geographic Location, Target Groups, and Emphasis Areas

Give a precise location or locations of the project and identify the area(s), and target group(s) to be directly served by the proposed effort. Maps or other graphic aids may be attached as needed.

4. Strategic Partners

Provide a list of the strategic partner(s) that will be participating in the project, as well as a description of each organization, the unique skill sets and capacity they will bring to the project, and the activities they will carry out. Also provide documentation of the strategic partnership, such as a memorandum of agreement or letter of intent signed by all parties that describes the parties' roles, responsibilities and financial commitment in the proposed project.

5. Scope of Work

Outline a plan of action, organized by work task, pertaining to the scope and detail of how the proposed work will be accomplished. List estimated milestone dates for major activities and products. Activities should be justified in terms of eligible program activities and proposals should clearly demonstrate the connection between the planned work and at least one of the specific program activities cited. The Scope of Work also should address supporting activities, such as marketing plans for engaging participants and/or dissemination strategies for sharing the results, if such are critical to the success of the supported program.

Proposals *must* describe at least one final project deliverable and how it will improve the state of the practice. Final products and project deliverables must be made available at no cost to FTA and other agencies at the project's close for dissemination and sharing throughout the industry. Acceptable final products and deliverables include, but are not limited to, class materials, Web sites or software, recruitment materials, flyers, brochures and reports. This product is in addition to the performance reporting requirements described in Section 6 below. Additionally, a written Final Report that is consistent with FTA Report guidelines: *http://ftanet.fta.dot.gov/TRI/Documents/Preparation%20Instructions%20for%20FTA%20Final%20Reports.pdf* is required.

If a phased plan is being proposed, describe the context and additional phases on a separate page or separate pages.

6. Period of Performance

Provide a schedule for completion of tasks assuming a total period of performance of up to 24 months. If a phased plan is being proposed, describe schedule for additional phases on a separate page or separate pages (not counted toward the page maximum).

7. Cost/Budget Proposal

Provide the Federal amount requested, and a cost proposal indicating staffing levels, hours, and direct costs for the total project and amount of funding requested from FTA. The proposal must describe the source

and amount of matching funds. As appropriate, the cost proposal also must set forth the nature and value of in-kind resources that team members will contribute to meet the match requirement.

Provide a line-item budget for the total project, with enough detail to indicate the various key components of the project. As FTA may elect to fund only a portion of a proposal rather than the full amount requested by the applicant, the budget should set forth the minimum amount necessary to fund specific project components. As funding for the Innovative Public Transportation Workforce Development Program (Ladders of Opportunity Initiative) is limited, an application that can be scaled may receive additional consideration for funding.

8. Performance Measurement

Provide an approach for demonstrating the local, nationwide or regional impact(s) of the project on the transit industry and broader employment opportunities. The proposal should include a description of the applicant's plan for recording the outcomes and reporting in a Final Report, at a minimum, the following to FTA at the end of the project:

- The number of individuals affected by the project. Applicants should define ''affected individuals'' in terms that make sense for the proposed project. For example, other common reported outcomes could include:
  - Target Individuals (Veterans, Women, Youth, Incumbent Workers, etc.);
  - Number of eligible individuals entered into program;
  - Number of individuals who successfully complete the program, achieve applicable credential, etc.;
  - Number of placed new workers and/or advanced incumbent workers;
  - Number of retained workers after 90 days.
- The costs of the project and the share of federal investment.
- At least one performance metric. Quantitative metrics are preferred, but qualitative metrics will be considered if they are based on the experiences of those affected by the program (as opposed to the self-assessment of the applicant or partner agencies). Metrics could include, but are not limited to, survey results; exit interviews; or longitudinal tracking of staff (during the period of performance only).
- A 1–2 page project description that will state the project's initial goals and measure achievements against those goals. This statement can also include ''lessons learned.''
- A 1–2 page statement of applicability to other entities. Once the program is complete, the applicant must describe how the project could be scaled and/or altered for application elsewhere, and what types of benefits could be realized by doing so.
- Any other performance measure that the applicant determines would describe the strengths and weaknesses of the project.

As part of the proposal, provide projections (for quantitative measures) or short hypotheses (for qualitative measures) of what type of impact/performance FTA could expect from the project.

9. Project Management

Describe the applicant's approach for managing and staffing the project, including the distribution of responsibilities among partner entities and an organizational chart, if applicable. Include responsibilities such as regular reporting, performance measurement, and technical/management interactions with FTA. Quarterly cost and activity progress reporting is required and can be submitted in the FTA electronics grant award system and by email submission to the FTA Workforce Program Manager. FTA will provide a template upon request.

10. Project Staff

List each organization, operator, consultant, or other key individuals who will work on the project, along with short descriptions of their appropriate technical expertise and experience (such as past, relevant research). Attach resumes or curriculum vitae if available. Project staff resumes or curriculum vitae will not count towards the total page count for proposal submissions.

IV. Award Information

FTA will award grants of a minimum of $200,000 and a maximum of $1,000,000. FTA intends to award as many meritorious projects as possible, and may elect to award less than the amount requested by an applicant. In addition, geographic diversity and the applicant's receipt of other discretionary awards may be considered in FTA's award decisions.

A. Notification. After FTA has selected the proposals to be funded, successful applicants will be notified by email or telephone of their status. In addition, FTA will publish a notice in the **Federal Register** announcing successful applicants. Upon notification of intent to award funds, FTA may withdraw its offer to provide Federal assistance if the recipient does not provide a formal application consistent with its proposal submission within 90 days following the date of the offer.

B. Execution of the FTA Agreement. FTA will instruct successful applicants on how to execute their cooperative agreements in FTA's electronic grants management system.

C. Start Date and Incurred Costs. Absent special circumstances, costs incurred prior to FTA award are not eligible as project expenses. Absent highly unusual circumstances, FTA cannot retroactively approve a project. The recipient may begin to incur project costs as of the date the award letter is signed by FTA and the awardee executes the final signature. FTA expects grantees to implement the projects awarded as soon as possible and to fully expend grant funds during the period of performance, recognizing that full transparency and accountability are required for all expenditures.

V. Contacts for Additional Information

Prospective applicants may visit the following Web sites for more information:

- *http://www.fta.dot.gov.*
- For more on managing projects in accordance with FTA Circular 6100.1D: Transit Research and Technology Programs: Application Instructions and Program Management Guidelines: *http://fta.dot.gov/legislation_law/12349_12669.html.* This Circular includes requirements on project management and administration including quarterly reporting, financial management, and payment.

For general program information, please use the contact information identified in the front of this notice. Please contact the Grants.gov Helpdesk for assistance with electronic applications at *http://www.grants.gov.* You also may contact *support@grants.gov* or call toll-free (800) 518–4726.

Therese W. McMillan,

Acting Administrator.

[FR Doc. 2014–25310 Filed 10–23–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2013–0023]

Formula Grants for Rural Areas: Guidance and Application Instructions

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of final circular.

SUMMARY: The Federal Transit Administration (FTA) has placed in the docket and on its Web site, guidance in the form of a circular to assist grantees in implementing the Section 5311 Rural Area Formula Program. The purpose of the circular is to provide recipients of FTA financial assistance with updated instructions and guidance on program administration and the grant application process. The revisions to FTA Circular 9040.1F are a result of changes made to the Rural Area Formula Program by the Moving Ahead for Progress in the 21st Century Act (MAP–21). FTA is updating the circular due to these changes in the law.

DATES: The final circular becomes effective November 24, 2014.

FOR FURTHER INFORMATION CONTACT: For program questions contact, Mary Leary, Office of Program Management, Federal Transit Administration, 1200 New Jersey Ave. SE., Room E44–409, Washington, DC 20590, phone: (202) 366–2204, fax: (202) 366–7951, or email, *Mary.Leary@dot.gov.* For legal questions, Bonnie Graves, Office of Chief Counsel, same address, Room E56–306, phone: (202) 366–4011, fax: (202) 366–3809, or email, *Bonnie.Graves@dot.gov.*

SUPPLEMENTARY INFORMATION:

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I. Overview

FTA is updating Circular 9040.1F, ''Non-urbanized Area Formula Program Guidance and Grant Application Instructions,'' last revised in 2007, in order to incorporate changes in the law subsequent to passage of the Moving Ahead for Progress in the 21st Century Act (MAP–21, Pub. L. 112–141). MAP–21 renamed the Section 5311 Program as the Formula Grants for Rural Areas Program. Generally the Section 5311 Program provides formula funding to States and Indian tribes for the purpose of supporting public transportation in areas with a population of less than 50,000. Funding may be used for capital and planning projects, job access and reverse commute projects, operating assistance and administration expenses.

On September 26, 2013, FTA issued a notice of availability of the proposed circular in the **Federal Register** (78 FR 59415) and requested public comment on the proposed circular. The comment period closed on November 25, 2013. FTA received comments from 41 entities, including trade associations, State DOTs, metropolitan planning organizations, public transportation providers, human service agencies, and individuals. This notice addresses comments received and explains changes FTA made to the proposed circular in response to comments.

Some comments were outside the scope of the circular and are not addressed in the chapter-by-chapter analysis. For example, two commenters asked whether mobility management would be an eligible expense for the Section 5339 Bus and Bus Facilities Program. FTA invites interested stakeholders to review the recently published proposed circular for the Section 5339 program: *http://www.gpo.gov/fdsys/pkg/FR-2014-07-30/pdf/2014-17926.pdf* (79 FR 44241, July 30, 2014). Several commenters noted typographical errors, pagination errors and links to Web sites that were not operational. FTA has edited the circular to address these issues.

The Section 5311 Program, as amended by MAP–21, provides for expanded eligible activities and set-asides that support rural transit program such as the Appalachian Development Public Transportation Assistance Program, the Rural Transit Assistance Program, and the Tribal Transit Program. The Section 5311 Program permits activities authorized under the repealed Job Access and Reverse Commute (JARC) program to qualify as Section 5311 eligible activities. Additionally, since MAP–21 changed the program's name from the Formula Grants for Other Than Urbanized Area Program to the Formula Grants for Rural Areas Program, the term ''rural'' replaces ''non-urbanized area'' or ''other than urbanized area'' throughout the circular.

In addition to MAP–21 updates addressed above and outlined below, the circular updates the organization and wording of the previous circular to improve clarity and consistency with FTA's other circulars and to reflect other changes in the law. This document does not include the revised circular; however, an electronic version is available on FTA's Web site, at *www.fta.dot.gov.* Paper copies may be obtained by contacting FTA's Administrative Services Help Desk, at (202) 366–4865.

II. Chapter-by-Chapter Analysis

A. Chapter I—Introduction and Background

Chapter I of the proposed circular is an introductory chapter and covers general information about FTA and how to contact us, briefly reviews the authorizing legislation for FTA programs generally, includes definitions applicable to the Section 5311 Program, and provides a brief history of the Section 5311 Program. Where applicable, we have used the same definitions found in statutes, rulemakings, and other circulars to ensure consistency.

FTA received nine comments on this chapter, all related to definitions. A number of commenters suggested that FTA should be consistent with its definitions throughout each of its circulars. Two commenters specifically indicated there is a discrepancy between FTA's and the Federal Highway Administration's (FHWA) definition for ''force account,'' suggesting the two definitions could confuse State Departments of Transportation. FTA notes that FHWA's definition is broader than that included in the circular. However, both the FTA and FHWA definitions essentially refer to a recipient's use of its labor, equipment, materials, and supplies that are utilized under its direct control. Although the FTA definition is narrower than FHWA's, FTA does not believe its definition will cause confusion and thus it remains unchanged from the proposed circular.

One commenter suggested that FTA use either ''applicant'' or ''grant applicant'' throughout the circular. These terms were used interchangeably in the proposed circular, but we have struck references to ''grant applicant'' and used only ''applicant'' in the final circular. The commenter further noted that the definition for ''capital asset'' proposed for the Section 5311 circular should be consistent with the definition of ''capital asset'' in Circulars 5010.1D and 9300.1B. In response, FTA acknowledges that the circulars referenced by the commenter have a slightly different definition for the term ''capital asset,'' but we note that 5010.1D and 9300.1B will be updated to

reflect the definition included in this circular.

One commenter recommended deleting ''all maintenance costs related to vehicles and non-vehicles'' from the proposed definition for ''preventive maintenance.'' The commenter noted that preventive maintenance includes all maintenance performed to keep assets operating properly and avoid breakdown and deterioration that results in restorative maintenance. In response, FTA notes that the definition included in the proposed circular is consistent with the definition in the National Transit Database (NTD); therefore the definition is included in the final circular without change. The same commenter also suggested consistent use of the terms ''recipient'' or ''direct recipient'' otherwise it may cause confusion. These terms were used interchangeably in the proposed circular, but we have struck references to ''direct recipient'' in every section except in chapter III's discussion of Indian tribes as direct recipients. In that particular paragraph, we want to emphasize the difference between tribes as subrecipients and tribes as direct recipients.

Lastly, commenters questioned the definitions FTA included in the proposed circular for the terms ''senior'' ''welfare recipient'' and ''eligible low-income individual.'' One commenter noted that the Older Americans Act defines ''elderly'' as 60 years of age or older. Federal transit law at 49 U.S.C. 5302(18) defines ''senior'' as an individual who is 65 years of age or older. In addition, Federal transit law defines ''welfare recipient'' and ''eligible low-income individual'' at 49 U.S.C. 5302(9), and we have included these statutory definitions in the circular. We note that for purposes of eligibility for reduced fares or specialized services, public transportation providers may define ''senior'' to include individuals under age 65, as a lower age would be inclusive of those over age 65. Since these definitions are statutory, the proposed definitions for the terms are included, without change, in the final circular. FTA has added definitions for joint development and transit-oriented development'' to the Definitions section of the Circular.

B. Chapter II—Program Overview

In chapter II, FTA proposed updating the program goals section by adding three additional goals of the Section 5311 Program: (1) providing financial assistance to help carry out national goals related to mobility for all, including seniors, individuals with disabilities, and low-income individuals; (2) increasing availability of transportation options through investments in intercity bus services; and (3) encouraging mobility management, employment-related transportation alternatives, joint development practices, and transit-oriented development.

One commenter supported the addition of these new goals; however, the commenter indicated the circular lacked specifics regarding how the goals would be reported, the timeframe for reporting, and how the data would be reported. In response, FTA notes the program goals are not intended as performance goals and recipients will not report on these overall program goals. The program goals are provided as a means to facilitate State management and FTA oversight of the Section 5311 Program and should be included as content for the State Management Plan as noted in Chapter VI of the circular.

Another commenter noted that its ability to replace deteriorating vehicles in its fleet has been impacted significantly with the repeal of the Section 5309 discretionary bus grant program. In response, FTA notes that congressional action would be required in order to reinstate the provisions of the Section 5309 program, however, the new Section 5339 Bus and Bus Facilities Formula Program is designed to provide a reliable funding stream for bus replacement. In addition, FTA notes that Section 5311 provides the Governor with discretion to allocate funding as deemed appropriate to mitigate rural transportation gaps within the State.

C. Chapter III—General Program Information

FTA received a number of comments on this chapter, many related to the proposed changes in job access reverse commute project eligibility. A few commenters indicated FTA should permit the State to continue to fund job access and reverse commute projects that were previously funded with SAFETEA–LU Section 5311 funds as job access and reverse commute maintenance projects under the program as it is now authorized by MAP–21. In response to comments, we have clarified the language in the circular to permit SAFETEA–LU Section 5311 funded projects that qualified as job access and reverse commute projects to continue to be considered job access and reverse commute maintenance projects under this program. This does not apply under the Section 5307 program in which job access and reverse commute projects must have either been previously funded with Section 5316 funding to be considered job access and reverse commute maintenance projects or be new as of October 1, 2012 to be considered development projects. Each State should ensure it has expended all of its Section 5316 JARC funds available under SAFETEA–LU before funding job access and reverse commute-type projects with Section 5311 funds authorized by MAP–21. As a reminder, there is no floor or ceiling for the amount of Section 5311 funds spent on job access and reverse commute projects under MAP–21. Further, although there is no statutory requirement for job access and reverse projects to be part of a coordinated plan, FTA continues to encourage States and rural communities to consider including these projects in a coordinated planning process consistent with the Statewide planning process.

Several commenters indicated that FTA should revise Chapter III to clarify that nonprofits are eligible as subrecipients for Section 5311 funding and eliminate any reference to projects in large urbanized areas. In response, FTA has revised the chapter accordingly and it now specifically indicates that nonprofit organizations are eligible subrecipients for Section 5311 funding. In addition, we have removed language related to large urbanized areas.

One commenter recommended that FTA require States to factor the percentage of low-income individuals in the allocation of formula funds to rural transit districts. In response, FTA does not have the statutory authority to require States to do so; however, the law does require States to distribute funds in a fair manner. 49 U.S.C. 5311(b)(2)(C).

One commenter asked about the oversight responsibilities of the State when an Indian tribe elects to be a subrecipient of the State and not a direct recipient of funds. When a Tribe is a subrecipient of a State, the State has the same oversight responsibilities of that Tribe as it does for other subrecipients. However, when a tribe elects to receive a 5311 allocation directly from FTA, it is responsible for compliance with all 5311 program requirements. States would not be responsible for oversight for tribes that receive direct grants from the FTA, unless there are additional State resources or requirements that require State oversight.

A few commenters requested clarification in sections 3 and 4 of this chapter related to operating expenses, program income, and local match requirements with respect to human service contracts. FTA has reviewed the sections and finds the language to be consistent: Both sections state that

income from such contracts may be used either to reduce the project cost (treated as revenue) or used as local match for Section 5311 operating grants (treated as program income). In addition, we have added additional language regarding the timing of applying these funds to a grant. FTA will also update the Section 5307 circular to reflect the additional language it has included in the Section 5311 circular.

Lastly, one commenter requested clarification regarding the availability of Section 5311 funding for safety certification training of employees directly responsible for safety oversight. Title 49 U.S.C. 5329(e)(6) provides that Section 5311 recipients may use not more than 0.5 percent of their formula funds to pay not more than 80 percent of the cost of participation in the public transportation safety certification training program established under subsection 49 U.S.C. 5329(c), by an employee who is directly responsible for safety oversight. Further guidance regarding the safety certification training will be forthcoming as FTA is implementing the requirements for safety certification training via rulemaking.

D. Chapter IV—Program Development

In this chapter, FTA proposed adding information regarding MAP–21's new performance-based planning approach and revising the program of projects (POPs) section. FTA received comments from four entities on this chapter.

Regarding FTA's effort to further performance-based planning in accordance with MAP–21, one commenter asked for confirmation that State designation of ''Rural Transportation Planning Organizations'' (RTPO's) would not impact its current rural transportation planning process. FTA notes the language in the circular comes from 49 U.S.C. 5304(l), and States are not required to designate RTPO's, so such designation should not negatively impact the commenter's rural transportation planning process.

Two commenters expressed support for FTA's proposal to provide greater flexibility to States when making minor revisions to the POP. Commenters noted that while the POP is not a MAP–21 requirement, the Statewide Transportation Improvement Plan (STIP) is, and therefore, FTA should avoid language in the circular that might lead FTA regional offices to require applicants to include unnecessary details with the POP submissions.

In response, FTA notes there may be instances when a regional office may require additional information for oversight purposes that may not be listed in the circular. In addition, if a State includes projects for both rural areas and small urbanized areas in the POP, the regional office may need additional information in order to obligate the funds. Reviewing the POP at the time an applicant submits a grant application is necessary to allow FTA to check that the requirements of the Federal Funding Accountability and Transparency Act (FFATA) are met and that the distribution of resources seems reasonable.

Some commenters recommended that FTA amend its pre-award process to provide recipients with immediate approval to incur costs and seek Federal reimbursement for certain categories of projects. In response, FTA notes that currently, pre-award authority for formula funds is granted for a period of time consistent with the current authorization or two fiscal years in advance, whichever is longer. This allows recipients to expend anticipated resources in advance of the funds being obligated so long as all Federal requirements have been met. We believe this level of pre-award authority for Section 5311 funds is broader than what the commenters recommend.

Some commenters asserted the proposed text for revising POP submissions in section 5b(3)(c)(1) was vague and recommended it be revised for clarification. In response, FTA has revised the circular to include a specific example to assist with interpreting this requirement. FTA also notes that it is in the process of developing a new electronic award management system and will continue to consider ways to streamline the grant process as a part of the new system.

One commenter stated the 15 percent requirement for service that supports intercity bus has proven impracticable, and that this ''fixed percentage'' does not allow States and communities to determine the appropriate mix of public transportation services. The commenter suggested FTA's ''rigid definition'' of intercity bus makes services between significant employment, housing, recreational and retail centers ineligible, even though such services are critical to the economic vitality of rural communities. Title 49 U.S.C. 5311(f) states that ''at least'' 15 percent of Section 5311 funds made available to a State in a fiscal year will be used for the intercity bus transportation program. This is a floor, not a ceiling, and each State has discretion regarding whether to expend more than the statutory minimum of 15 percent for intercity bus. FTA further notes that one objective of the intercity bus program is to support connections between rural areas and the larger regional or national system of intercity bus service. Transportation between employment, housing, recreational and retail centers may be provided by fixed route, demand-responsive, or commuter bus service. Please see the discussion of chapter VIII, below, for additional comments on intercity bus service.

E. Chapter V—Program Management and Administrative Requirements

FTA proposed amendments to this chapter to clarify and update established requirements for recipients of Federal funds.

In the proposed circular under section 3, Equipment Management, FTA added statutory language found in 49 U.S.C. 5334(h) related to the transfer of property. Several commenters sought clarification regarding the process FTA will use for reviewing the transfer of property acquired with Section 5311 funds and no longer needed for a public transportation purpose. In particular, commenters found this to be inconsistent with the direction given in 49 CFR 18.32, which allows States to follow their own procedures for use, management, and disposition of equipment. In response, when equipment has reached the end of its useful life, States may follow their own procedures. However, and consistent with FTA's Master Agreement, if a State withdraws equipment from public transportation service prior to the end of the equipment's useful life, FTA retains a Federal interest in that equipment and the State must notify FTA of the withdrawal. FTA has added language to this section to clarify this requirement.

One commenter, addressing language in section 5, Procurement, asked if a competitive process must be used before a local governmental authority may pass through funds to a non-profit organization subrecipient. A bidding process is not required before a local governmental authority may pass through Section 5311 funds to a non-profit organization provided the non-profit would otherwise be eligible under Section 5311 to receive funds directly from the State as a subrecipient, and the non-profit uses the funds to pursue its own rural area transit project.

Two commenters noted that the small purchase threshold was listed at $150,000 in section 5.a and at $100,000 in section 5.d and asked which was correct. On December 26, 2013, the Office of Management and Budget issued final guidance 2 CFR Part 200 ''Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards'' also

known as the ''Super Circular.'' 78 FR 78590. The guidance, which will take effect when the U.S. DOT issues new regulations consistent with the guidance and will supersede and apply in lieu of the common grant rule (49 CFR parts 18 and 19), will change the simplified acquisition threshold from $100,000 to $150,000 to match the Federal Acquisition Regulation. *See* 2 CFR 200.88. Until U.S. DOT adopts the Super Circular by regulation, the threshold will remain $100,000. We have edited the final circular accordingly.

One commenter asserted that the Federal Funding Accountability and Transparency Act (FFATA) reporting deadlines cannot be met due to administrative processing delays. The commenter noted that in a specific instance, five weeks after a grant was pinned (funds obligated) the grant was not yet in the FFATA database. As a reminder, the reporting deadline is not contingent on when FTA awards the grant to the recipient, but when the recipient makes an award to a subrecipient. FTA does not have the authority to change the reporting deadline, and advises recipients to report as expeditiously as possible when there is a delay in having the grant posted to the FFATA database.

F. Chapter VI—State Management Plans

FTA proposed two substantive changes to this chapter. One change required the State to document the process used to validate the source of in-kind match for intercity bus transportation when it is used as the local match. The second change aligned the circular with changes to 49 U.S.C 5310 as amended by MAP–21, which no longer permits Section 5310 funds to be transferred to Section 5311.

FTA did not receive any substantive comments to this chapter. We have made minor technical corrections. For example, in section 1, General, we struck a sentence reading, ''A State may be required to update its SMP if section 5339 funds are transferred to an area with a population under 50,000.'' In its place, we have added section 5339 to the list of programs that States must include in their policies and procedures (i.e., section 5310, 5311, 5316, 5317 and 5339). We also made a technical correction to the charter language so it is consistent with the charter rule.

G. Chapter VII—Appalachian Development Public Transportation Assistance Program

FTA proposed a new chapter for this circular in order to provide guidance for the Appalachian Development Public Transportation Program (ADTAP), a new program established by MAP–21. The ADTAP provides funds to support public transportation service in the Appalachian Region, which includes all of West Virginia and eligible counties in 12 other States: Alabama, Georgia, Kentucky, Maryland, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and Virginia.

Two entities commented on this chapter. One commenter asked if ADTAP funding would be in addition to Section 5311 funds that may be allocated for a project within an eligible Appalachian county. Funding for ADTAP projects is a set-aside from available Section 5311 funds and a separate allocation to States in the Appalachian Region. States should use ADTAP formula funds for transit projects within the designated Appalachian region and use other Section 5311 funds to address needs not covered by the ADTAP allocation.

The other commenter recommended elimination of the ADTAP funding in its entirety. In response, FTA notes that ADTAP was established by statute; therefore, FTA will implement the program in accordance with Section 5311(c)(2). FTA did not make any substantive changes to this chapter.

H. Chapter VIII—Intercity Bus

FTA proposed two revisions for intercity bus transportation services to reflect a change and a deadline in the law. FTA noted that the previous ''Intercity Pilot Match Program,'' which FTA established in 2007, is now codified under 49 U.S.C. 5311(f) and we requested comments on the proposed guidance for ''in-kind'' match to implement the statute. Second, FTA deleted the section on the over-the-road bus accessibility incentive program, as MAP–21 repealed the program, and we updated the ADA regulation section of this chapter to reflect the requirement in 49 CFR 37.185 that as of October 29, 2012, over-the-road buses (OTRB) that provide fixed route service must be accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

Nearly half of the entities commenting on the circular commented on this chapter. The majority of commenters disagreed with FTA's proposal regarding the determination for in-kind match for intercity bus services. The commenters asserted that FTA's proposal to limit eligible costs to capital costs was inconsistent with 49 U.S.C. 5311(g)(3)(D). In response, FTA has revised section 5 of this chapter to reflect that FTA will allow the eligible net cost to be calculated using one of two options. FTA funds may only be used to fund the net costs of a project, so in either option, fare revenue must be subtracted from the total cost to determine the eligible amount of in-kind match. In the final circular, FTA maintains the option of using capital cost of contracting ratios for simplicity in calculating the net costs of the project. In addition, the final circular further notes that on a case-by-case basis, if a private operator has excess funds of both unsubsidized capital and operating costs for providing intercity services, FTA may allow these funds to count toward the in-kind match. The private provider must demonstrate that some of the operating costs of the service are being cross-subsidized by profits elsewhere on its system, and not fully covered by farebox revenue. The appropriate FTA regional office will be available to assist a recipient in determining in-kind match determinations and the documentation required to support a private operator's cost basis.

One commenter suggested that FTA change the term ''intercity bus service'' to ''intercity transportation service'' in order to not ''favor connections to one mode over connections to others.'' By statute, Section 5311(f) addresses the eligibility of ''intercity bus transportation,'' so FTA declines to make that change. Another commenter asserted that because the guidance limits the definition of ''intercity bus service'' to service ''that makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available,'' that this has been interpreted as prohibiting the use of these funds for intercity bus service that connects to the national aviation or intercity passenger rail networks.

In response, FTA notes that the guidance in this chapter does not prohibit intercity bus feeder service from providing access to intercity connections with rail or air service. However, FTA believes that feeder service linkage to the national rail network that is not linked to small public transportation operators (e.g., through an intermodal terminal/stop) does not comply with 49 U.S.C. 5311(f). To clarify the eligibility of connections with rail service when part of an intermodal terminal, we have amended section 8, Eligible Activities, to provide that private intercity bus operators may participate in improvements to existing intercity terminal facilities for rural passengers, as well as modifications to transit facilities to facilitate shared use

by intercity bus, *intercity rail,* and rural transit operators.

One commenter was encouraged by the definition of ''feeder service'' but recommended that FTA require or provide incentives to States for Section 5311 intercity bus service projects that directly involve rural districts to ensure better and more meaningful access to intercity bus service. In response, FTA notes that States have flexibility to administer the program to meet the needs of their rural regions and districts, so declines to make the suggested change.

Lastly, one commenter read Section 10, ADA Regulations, to mean that any and all Section 5311(f) over-the-road intercity bus recipients, subrecipients and contractors must use vehicles that are fully wheelchair accessible. While that is true of large operators that are Class I motor carriers providing fixed-route service, the ADA regulations allow small operators greater flexibility. Small operators can either ensure that vehicles are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, or ensure that equivalent service is provided to individuals with disabilities. We have amended this section accordingly.

I. Chapter IX—Rural Transportation Assistance Program (RTAP)

FTA did not propose any substantive changes for this chapter and did not receive any comments. The RTAP continues to provide funding to assist in the design and implementation of training and technical assistance projects, research, and other support services. We did not make any substantive changes to this chapter.

J. Chapter X—Public Transportation on Indian Reservations

FTA proposed a new chapter in the circular to address public transportation on Indian reservations, or the ''Tribal Transit Program.'' Section 5311(c) authorizes $5 million annually for this program, distributed on a competitive basis; and $25 million annually for this program, apportioned by a statutory formula found in Section 5311(j). The formula apportions funds on the basis of vehicle revenue miles and the number of low-income individuals residing on tribal lands. FTA received comments from six entities regarding this chapter. Two commenters expressed appreciation for the new formula funding, while others had concerns about the basis for determining how much assistance Tribes receive, and expressed concern that they no longer receive enough Tribal Transit funding to operate their existing systems.

FTA understands that the transition from a $15 million discretionary program to a mixed formula and discretionary program has been challenging for some Tribes, despite the fact that the total funding level doubled. Generally, the comments FTA received on the Section 5311 circular were addressed as part of the tribal consultation process FTA initiated last year. On November 9, 2012, FTA published a notice in the **Federal Register** (77 FR 67439) in order to (1) introduce FTA's consultation process and schedule for implementing changes to the Tribal Transit Program due to MAP–21; (2) describe and seek comment on the methodology for the formula allocation and the assumptions made regarding which Tribes are eligible for the formula program; (3) seek comment on the terms and conditions for the formula and discretionary components of the program; and (4) seek comment on how the discretionary program resources should be allocated. As part of the tribal consultation process, FTA conducted two outreach meetings in November and December of 2012. After considering comments, FTA published a subsequent notice in the **Federal Register** (78 FR 27284, May 9, 2013) in which it responded to issues presented as a result of the consultation process. That notice also announced the funding levels and framework for the Tribal Transit Program, as well as a notice of funding availability (NOFA) for FY 13 funds. FTA encourages interested stakeholders to review the two **Federal Register** notices, available on FTA's Web site (*http://www.fta.dot.gov/legislation_law/federal_register_notices.php*) if they have additional concerns about the funding or framework of this program. FTA has not made any substantive edits to this chapter.

K. Chapter XI—Other Provisions

This chapter describes cross-cutting Federal requirements that apply to the Section 5311 Program. FTA did not receive any substantive comments on this chapter and did not make any substantive edits.

L. Appendices

One commenter requested FTA include additional information related to the requirements of 49 U.S.C. 5333(b) (labor protections) in Appendix A. It is not clear to us what additional information would be helpful, and we recommend that interested stakeholders contact their FTA regional office if they have questions regarding the role of the Department of Labor in processing Section 5311 grants.

Another commenter recommended that Appendix B include a POP section for JARC. In response, we have added language indicating that JARC projects must be coded under 646–00 SCOPE in the grant and reserved using FPC 03.

Lastly, one commenter asked for clarification regarding section 3 of Appendix F and the methodology for excess or insufficient in-kind match determinations for intercity bus. FTA provided additional clarification in revisions to Chapter VIII, Intercity Bus and eliminated Appendix F as the information was redundant with the information contained in the chapter.

Therese W. McMillan,

Acting Administrator.

[FR Doc. 2014–25309 Filed 10–23–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35863]

Massachusetts Department of Transportation—Acquisition Exemption—Pan Am Southern LLC

The Massachusetts Department of Transportation (MassDOT), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Pan Am Southern LLC (PAS) certain railroad assets and associated rail line right-of-way, known generally as a portion of the Connecticut River Main Line (also known as the ''Knowledge Corridor''), approximately 49.67 route miles in length, from Station 2+25 in Springfield, Mass., to the Massachusetts-Vermont border at Station 2613+66.85 at East Northfield, Mass. (the Railroad Assets). As part of this transaction, MassDOT would also acquire any right, title, or interest that PAS may currently possess to operate passenger trains over a segment of Amtrak-owned line between Springfield and the Massachusetts-Connecticut border. According to MassDOT, it is not acquiring any freight operating rights, and PAS will retain a permanent, exclusive freight operating easement over the Railroad Assets.[1]

MassDOT states that the proposed transaction has been agreed upon

[1] Concurrently with its verified notice of exemption, MassDOT filed a motion to dismiss it on the ground that the transaction does not require authorization from the Board. The motion to dismiss will be addressed in a subsequent Board decision.

pursuant to a May 25, 2012 Purchase and Sale Contract, subsequently extended and modified by way of a Reinstatement and First Amendment to Purchase and Sale Contract. MassDOT also states that the agreement does not contain any provisions that would limit interchange with a third-party connecting carrier.

MassDOT certifies that it would not conduct freight operations over the Railroad Assets, and therefore, MassDOT's prospective annual common carrier revenues will not result in the creation of a Class I or Class II carrier.

MassDOT states that it anticipates consummating the transaction on or about December 29, 2014, subject to a Board decision on the concurrently filed motion to dismiss. The earliest this transaction may be consummated is November 9, 2014, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than October 31, 2014 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35863, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on MassDOT's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: October 21, 2014.

By the Board,

Rachel D. Campbell,

Director, Office of Proceedings.

Raina S. White.

Clearance Clerk,

[FR Doc. 2014–25346 Filed 10–23–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request; Small Business Lending Fund (SBLF)

AGENCY: Departmental Offices, 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 comment on an extension of an existing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Office of the Assistant Secretary for Financial Markets, within the Department of the Treasury, is soliciting comments concerning the New Issue Bond Program and Temporary Credit and Liquidity Program.

DATES: Written comments should be received on or before December 23, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, via the federal eRulemaking portal, *http://www.regulations.gov,* following the instructions for submitting comments; by fax to (202) 622–8722, *Attn:* Request for Comments (SBLF Quarterly Supplemental Reports); or by mail to Office of Domestic Finance, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, *Attn:* Request for Comments (SBLF Quarterly Supplemental Reports).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Manager (Communications, Research and External Affairs), Small Business Lending Fund, Office of Domestic Finance, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1505–0228.

Title: Small Business Lending Fund (SBLF) Supplemental Reports.

Abstract: Once accepted into the SBLF program, a bank is required to submit a Supplemental Report each quarter. The Supplemental Report serves two purposes.

First, the Quarterly Supplemental Report is used to determine the bank's small business lending baseline. A bank's initial dividend rate is based on the increase in small business lending (over this baseline) in the quarters from October 2010 through September 2013. In addition, a bank's dividend rate is now locked based on the results from its increase or decrease of qualified small business lending (versus the baseline) as of September 30, 2013.

Second, every quarter thereafter, the bank files a Supplemental Report quarterly so that Treasury can assess the change in the small business lending for the previous quarter. That change from the historical baseline is used to set the dividend rate for the next quarter.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 288.

Estimated Annual Hours per Response: 3.5 hours.

Estimated Total Annual Burden Hours: 4,032.

Request for Comment: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of 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 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.

Dated: October 21, 2014.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2014–25351 Filed 10–23–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C., App. 2, that the National Research Advisory Council will hold a meeting on Wednesday, December 3, 2014, at 1100 First St. NE., 6th floor, Washington, DC. The meeting will convene at 9:00 a.m. and end at 3:00 p.m., and is open to the public. Anyone attending must show a valid photo ID to building security and be escorted to the meeting. Please allow 15 minutes before the meeting begins for this process.

The agenda will include an overview of the research programs of the Office of Research and Development (ORD) (10P9), healthcare ethics review and

presentations on special research programs.

No time will be allocated at this meeting for receiving oral presentations from the public. Members of the public wanting to attend, or needing further information may contact Pauline Cilladi-Rehrer, Designated Federal Officer, ORD (10P9), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 443–5607, or by email at *pauline.cilladi-rehrer@va.gov.* at least 5 days prior to the meeting date.

Dated: October 21, 2014.

Jelessa Burney,

Advisory Committee Management Officer.

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Species Status for Dakota Skipper and Endangered Species Status for Poweshiek Skipperling; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R3–ES–2013–0043; 4500030113: 4500030113]

RIN 1018–AY01

Endangered and Threatened Wildlife and Plants; Threatened Species Status for Dakota Skipper and Endangered Species Status for Poweshiek Skipperling

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for the Dakota skipper (*Hesperia dacotae*), a butterfly currently found in Minnesota, North Dakota, South Dakota, Manitoba, and Saskatchewan and endangered species status for the Poweshiek skipperling (*Oarisma poweshiek*), a butterfly currently found in Michigan, Minnesota, Wisconsin, and Manitoba. The effect of this regulation will be to add these species to the List of Endangered and Threatened Wildlife.

DATES: This rule becomes effective November 24, 2014.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* and *http://www.fws.gov/midwest/Endangered/.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Twin Cities Field Office, 4101 American Boulevard East, Bloomington, Minnesota 55425; (612) 725–3548; (612) 725–3609 (facsimile).

FOR FURTHER INFORMATION CONTACT: Peter Fasbender, Field Supervisor, Twin Cities Field Office, 4101 American Boulevard East, Bloomington, Minnesota 55425; (612) 725–3548; (612) 725–3609 (facsimile). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule.

This rule will finalize the listing of the Dakota skipper (*Hesperia dacotae*) as a threatened species and the Poweshiek skipperling (*Oarisma poweshiek*) as an endangered species.

The basis for our action. Under the Endangered Species Act, we can determine that a species is an endangered or threatened species based on any of 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. We have determined the threats to both species include:

- Habitat loss and degradation of native prairies and prairie fens, resulting from conversion to agriculture or other development; ecological succession and encroachment of invasive species and woody vegetation primarily due to lack of management; past and present fire, haying, or grazing management that degrades or eliminates native prairie grasses and flowering forbs; flooding; and groundwater depletion, alteration, and contamination.

- Other natural or manmade factors, including loss of genetic diversity, small size and isolation of sites, indiscriminate use of herbicides such that it reduces or eliminates nectar sources, climate conditions such as drought, direct mortality from fire and other management activities or natural occurrences, direct or indirect mortality from indiscriminate use of pesticides, and other unknown stressors.

- Existing regulatory mechanisms are inadequate to mitigate these threats to both species.

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. We also considered all other comments and information received during the comment period.

Previous Federal Action

Please refer to the proposed listing rule for the Dakota skipper and Poweshiek skipperling (78 FR 63574; October 24, 2013) for a detailed description of previous Federal actions concerning this species.

Background

Please refer to the proposed listing rule for the Dakota skipper and the Poweshiek skipperling (78 FR 63574; October 24, 2013) for a summary of species information.

Status Assessments for Dakota Skipper and Poweshiek Skipperling Dakota Skipper

Species Description

The Dakota skipper (*Hesperia dacotae*) is a member of the skipper family Hesperiidae and was first described in 1911 from collections taken at Volga, South Dakota, and Grinnell, Iowa (Skinner 1911 in Royer and Marrone 1992a, p. 1). The family Hesperiidae comprises seven subfamilies worldwide, four of which occur in North America, north of Mexico (Brower and Warren at *http://tolweb.org/Hesperiidae*). There are 21 recognized species in the genus Hesperia (ibid). Dakota skipper is the accepted common name for *H. dacotae.*

The Dakota skipper is a small to medium-sized butterfly with a wingspan of 2.4–3.2 centimeters (cm) (0.9–1.3 inches (in)) and hooked antennae (Royer and Marrone 1992a, p. 3). Like other Hesperiidae species, Dakota skippers have a faster and more powerful flight than most butterflies because of a thick, well-muscled thorax (Scott 1986, p. 415).

Adult Dakota skippers have variable markings. The dorsal surface of adult male wings ranges in color from tawny-orange to brown and has a prominent mark on the forewing; the ventral surface is dusty yellow-orange (Royer and Marrone 1992a, p. 3). The dorsal surface of adult females is darker brown with diffused tawny orange spots and a few diffused white spots restricted to the margin of the forewing; the ventral surfaces are dusty gray-brown with a faint white spotband across the middle of the wing (Royer and Marrone 1992a, p. 3). Adult Dakota skippers may be confused with the Ottoe skipper (*H. ottoe*), which is somewhat larger with slightly longer wings (Royer and Marrone 1992a, p. 3). Dakota skipper pupae are reddish-brown, and the larvae are light brown with a black collar and dark brown head (McCabe 1981, p. 181).

General Life History

Dakota skippers are univoltine (having a single flight per year), with an adult flight period that may occur from the middle of June through the end of July (McCabe 1979, p. 6; McCabe 1981, p. 180; Dana 1991, p. 1; Royer and Marrone 1992a, p. 26; Skadsen 1997, p. 3; Swengel and Swengel 1999, p. 282). The actual flight period varies somewhat across the range of each species and can also vary significantly from year to year (*e.g.,* Rigney 2013a, p. 138), depending on temperature patterns (Bink and Bik 2009, Koda and Nakamura 2012). Females emerge slightly later than males (Dana 1991, p. 15, Rigney 2013a, p. 138), and the observed sex ratio of Dakota skippers was roughly equal during peak flight periods (Dana 1991, p. 15; Swengel and Swengel 1999, pp. 274, 283).

The Dakota skipper flight period in a locality lasts 2 to 4 weeks, and mating occurs throughout this period (Braker 1985, p. 46; McCabe and Post 1977, pp. 36–38; McCabe 1979, p. 6; McCabe 1981, p. 180; Dana 1991, p. 15; Swengel and Swengel 1999, p. 282; Rigney 2013a, p. 138). Adult male Dakota skippers exhibit perching behavior (perch on tall plants to search for females), but occasionally appear to patrol in search of mating opportunities (Royer and Marrone 1992a, p. 25).

Dakota skippers lay eggs on broadleaf plants (McCabe 1981, p. 180) and grasses (Dana 1991, p. 17), although larvae feed only on grasses. Potential lifetime fecundity is between 180 and 250 eggs per female Dakota skipper; realized fecundity depends upon longevity (Dana 1991, p. 26). Female Dakota skippers lay eggs daily in diminishing numbers as they age (Dana 1991, pp. 25–26). Dana (1991, p. 32) estimated the potential adult life span of Dakota skipper to be 3 weeks and the average life span (or residence on site before death or emigration) to be 3 to 10 days on one Minnesota prairie.

Dakota skippers overwinter as larvae and complete one generation per year. Dakota skipper eggs hatch after incubating for 7–20 days; therefore, hatching is likely completed before the end of July. Recent research at the Minnesota Zoo demonstrated that, under controlled conditions in the laboratory, Dakota skippers eggs hatched after 11 to 16 days, and the majority of the caterpillars hatched on the 13th and 14th days (Runquist 2014, pers. comm.). After hatching, Dakota skipper larvae crawl to the bases of grass plants where they form shelters at or below the ground surface with silk, fastened together with plant tissue (Dana 1991, p. 16). They construct 2–3 successively larger shelters as they grow (Dana 1991, p. 16). The larvae emerge from their shelters at night to forage (McCabe 1979, p. 6; McCabe 1981, p. 181; Royer and Marrone 1992a, p. 25) and appear to clip blades of grass and bring them back to their shelters to consume (Dana 2012a, pers. comm.).

Dakota skippers have six or seven larval stages (instars) (Dana 1991, pp. 14–15) and overwinter (diapause) in ground-level or subsurface shelters during either the fourth or fifth instar (McCabe 1979, p. 6; McCabe 1981, pp. 180, 189; Dana 1991, p. 15; Royer and Marrone 1992a, pp. 25–26). In the spring, larvae resume feeding and undergo two additional molts before they pupate. During the last two instars, larvae shift from buried shelters to horizontal shelters at the soil surface (Dana 1991, p. 16).

Food and Water

Nectar and water sources for adult Dakota skippers vary regionally and include purple coneflower (*Echinacea angustifolia*), blanketflower (*Gaillardia aristata*), black-eyed Susan (*Rudbeckia hirta*), purple locoweed (*Oxytropis lambertii*), bluebell bellflower (*Campanula rotundifolia*), prairie milkvetch (*Astragalus adsurgens*) *(syn. A. laxmannii),* and yellow sundrops (*Calylophus serrulatus*) (Dana 1991; McCabe and Post 1977, pp. 36–38; Royer and Marrone 1992a, p. 21; Rigney 2013a, p. 142). Plant species likely vary in their value as nectar sources due to the amount of nectar available during the adult flight period (Dana 1991, p. 48). Nectar source preferences are typically indicated as the relative proportion of plants selected for nectaring among all the available species in a particular area. Swengel and Swengel (1999, pp. 280–281) observed nectaring at 25 plant species, however, most of the nectaring was at purple coneflower and blanketflower. Dana (1991, p. 21) reported the use of 25 nectar species in Minnesota with purple coneflower most frequented; McCabe (1979, p. 42; McCabe 1981, p. 187) observed Dakota skippers using eight nectar plants. Dakota skippers in Manitoba were recently observed nectaring on 12 species of plants, primarily black-eyed Susan, but also including 6 species that were previously unrecorded as nectar flowers: White sweetclover (*Melilotus alba*), purple prairie clover (*Petalostemon purpureus*), yellow evening-primrose (*Oenothera biennis*), palespike lobelia (*Lobelia spicata*), fiddleleaf hawksbeard (*Crepis runcinata*), and upland white aster (*Solidago ptarmicoides*) (Rigney 2013a, pp. 4, 57). In addition to nutrition, the nectar of flowering forbs provides water for Dakota skipper, which is necessary to avoid desiccation during flight activity (Dana 1991, p. 47; Dana 2013, pers. comm.). Some plant species listed in some studies as nectar flowers are likely used for perching and patrolling rather than as nectar sources.

The flight of the adult female typically extends beyond that of males (Dana 2014, pers. comm.; Dana 1991, pp. 1,15; Rigney 2013a, p. 138); therefore the two sexes can visit the same nectar plant species at different rates (*e.g.,* if the flowering period is more coincident with either the male or the female flight period). For example, Dana (1991, p. 21) observed a greater number of males than females visiting purple locoweed—this plant is already past its flowering peak at the beginning of the male flight and nearly finished flowering by the peak female flight (Dana 2014, pers. comm.).

Dakota skipper larvae feed on several native grass species; little bluestem (*Schizachyrium scoparium*) is a frequent food source of the larvae (Dana 1991, p. 17; Royer and Marrone 1992a, p. 25), although they have been found on *Dichanthelium spp.,* and other native grasses (Royer and Marrone 1992a, p. 25). When presented with no other choice, Dakota skipper larvae may feed on a variety of native and nonnative grasses (*e.g.,* Kentucky bluegrass (*Poa pratensis*)) at least until diapause (Dana 1991, p. 17). The timing of growth and development of grasses relative to the larval period of Dakota skippers are likely important in determining the suitability of grass species as larval host plants. Large leaf blades, leaf hairs, and the distance from larval ground shelters to palatable leaf parts preclude the value of big bluestem and Indian grass as larval food plants, particularly at younger larval stages (Dana 1991, p. 46). In captivity, Dakota skipper larvae ate big bluestem (*Andropogon gerardii*), at older larval stages, and prairie dropseed (*Sporobolus heterolepis*) (Runquist 2014, pers. comm.). Captive larvae also fed on smooth brome (*Bromus inermis*) (Dana 1991, p 17), but this was not tested in a natural setting and the structural features of this grass would hinder or prevent larval survival (Dana 2013, pers. comm.). The tight empirical correlation between occurrence of Dakota skippers and the dominance of native grasses in the habitat, indicates that population persistence requires native grasses for survival (Dana 2013, pers. comm.).

Dispersal

Dakota skipper are not known to disperse widely; the species was evaluated among 291 butterfly species in Canada as having relatively low mobility. Experts estimated Dakota skipper to have a mean mobility of 3.5 (standard deviation = 0.7) on a scale of 0 (sedentary) to 10 (highly mobile) (Burke *et al.* 2011, p. 2279; Fitzsimmons 2012, pers. comm.). Dakota skippers may be incapable of moving greater than 1 kilometer (km) (0.6 miles (mi)) between patches of prairie habitat separated by structurally similar habitats (*e.g.,* crop fields, grass-dominated fields or pasture, but not necessarily native prairie) (Cochrane and Delphey 2002, p. 6). Royer and Marrone (1992a, p. 25) concluded that Dakota skippers are not inclined to disperse, although they did not describe individual ranges or dispersal distances. McCabe (1979, p. 9; 1981, p. 186) found that concentrated activity areas for Dakota skippers shift annually in response to local nectar sources and disturbance.

In a mark–recapture study, average adult movements of Dakota skipper were less than 300 meters (m) (984 feet (ft)) over 3–7 days; marked adults crossed less than 200 m (656 ft) of unsuitable habitat between two prairie patches and moved along ridges more frequently than across valleys (Dana 1991, pp. 38–40). Dana (1997, p. 5) later observed reduced movement rates across a small valley dominated by exotic grasses compared with movements in adjacent widespread prairie habitat. Roads and crop fields were suspected as impediments for movement among prairie patches along two sites of the main valley (Dana 1997, p. 5), although movements beyond the study area were beyond the scope of the 1997 mark–recapture study (Dana 2013, pers. comm.). Skadsen (1999, p. 2) reported possible movement of Dakota skippers in 1998 from a known population at least 800 m (2625 ft) away to a site with an unusually heavy growth of purple coneflower; he had not found Dakota skippers in three previous years when coneflower production was sparse. The two sites were connected by native vegetation of varying quality, interspersed by a few asphalt and gravel roads (Skadsen 2001, pers. comm.).

In summary, the best information we have suggests that dispersal of Dakota skipper is very limited due in part to its short adult life span and single annual flight. Therefore, the species' extirpation from a site is likely permanent unless it is within about 1 km (0.6 mi) of a site that generates a sufficient number of emigrants or is artificially reintroduced to a site; however, the capability to propagate the Dakota skipper is currently lacking.

Habitat

Dakota skippers are obligate residents of undisturbed (remnant, untilled) high-quality prairie, ranging from wet-mesic tallgrass prairie to dry-mesic mixed-grass prairie (Royer and Marrone 1992a, pp. 8, 21). High-quality prairie contains a high diversity of native plant species, including flowering herbaceous plants (forbs). Royer and Marrone (1992a, p. 21) categorized Dakota skipper habitat into two main types that were once intermixed on a landscape scale, but are now mostly segregated. The first, referred to as ''Type A'' by Royer *et al.* (2008, pp. 14–16), is low wet-mesic prairie that occurs on near-shore glacial lake deposits. Type A Dakota skipper habitat is dominated by bluestem grasses, with three other plant species almost always present and blooming during Dakota skipper's flight period: Wood lily (*Lilium philadelphicum*), bluebell bellflower, and mountain deathcamas (smooth camas; *Zigadenus elegans*) (McCabe 1981, p. 190). This habitat type has a high water table and is subject to intermittent flooding in the spring, but provides ''sufficient relief to provide segments of non-inundated habitat during the spring larval growth period within any single season'' (Royer *et al.* 2008, p. 15). Common forbs in bloom during the late season in Type A habitat include Rocky Mountain blazing star (*Liatris ligulistylis*), Canada goldenrod (*Solidago canadensis*), strict blue-eyed grass (*Sisyrinchium montanum*), common goldstar (*Hypoxis hirsuta*), and black-eyed Susan (Lenz 1999, p. 6). Type A habitats also contain small patches of dry-mesic prairie inhabited by Dakota skippers. Common forb species in these dry-mesic areas include stiff sunflower (*Helianthus pauciflorus Nutt. ssp. pauciflorus*) and candle anenome (*Anemone cylindrica*), although purple coneflower was rare in these habitats (Lenz 1999, pp. 6–11). Dakota skipper inhabits Type A habitat in north-central North Dakota, southeast North Dakota, and Manitoba.

The second Dakota skipper habitat type, referred to as ''Type B'' by Royer *et al.* (2008, p. 14), occurs on rolling terrain over gravelly glacial moraine deposits and is dominated by bluestems and needle grasses (*Heterostipa spp.*). As with Type A habitat, bluebell bellflower and wood lily are also present in Type B habitats, but Type B habitats also support more extensive stands of purple coneflower, upright prairie coneflower, and common gaillardia (Royer and Marrone 1992a, p. 22). Both Type A and Type B prairies may contain slightly depressional (low topographical areas that allow for the collection of surface water) wetlands with extensive flat areas and slightly convex hummocks, which are dryer than the wet areas (Lenz 1999, pp. 4, 8).

In northeastern South Dakota, Dakota skippers inhabit primarily Type B habitats with abundant purple coneflower, but they also occur in nearby Type A habitats in some areas (Skadsen 1997, p. 4). All Type A habitats occupied by Dakota skipper in South Dakota are near hill-prairie (Type B) habitats that are managed with fall haying (Skadsen 2006b, p. 2).

Little bluestem and porcupine grass (*Hesperostipa spartea*) are the predominant grass species in Dakota skipper habitat in South Dakota (Skadsen 2006b, p. 2). Dry-mesic prairies suitable for Dakota skippers in South Dakota typically include little bluestem, side oats grama, porcupine grass, needle-and-thread grass (*Hesperostipa comata*), and prairie dropseed, and a high diversity and abundance of forbs, including purple coneflower, purple prairie clover, white prairie clover, yellow sundrops, prairie groundsel (*Packera plattensis*), prairie milkvetch, eastern pasqueflower (*Pulsatilla patens*), old man's whiskers (prairie smoke, *Geum triflorum*), western silver aster (*Symphyotrichum sericeum*), dotted blazing star (*Liatris punctata*), tall blazing star (*L. asper*), meadow zizia (*Zizia aptera*), blanket flower, prairie sagewort (*Artemisia frigida*), and leadplant (*Amorpha canescens*) (Skadsen 2006b, pp. 1–2). Purple coneflower occurs at all sites where the Dakota skipper has been recorded in South Dakota, although it is absent at some sites where Dakota skipper is abundant in other States (Skadsen 2006b, p. 2).

In Minnesota, Dakota skippers often inhabit Type B habitats, however, the species has been documented in Type A habitats, particularly in Kittson and Stearns counties. Dana (1997, p. 8) described typical habitat in Minnesota as dry-mesic prairie dominated by mid-height grasses with an abundance of nectar sources including purple coneflower and prairie milkvetch (*Astragalus laxmannii Jacq. var. robustior*). Southern dry prairies in Minnesota are described as having sparse shrub cover (less than 5 percent) composed primarily of leadplant, with prairie rose (*Rosa arkansana*), wormwood sage, or smooth sumac (*Rhus glabra*) present and few, if any, trees (Minnesota DNR 2012a). Dana (1991, p. 21) never encountered Dakota

skippers in wet or wet-mesic prairies in Minnesota, despite abundance of suitable plants and the frequent use of these habitats by similar skipper species. In systematic surveys at 12 Minnesota sites, Swengel and Swengel (1999, pp. 278–279) found that Dakota skippers were significantly more abundant on dry prairie than on either wet-mesic prairie.

In Manitoba, Dakota skipper habitat has been described as Type A prairies, where the species tends to occupy the slightly higher, drier areas of wet-mesic prairie where nectar sources are more abundant (Webster 2003, p. 7). Recent studies classify Dakota Skipper sites in Manitoba as tallgrass or medium to tallgrass prairies that have been subject to minimal disturbance, generally consisting of higher, dryer prairies adjacent to lower areas with sedges (Rigney 2013a, p. 155). Inhabited areas are dominated by native grasses and sites are generally characterized as having the following plant species: Big bluestem, little bluestem (*Schizachyrium scoparius*), tufted hair grass (*Deschampsia caespitosa*), switchgrass (*Panicum virgatum*), Cusick's bluegrass (*Poa cusickii*), porcupine grass, common spikerush (*Eleocharis palustris*), wood lily (*Lilim philadelphicum*), wild onion (*Allium stellatum*), mountain death camas (*Zygadenus elegans*), death camas (*Zygadenus gramineus*), common gold star (*Hypoxis hirsute*), wild prairie rose, American licorice (*Glycyrrhiza lepidota*), white prairie clover (*Petalostemon candidum*), purple prairie clover, Seneca snake root (*Polygala senega*), meadow zizia, northern bedstraw (*Galium boreale*), harebell, palespike lobelia, common yarrow (*Achillea millefolium*), pale agoseris (*Agoseris glauca*), heath aster (*Aster ericodes*) or white prairie aster (*A. falcatus*), smooth aster (*Aster laevis*), Flodman's thistle (*Cirsium flodmanii*), fiddle leaf hawksbeard, eastern daisy fleabane (*Erigeron annuus*), Maximilian sunflower (*Helianthus maximilianii*), Nuttall's sunflower (*Helianthus nuttallii*), meadow blazing star, black-eyed Susan, upland white aster, and stiff goldenrod (*Solidago rigida*) (Rigney 2013a, pp. 155–156).

Occupied habitats in Saskatchewan are similar to the drier upland dry-mesic mixed-grass prairie hillside habitats in Manitoba, which is dominated by bluestems and needlegrass. The Dakota skipper was most common on ridgetops and hillsides near purple coneflower (Webster 2003, p. 8).

In North Dakota, an association of bluestems (*Schizachyrium scoparium, Andropogon gerardii*) and needlegrasses, typically invaded by Kentucky bluegrass, typifies dry-mesic Dakota skipper habitat in the rolling terrain of river valleys and the Missouri Coteau (Royer and Marrone 1992a, p. 22). These prairies, located on the western edge of the species' known range, typically contain wood lily, bluebell bellflower, coneflowers, and other asters as nectar sources; in some areas, mountain deathcamas also occurs (Royer and Marrone 1992a, p. 22). The location of larval food plants rarely seems to affect Dakota skipper distribution within habitats because these warm-season grasses are usually dominant and evenly dispersed (Swengel 1994, p. 6), although invasion by smooth brome grass and other invasive species may displace or extirpate native larval food plants (Culliney 2005, p. 134; Bahm *et al.* 2011, p. 240; LaBar and Schultz 2012, p. 177).

Two key factors, soils unsuitable for agriculture and steep topography, have allowed remnant native-prairie habitats inhabited by Dakota skippers to persist (Royer and Marrone 1992a, p. 22). McCabe (1979, pp. 17–18; 1981, p. 192) and Royer *et al.* (2008, p. 16) have linked the historical distribution of Dakota skippers to surface geological features and soils that are glacial in origin and, possibly, regional precipitation-evaporation ratios (ratio of evaporation occurring naturally in one location over a given area compared to the amount of precipitation, such as rain and snow, falling over the same area). Soil types typical of Dakota skipper sites were described as sandy loams, loamy sand, or loams (Lord 1988 in Royer *et al.* 2008, pp. 3, 10). Additional edaphic (soil) features, such as soil moisture, compaction, surface temperature, pH, and humidity, may be contributing factors in larval survival and, thus, important limiting factors for Dakota skipper populations (Royer *et al.* 2008, p. 2). For example, edaphic parameters measured in sites throughout the range of Dakota skipper and occupied by the species included a bulk density (an indicator of soil compaction) that ranged from 0.9g/cm^3 to 1.3 g/cm^3 and mean soil pH that ranged from 6.3 to 6.7 with high micro-scale variation (variation on a small scale) (Royer *et al.* 2008, p. 10). Soil texture ranged from 4 to 12 percent clay, 53 to 74 percent sand, and 14 to 39 percent silt (Royer *et al.* 2008, p. 12). Seasonal soil temperatures, measured at three depths (20, 40, and 60 cm (8, 16, and 24 in)) were the same at all depths within a site; occupied Minnesota sites generally had higher soil temperatures at all depths than occupied sites in North Dakota or South Dakota (Royer *et al.* 2008, p. 11). Royer did not measure these parameters in unoccupied sites.

Rigney (2013a, pp. 108–109) measured edaphic features at 8 sites in Manitoba occupied by the species and broadly characterized the soil compaction (at 10 cm) as 570 to 990 kPA, bulk density ranging from 0.75 to 1.30 kg/L, mean soil surface air temperature at 18 °C during Julian weeks 28–39 (continuous count of weeks since the beginning of the calendar year), and mean relative humidity at 85 percent during the same time period. Soils were classified as clay loams and sandy loams, with generally low to moderate compaction (<1375 kPA) and bulk densities, which is indicative of little or no compacting forces from cattle grazing, tilling, or agricultural vehicles (Rigney 2013a, pp. 104, 119).

Royer (2008, pp. 2, 16) hypothesized that Dakota skipper larvae are particularly vulnerable to desiccation (drying out) during dry summer months and require ''vertical water distribution'' (movement of shallow groundwater to the soil surface) in the soils or wet low areas to provide relief from high summer temperatures. Humidity may also be essential for larval survival during winter months since the larvae cannot take in water during that time and depend on humid air to minimize water loss through respiration (Dana 2013, pers. comm.). Royer (2008, pp. 14–15) measured microclimalogical levels (climate in a small space, such as at or near the soil surface) within ''primary larval nesting zones'' (0 to 2 cm (0 to 0.8 inches) above the soil surface) throughout the range of Dakota skippers, and found an acceptable rangewide seasonal (summer) mean temperature range of 18 to 21 °C (64 to 70 °F), rangewide seasonal mean dew point ranging from 14 to 17 °C (57 to 63 °F), and rangewide seasonal mean relative humidity between 73 and 85 percent. Royer (2008) only examined occupied areas for these parameters; therefore, the statistical and biological significance of these edaphic variables cannot be determined from his study.

Species Occupancy

We generally consider the Dakota skipper or Poweshiek skipperling to be ''present'' at sites where the species was detected during the most recent survey, if the survey was conducted in 2002 or more recently and there is no evidence to suggest the species is now extirpated from the site (*e.g.,* no destruction or obvious and significant degradation of the species' habitat), with the exception

of the following four sites. We consider the species to be present at one Poweshiek skipperling site in Michigan where the species was observed at the site in 1996, and no further surveys have been conducted. This site, however, still has suitable habitat for the species according to species experts in the State and at least one other species of prairie-fen-dependent butterfly is present (Hosler 2013, pers. comm.). Therefore, the Poweshiek skipperling is most likely still present at this site. We also consider the Dakota skipper to be present at one site (Chanarambie Creek in Minnesota) where the most recent survey was from 1994. At this site, no evidence suggests the species is not still present because, based on a species-expert review of the site, the habitat and management is still conducive to the species (Dana 2013, pers. comm.). Additional sites where we consider Dakota skipper to be present include two sites in Minnesota with 1996 records (Bluestem Prairie and Buffalo River State Park). Although no survey for the species has taken place at Bluestem Prairie since 1996, a 2012 assessment of the habitat at the site indicates that this site is a high-quality prairie that contains the native prairie flora conducive to the Dakota skipper (Selby 2012, p. 9). The site at Buffalo River State park, which adjoins Bluestem Prairie, has not been surveyed since 1996, but recent habitat assessments show that it still contains prairie habitats with the native prairie flora conducive to the species (MN DNR 2013, unpubl.). Furthermore, the species expert in Minnesota supports that the species is most likely still present at these sites.

We assigned a status of ''unknown'' if the species was found in 1993 or more recently, but not in the most recent one to two sequential survey year(s) since 1993 and there is no evidence to suggest the species is now extirpated from the site (*e.g.,* no destruction or obvious and significant degradation of the species' habitat). We considered a species to be ''possibly extirpated'' at sites where it was detected at least once prior to 1993, but not in the most recent one to two sequential survey years(s). A species is also considered ''possibly extirpated'' at sites where it was found prior to 1993 and no surveys have been conducted in 1993 or more recently. At least three sequential years of negative surveys, no matter what years they were conducted, were necessary for us to consider the species ''extirpated'' from a site, because of the difficulty of detecting these species, as explained further in this section. A species is also considered ''extirpated'' at sites where habitat for the species is no longer present. If the species is considered to be extirpated from a site, the occupancy status would not change unless the species is detected at that location during future surveys.

When determining whether the species occupancy is unknown, possibly extirpated, or extirpated at a particular site, we used the survey year 1993 as a cut-off date, because most known sites (more than 81 percent of known Poweshiek skipperling sites and more than 86 percent of known Dakota skipper sites) have been surveyed at least once since 1993, and survey data more than 20 years old may not reflect the current status of a species or its habitat at a site (for example, due to habitat loss from secondary succession of woody vegetation or a change in plant communities due to invasive species). Although it cannot be presumed that the species is absent at sites not surveyed since 1993, the likelihood of occupancy of these sites should be considered differently than sites with more recent survey data (*e.g.,* due to woody vegetation succession over time). When analyzing survey results, we disregarded negative surveys conducted outside of the species' flight period (outside of June or July) or under unsuitable conditions (*e.g.,* high wind speeds over approximately 16 miles-per-hour). We accepted survey data from those surveyors with whom we were confident in their ability to identify the species in the field.

After we applied these standards to initially ascertain the status of the species, we asked species experts and Service personnel to help verify, modify, or correct species' occupancy at each site (particularly for sites with questionable habitat quality or those that have not been surveyed recently). In most cases, we used the status confirmed during expert review, unless we received additional information (*e.g.,* additional survey or habitat data provided after the expert reviews) that suggests a different status at a particular site.

Timing of surveys is based on initial field checks of nectar plant blooms and sightings of butterfly species with synchronous emergence (sightings of butterfly species that emerge at the same time as Dakota skipper and Poweshiek skipperling), and, more recently, emergence estimated by a degree-day emergence model using high and low daily temperature data from weather stations near the survey sites (Selby, undated, unpublished dissertation). Surveys are conducted during flight periods when the species' abundance is expected to be at levels at which the species can be detected. However, as with many rare species, detection probabilities are imperfect and some uncertainty remains between non-detection and true absence (Gross *et al.* 2007, pp. 192, 197–198; Pellet 2008, pp. 155–156). Three sequential years of negative surveys is sufficient to capture variable detection probabilities, since each survey year typically encompasses more than one visit (*e.g.,* the average number of visits per Dakota skipper site per year ranges from 1 to 11), and the probability of false absence after 5–6 visits drops below 5 percent for studied butterfly species with varying average detection probabilities (Pellet 2008, p. 159). Therefore, the site is considered ''extirpated'' if there are three sequential years of negative surveys (preferably, each year has more than one survey date).

It cannot be presumed that the species is not persisting at a site only because there have not been recent surveys. At several sites, the species has persisted for longer than 20 years; for example, Dakota skipper was first recorded at Scarlet Fawn Prairie in South Dakota in 1985 and has had positive detections (the species was detected during a survey) every survey since that date. The most recent detection was in 2013. The year 1993 was chosen based on habitat-related inferences, specifically, the estimated time for prairie habitat to degrade to non-habitat due to woody encroachment and invasive species. For example, native prairies with previous light-grazing management that were subsequently left idle transitioned from mixed grass to a mix of woody vegetation and mixed grass in 13 years and it was predicted that these idle prairies would be completely lost due to woody succession in a 30-year timeframe (Penfound 1964, pp. 260–261). The time for succession of idle prairie depends on numerous factors, such as the size of the site, edge effects (the changes that occur on the boundary of two habitat types), and the plant composition of adjacent areas.

This approach is the most objective way to evaluate the data range-wide. Most sites have been surveyed over multiple years, although the frequency and type of surveys varied among sites and years. Surveys were conducted using various protocols (*e.g.,* Pollard walks (Pollard 1975), modified Pollard walks, wandering transects, timed transects) depending on the objective of the survey, funding or available resources, and staff. In several cases, species experts provided input on occupancy based on their familiarity

with the habitat quality and stressors to populations at particular sites.

To summarize, there are few sites with relatively older data where we consider the species to still be present. In general, most Poweshiek skipperling sites with a present status have had a positive detection in 2008, or more recently with a few exceptions. At one Poweshiek skipperling site, the species was observed at the site in 1996, and no further surveys have been conducted. The remaining Poweshiek skipperling sites where the species is considered present have had detections in 2013, except four sites where the species was detected in 2008, 2010, 2011, or 2012, and no further surveys have occurred. Likewise, in general, most Dakota skipper sites with a present status have had a positive detection in 2002, or more recently, with a few exceptions. At four Dakota skipper sites we consider the species to be present with the most recent record from 2001 or earlier including one site where the most recent survey was from 1994, and two sites with 1996 records. No evidence suggests that the species is not still present at these sites because the best information indicates that the site's habitat is still conducive to the butterfly, and, therefore, the species may still be present there. We also consider Dakota skipper to be present at the following sites: 17 sites in Canada that were surveyed most recently in 2002; 1 additional site with a 2002 detection of the species and a favorable habitat assessment in 2012; 1 site with a 2003 detection; 1 site with a 2005 detection; 1 site with a 2006 detection; 19 sites in Canada that were surveyed most recently in 2007; 2 additional sites with a 2007 detection; 1 site with a positive detection in 2008; 3 sites with a positive detection in 2009; 23 sites with positive detections in 2012; and 10 sites with positive detections in 2013.

Population Distribution and Occupancy Status

Once found in native prairies in five States and two Canadian provinces, the Dakota skipper and its habitat have undergone dramatic declines; the species is now limited to native prairie remnants in three States and two Canadian provinces. The Dakota skipper is presumed extirpated from Illinois and Iowa and no longer found in eastern Minnesota. Populations persist in a few locations in western Minnesota, northeastern South Dakota, North Dakota, southern Manitoba, and southeastern Saskatchewan. Royer and Marrone (1992a, p. 5) speculated that Dakota skippers may also occur in far eastern Montana and southeastern Saskatchewan, in habitats similar to those occupied by the species in northwestern North Dakota. The Dakota skipper was subsequently found in Saskatchewan in 2001 after 40 years of searching (Hooper 2002, pers. comm.), but no actual records have been found in Montana and Royer (2002, pers. comm.) no longer thinks that the species ever occured in Montana.

From its earliest identification, the Dakota skipper was considered rare (Royer and Marrone 1992a, p. 1), although considerable destruction of its habitat likely occurred even before the species was first described in 1911. Habitat destruction and degradation has greatly fragmented Dakota skipper's range from its core through its northern and western fringes (McCabe 1981, p. 179; Royer and Marrone 1992a, p. 28; Schlicht and Saunders 1994, p. 1; Royer 1997, p. 2; Schlicht 1997a, p. 2; Schlicht 1997b, p. 2; Skadsen 1997, pp. 25–26; Skadsen 1999c, p. 15; Swengel and Swengel 1999, p. 267). The historical distribution of Dakota skippers may never be precisely known because ''much of tallgrass prairie was extirpated prior to extensive ecological study'' (Steinauer and Collins 1994, p. 42), such as butterfly surveys. Destruction of tallgrass and mixed-grass prairie began in 1830 (Samson and Knopf 1994, p. 418), but significant documentation of the ecosystem's butterfly fauna did not begin until about 1960. Therefore, most of the species' decline probably went unrecorded. Based on records of vouchered specimens, however, we know that Dakota skipper range has contracted northward out of Illinois and Iowa. The species was last recorded in Illinois in 1888 (McCabe 1981, p. 191) and in Iowa in 1992 (Orwig and Schlicht 1999, p. 6). Britten and Glasford's (2002, pp. 363, 372) genetic analyses support the presumption that this species formerly had a relatively continuous distribution; the small genetic divergence (genetic distance) among seven sites in Minnesota and South Dakota indicate that populations there were once connected. Dakota skipper dispersal is very limited due in part to its short adult life span and single annual flight. Therefore, the species' extirpation from a site is likely permanent unless it is within about 1 km (0.62 mi) of a site that generates a sufficient number of emigrants or is artificially reintroduced to a site.

The Dakota skipper's range once comprised native prairie in five States and Canada, extending from Illinois to Saskatchewan; it now occurs only in native prairie remnants in portions of three States and two Canadian provinces. Of the 264 historically documented sites, there are 83 sites where we consider the Dakota skipper to be present, 88 sites with unknown status, 41 possibly extirpated sites, and 52 that are considered extirpated (Table 1). Approximately 47 percent (39 of 83) of the sites where the species is considered to be present are located in Canada, mostly within three isolated complexes, and were observed in 2002, or in 2007 with no subsequent surveys. Four additional locations where we consider the species to be present in Manitoba had positive detections of the species as recently as 2012 (Rigney 2013a, p. 117). The remaining 42 sites where the species is considered to be present are about equally distributed among Minnesota (11 sites), North Dakota (16 sites), and South Dakota (14 sites). Researchers made positive detections of the species in 10 of these sites in 2013. The species was observed at 19 of these sites in 2012. Other U.S. sites with a present status with relatively older positive detections and no subsequent surveys for the species include one site with a positive detection in 1994, two sites with positive detections in 1996, one site with a positive detection in 2002, one site with a positive detection in 2005, one site with a positive detection in 2006, two sites with a positive detection in 2007, one site with a positive detection in 2008, and three sites with a positive detection in 2009. At several of these sites, the habitat has been assessed more recently than they were surveyed for the species. The distribution and status of Dakota skipper in each State of known historical or extant occurrence are described in detail below.

TABLE 1—NUMBER OF HISTORICALLY DOCUMENTED DAKOTA SKIPPER SITES WITHIN EACH STATE AND THE NUMBER OF SITES WHERE THE SPECIES IS THOUGHT TO BE PRESENT, UNKNOWN, POSSIBLY EXTIRPATED, OR EXTIRPATED

State	State's percentage of the total number of historical sites	Present	Unknown	Possibly extirpated	Extirpated	Total
Illinois	0.4				1	1
Iowa	1.1				3	3
Minnesota	26.1	11	28	18	12	69
North Dakota	20.5	16	14	11	13	54
South Dakota	32.6	14	45	10	17	86
Manitoba	14.0	28	1	2	6	37
Saskatchewan	5.3	14	0	0	0	14
Total Number of Historically Documented Sites		83	88	41	52	264
Percent of the Total Number of Historical Sites by Occupancy		32	33	15	20	

Illinois

Dakota skippers are considered to be extirpated from Illinois. The species was last recorded near Chicago in 1888 (McCabe 1981, p. 191).

Iowa

There are three historical records of Dakota skippers in three counties in Iowa (Dickinson, Poweshiek, and Woodbury), but the species is presumed extirpated from the State (Schlicht and Orwig 1998, pp. 84–85; Selby 2004a, pp. 1, 5; Selby 2012, pers. comm.; Nekola and Schlicht 2007, p. 9). The species was last seen at Cayler Prairie (Dickinson County) in 1992, but surveys of this site in 2000, 2004, 2005, and 2007 were negative, so we presume it to be extirpated from that site (Schlicht and Orwig 1998, p. 85; Selby 2004a, p. 5; Selby 2006a, p. 5; Selby 2008, p. 6). The species was not observed at eight sites surveyed in the period 1988–1997 (Swengel and Swengel 1999, pp. 288–289), at eight sites surveyed in 2004 (Selby 2004a, p. 5), nor during extensive surveys at 32 sites in 2007 (Selby 2008, p. 6).

Minnesota

Minnesota historically contained about 26 percent of the sites where the Dakota skipper has been recorded (Table 1) (Service 2014, unpubl. geodatabase). Since the earliest known record (1965) of the species in Minnesota, 66 sites have been recorded in the State, but recent surveys indicate that the species is declining in the State (Service 2014, unpubl. geodatabase). Of the 69 known locations of Dakota skipper in Minnesota; the species is extirpated or possibly extirpated from 30 of those sites, and the status is unknown at 28 others (Service 2014, unpubl. geodatabase). The Dakota skipper is considered to be present at 11 sites in Minnesota in 3 counties: Clay, Lincoln, and Murray, although 2 of those sites have not been surveyed since 1996, and 1 site has not been surveyed since 1994.

McCabe (1981, p. 187) observed very stable population numbers in Minnesota prairies that he visited repeatedly 1968–1979. On dry-mesic prairie in Lincoln County, Minnesota, Dana (Dana 1997, pp. 3–5) also observed stable numbers into the thousands during his intensive studies from 1978 to 1983. Schlicht (1997a, p. 13) and Reiser (1997, p. 16) reported more variable numbers on the same sites in 1995–1996, and based on these more recent observations, Dana (1997, pp. 3–5) suggested that populations could experience significant size fluctuations between years. At Hole-in-the-Mountain preserve, Minnesota, Dana (1991, pp. 36–37) found peak abundance of approximately 1,000 Dakota skippers over about 40 ha (98 ac); he estimated that 2,000–3,000 individuals may have been alive at various times during the flight period and that only one-third to one-half of adults were alive simultaneously. Where they occur, these high adult densities persist for only about a week to 10 days during the single annual flight period (Selby and Glenn-Lewin 1989, pp. 24–28).

The percentage of sites surveyed each year in Minnesota with positive detections remained relatively stable from 1985 to 2005, with an average detection rate of 67 percent for all survey years with more than one site surveyed (excluding sites newly discovered in the first year it was discovered), an average of 70 percent detection rate for survey years with 5 or more sites surveyed and an average of 66 percent detection rate for survey years with 10 or more sites surveyed. One exception to the high detection rates was 1994; only 26 percent (5 of 19 sites) of sites surveyed in 1994 resulted in positive detections. Recent surveys of the species resulted in significantly lower than average positive detections. The percent of sites surveyed each year with positive detections has recently decreased from 70 percent (7 of 10 sites) in 2005, to 47 percent (8 of 17 sites) in 2007, 56 percent (10 of 18 sites) in 2008, 6 percent (1 of 16 sites) in 2012, and to 7 percent (1 of 15 sites) in 2013 (for years with greater than 10 sites surveyed, see Figure 1). Only one individual was detected in Minnesota during 2012 surveys, which included 18 sites with previous records and 23 prairie remnants without previous records for the species (Dana 2012c, pers. comm.; Runquist 2012a, pers. comm.; Olsen 2012, pers. comm.). Dakota skippers were detected at 1 site in Minnesota during 2013 surveys, which included 15 sites with previous records and 12 prairie remnants without previous records for the species (Runquist 2014, pp. 3–6; Selby 2014, pp. 2–5; Rigney 2013b, p. Appendix B; Service 2014, unpubl. geodatabase.). The cause for this sharp decline is unknown.

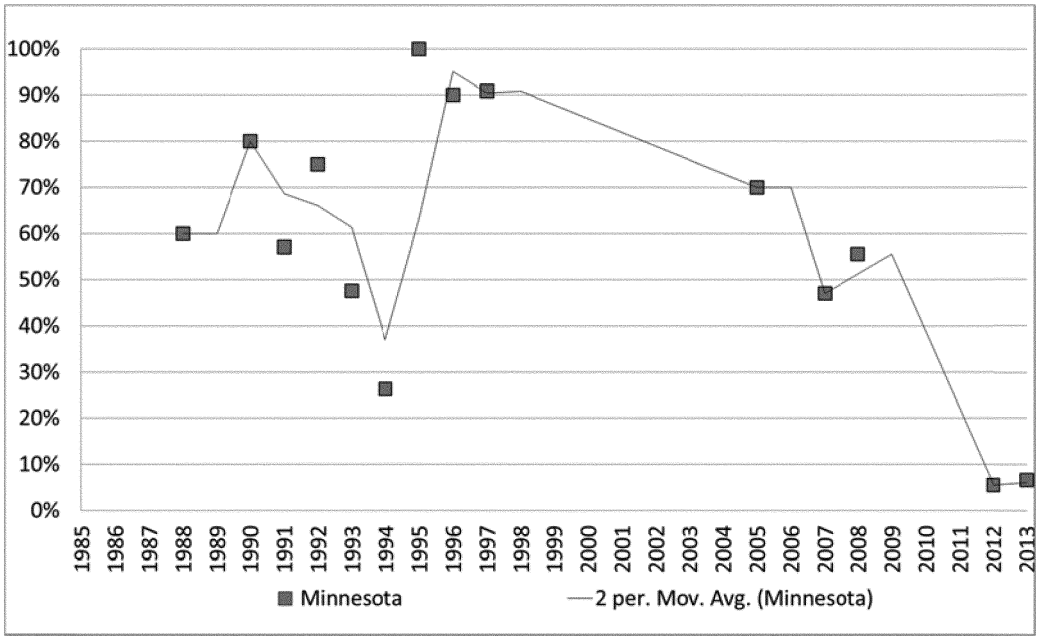

Figure 1: Percent of surveyed sites with positive detections of Dakota skipper for years with at least 5 surveys in Minnesota since 1985 with line showing the moving average over time. These data exclude new sites in the first year of discovery, as well as sites that were surveyed but where the species has never been found (null sites).

The Dakota skipper is presumed extirpated at 12 sites in Minnesota; at 7 of these sites the species has not been observed since 1984 or earlier. Four sites at which the species is now presumed to be extirpated have had fairly recent positive observations. The species was last observed at Prairie Waterfowl Production Area (WPA) in Big Stone County in 2000 (Skadsen 2000, p. 1), for example, but was not found in 2008 (Selby 2009a, p. i), 2010, and 2012 (Service 2014, unpubl. geodatabase). Dakota skippers were observed at the Glacial Lakes WPA in 2001 (Schlicht 2001b, p. 18), but the species was not observed in 2003, 2004, and 2005 (Selby 2006b, p. Appendix A xii); the species is now considered to be extirpated at that site (Service 2014, unpubl. geodatabase). The last observation of Dakota skipper at the Big Stone National Wildlife Refuge (NWR) in Lac Qui Parle County was in 2000, and it was not observed during surveys in 2009, 2011, or 2012 (Skadsen 2012a, p. 5). Dakota skippers were observed at Chippewa Prairie in 1995, but not in 1996, 2005, and 2012 (Service 2014, unpubl. geodatabase). Of the 18 sites where the species is possibly extirpated, 4 have not been surveyed since the species was last seen in 1989 or earlier. Dakota skippers at two of the sites where the species is possibly extirpated have not been observed since 1991 (Service 2014, unpubl. geodatabase). One site, with a positive detection in 1998, was ranked as ''possibly extirpated'' based on expert opinion. The remaining 11 sites had positive observations prior to 1993, were surveyed once more recently, and had a negative observation (Service 2014, unpubl. geodatabase).

The status of the Dakota skipper is unknown at 28 sites; Dakota skipper have not been observed at 14 of these sites since the mid- to late 1990s, despite one or two years of survey effort at several sites. The remaining 14 sites with unknown status have had positive observations in 2007 or more recently, but are given this designation due to one or two subsequent negative surveys. For example, Dakota skipper was documented at the Gens Prairie in Murray County and Woodstock Prairie in Pipestone County in 2007, but the species was not observed during surveys in 2008 or 2013 (Selby 2009a, p. Appendix 5 li, xxxiii and Appendix 4 xlix; Selby 2014, p. 5).

In 2007 and 2008, the Minnesota DNR carried out a broad survey effort to assess the status of Dakota skipper and other prairie butterflies in the State after experts noted significant declines in these species in west-central Minnesota beginning in 2003 (Selby 2006b, p. 30). Researchers surveyed 17 and 19 sites with previous Dakota skipper records in 2007 and 2008, respectively; Dakota skipper was found at 8 sites each year and at 1 site where it had not previously been recorded (Selby 2009a, p. 6). The surveys confirmed Dakota skipper's extirpation from one site in Cottonwood County, where it was last recorded in 1970.

A parallel study in 2007 (Dana 2008) consisted of more intensive work at a few sites thought to contain some of the State's most viable populations of Dakota skipper. Among these sites was The Nature Conservancy's Hole-in-the-Mountain preserve in Lincoln County, which was the only Minnesota population rated as secure in 2002 (Cochrane and Delphey 2002, p. 16). The 2007 surveys indicated that the site still supported a substantial population, but that it may have decreased in size since earlier studies were conducted (Dana 1991, p. 36; Dana 2008, p. 18). Dakota skippers were not detected during the 2012 or 2013 flight periods (Runquist 2012, pp. 13–14, 18–20; Runquist 2012a, pers. comm., Selby 2014, p. 5); therefore, we consider the status of the species at the Hole-in-the-Mountain preserve to be unknown.

Relatively important populations of Dakota skipper in Minnesota may still occur at the Prairie Coteau, Felton Prairie, and Glacial Lakes complexes, but the 2012 and 2013 survey results raised concern for the species' status at Prairie Coteau. The number of Dakota skippers encountered per 100 m (328 ft) of transect at Prairie Coteau State Natural Area (SNA) were 1.7 in 1990 and 1.1 in 2007 (Dana 2008, p. 19). No Dakota skippers were observed at Prairie Coteau SNA during the 2012 or 2013 flight periods (Runquist 2012, pp. 9–10); therefore, we consider the status of the species to be unknown at that site. Selby (2009b, Appendix 4, p. iv) recorded 14 Dakota skippers during a 5-hour survey in 2007 at the Felton Prairie SNA. During a 1-hour survey in 2008, nine Dakota skippers were recorded and with little indication of any substantial change since the previous year (Selby 2009b, Appendix 5, p. iv); Felton Prairie was resurveyed in 2013, and no Dakota skippers were observed (Service 2014, unpubl. geodatabase). The number of Dakota skippers recorded during recent surveys at Glacial Lakes State Park has been low despite good habitat conditions. An apparently widespread population was present as recently as 2001 when Skadsen (2001, p. 24) found Dakota skippers along almost all of 40 km (25 mi) of transect in and around the park—he recorded as many as 31 Dakota skippers along one transect (Skadsen 2001, p. 24). Selby (2009a, p. 1 and 1iv) surveyed the same areas in 2007 and 2008, describing habitat at survey sites as good to excellent, but recorded only eight Dakota skippers during about 7 hours of surveys in and around the park (Selby 2009a, p. 1 and 1iv). Glacial Lakes State Park surveys conducted in 2012 were outside of the Dakota skipper flight period (Runquist 2012a, pers. comm.), and the species was not detected in 2013 (Selby 2014, p. 5).

In summary, the Dakota skipper is now considered to be extirpated or possibly extirpated from at least 30 of the 69 sites in Minnesota, which historically contained approximately 26 percent of all known historical Dakota skipper locations rangewide (Table 1). The species is considered to be present and unknown at 12 and 27 sites, respectively. However, only one individual male was detected in the State during 2012 surveys, which included 18 sites with previous records; 2012 surveys for undiscovered populations were also carried out on 23 prairie remnants without previous records for the species. Only 6 individual Dakota skipper were observed in 2013 surveys in Minnesota, which included 15 sites with previous records; 2013 surveys for undiscovered populations were also carried out on 12 prairie remnants without previous records for the species (Service 2014, unpubl. geodatabase). Similar surveys of prairie remnants with no previous documentation of Dakota skipper were completed in Minnesota in 2007 and 2008. Based on these surveys, the likelihood that significant undiscovered Dakota skipper populations occur in Minnesota is low.

North Dakota

North Dakota historically contained approximately 21 percent of all known historical locations of Dakota skippers rangewide (Table 1); the State contained 54 historical sites distributed among 18 counties (Service 2014, unpubl. geodatabase). The Dakota skipper is currently present at 16 sites in 5 North Dakota counties, of these, 11 occur within the Towner-Karlsruhe complex in McHenry County, 1 is within the Sheyenne National Grasslands complex in Ransom County, 2 are in northern McKenzie County, and 1 site is in Wells County. Of the 16 sites where we consider the Dakota skipper to be present, 15 sites had positive observations of the species in 2012. The remaining site had positive observations in 2002. The status of the species is unknown at 14 sites; 10 of these sites have not had positive records since the mid- to late 1990s, and the other 4 sites had positive records between 2001 and 2003. The Dakota skipper is presumed extirpated from 13 sites and 4 counties, primarily due to heavy grazing, weed control, and other disturbances (*e.g.,* bulldozing at Killdeer Mountain to reduce aspen growth, Royer 1997). The species is possibly extirpated from 11 additional sites and 3 additional counties.

Researchers surveyed 25 sites, believed to possibly have Dakota skipper populations, in 2012; of these sites, 23 had previous records of the species (Royer and Royer 2012a, entire). Thirteen of the 25 surveyed sites had Dakota skipper present (Royer and Royer 2012a, pp. 3–4; Royer and Royer 2012b, pp. 2–3). One new site was found in 2012 (Royer and Royer 2012a, p. 33), adjacent to a site with previous records but with different land-ownership, so the researcher considered it a new site. Another new site was found in North Dakota in 2012, in Wells County, where two observations were made—possibly the same individual (HDR, Inc. 2012, pp. 21–23). At sites with Dakota skipper, lower average encounter frequencies were observed across the State in 2012 (State average = 9.4 encounters per hour) than during the 1996–1997 statewide surveys (State average = 17.4 encounters per hour) (Royer and Royer 2012b, p. 5; Royer and Royer 2012a. pp. 7–8). Three sites with previous Dakota skipper records in North Dakota were surveyed during the 2013 flight period; the species was not detected in any of those surveys (Fauske 2013 data (in ND National Guard 2013, in litt.; HDR Engineering 2013, pp. 10–11).

Of the Dakota skipper populations in North Dakota, none may be secure, although the Towner-Karlsruhe complex was considered to be the stronghold for the species in the State in 2002 (Cochrane and Delphey 2002, p. 17), and most of the sites where the species is currently present are still occupied by ''viable populations'' (Royer 2012a, pers. comm.). All of the habitat where the species is present in the Towner-Karlsruhe complex is Type A (wet-mesic) habitat (Royer and Marrone 1992a, pp. 21–22; Royer *et al.* 2008, pp. 14–16). Three sites within the Towner-Karlsruhe complex are owned by the North Dakota State Land Department, and the remaining nine sites with extant populations are privately owned. Some Towner-Karlsruhe sites are linked by highway rights-of-way that contain native prairie vegetation and by other prairie remnants (Royer and Royer 2012a, p. 18). In 2002, none of these sites were described as secure (Cochrane and Delphey 2002, pp. 66–67) since each is subject to private or State management options that could extirpate Dakota skipper from the site. In 1999, it was estimated that about 30 percent of the Towner-Karlsruhe area still contained native prairie (Lenz 1999, p. 2); more recent observations indicate that several native prairie sites have been invaded to varying extents by nonnative species, such as leafy spurge, Kentucky bluegrass, and alfalfa (*Medicago sativa*), and several are subject to intense grazing or early haying (Royer and Royer 2012b, pp. 5–6, 7–10, 13–16, 18–19, 22–23; Royer 2012, in litt.).

Dakota skipper populations in the Sheyenne National Grasslands complex have experienced intensive grazing, leafy spurge (*Euphorbia esula*) invasion, and the effects of herbicides used to control leafy spurge and grasshoppers (Royer 1997, pp. 15 and 27). For example, McCabe (1979, p. 36) cited the McLeod Prairie in the Sheyenne Grasslands in southeastern North Dakota as the best site for Dakota skippers in North Dakota. Since then, however, leafy spurge invasion has significantly modified the habitat, and the Dakota skipper is now extirpated

from the site (Royer 1997, p. 14). Swengel and Swengel (1999, p. 286) did not find Dakota skippers at eight survey sites in the Sheyenne grasslands during 1988–1997, although Royer did observe a few isolated Dakota skippers in the Sheyenne National Grasslands during this period (e.g., Royer 1997, pp. 14–15). Dakota skippers were recorded at one new site (Gregor) in the Sheyenne National Grasslands in 2001 (Spomer 2004, pp. 14–15). The status of Dakota skipper at the Gregor site is currently unknown, since the species was not observed during the 2002 survey (Royer and Royer 2012a, pp. 3–4).

Orwig (1996, p. 3) suggested that Brown's Ranch in Ransom County, owned by The Nature Conservancy, had potential to support a metapopulation (groups of local populations interconnected by dispersal habitat) in the Sheyenne River watershed. More recently, however, Spomer (2004, p. 36) found that the population there was not doing well, and Royer failed to find the species in 2012 (Royer and Royer 2012a, p. 3). Therefore, the status of the species at the Brown Ranch site is unknown. Royer (1997, pp. 15 and 27) claimed that, throughout the Sheyenne Grasslands, both public and private lands have been so heavily grazed and altered by grasshopper and leafy spurge control that extirpation of Dakota skippers from the area is almost certain to occur. The population at Venlo Prairie, for example, deteriorated from good/fair in 2001 to poor in 2003 due to intense grazing and disappearance of flowers (Spomer 2004, pp. 9, 12); the species is now considered to be extirpated at that site. The population at Garrison Training Area in McLean County is now considered unknown due to negative surveys in 2004 and 2013 (Fauske 2004, p. 1; Fauske 2013 in ND National Guard 2013, in litt.).

In 2002, experts ranked all sites outside of the two complexes discussed above as threatened or vulnerable; most were small and isolated populations threatened by conversion and invasive species (Cochrane and Delphey 2002, pp. 66–67). Most of these sites are now considered extirpated or possibly extirpated. Today, only 3 sites outside of the Towner-Karsruhe Complex and Sheyenne National Grasslands complexes are thought to have extant (present) Dakota skipper populations. In addition to the Towner-Karsruhe Habitat Complex sites in McHenry County, only 2 of the 25 sites surveyed by Royer in 2012, both in northern McKenzie County, may have ''viable populations'' (Royer 2012b, pers. comm.), although only one individual was observed at each site in 2012 (Royer and Royer 2012b, pp. 16–17). Only three sites with previous records were surveyed in North Dakota during the 2013 flight period, and the Dakota skipper was not observed (Fauske 2013 in ND National Guard 2013, in litt.; HDR Engineering 2013, pp. 10–11).

In summary, North Dakota contains approximately 21 percent (N = 54) of all known historical locations of the species rangewide; however, the current occupancy status of the Dakota skipper is unknown at 14 sites, and it is considered to be extirpated or possibly extirpated from at least 24 of the 54 known sites in the State (Table 1). The species is considered to be present at 16 sites in the State. North-central North Dakota may hold hope for the species' long-term conservation. Dakota skipper was detected at 13 of the 25 sites surveyed during 2012 (23 of the sites had previous Dakota skipper records); average encounter frequencies observed across the State in 2012 (9.4 encounters per hour), however, were lower than during the 1996–1997 State-wide surveys (ND State average = 17.4 encounters per hour) using the same methodology. The species was not detected at the three sites surveyed in 2013.

Although only a small fraction of all grassland in North Dakota has been surveyed for Dakota skippers, a significant proportion of the un-surveyed area is likely not suitable for Dakota skipper. The species was never detected at approximately 108 additional locations in North Dakota that were surveyed for the species in the period 1991–2013 (USFWS 2014, unpubl. geodatabase). Many of these sites have been surveyed multiple times over multiple years (USFWS 2014, unpubl. geodatabase). Surveys for the Dakota skipper are typically conducted only in areas where floristic characteristics are indicative of their presence. New potential sites surveyed are generally focused on prairie habitat that appears suitable for the species and has a good potential of hosting the species, in other words, sites are not randomly selected across the landscape. Therefore, researchers have a higher likelihood of detecting the species at these sites than at sites randomly selected across the landscape. Based on these surveys, the likelihood that significant numbers of undiscovered Dakota skipper populations occur in North Dakota is low. Moreover, data available from the numerous sites that have been surveyed are likely to be representative of areas that have not been surveyed—that is, population trends and the nature and extent of stressors that may impact the populations in un-surveyed areas can reasonably be inferred by analyzing data collected from the sites that have been surveyed.

South Dakota

South Dakota historically contained approximately 33 percent of all known locations of Dakota skippers rangewide (Table 1). Since the earliest known record of Dakota skipper (1905) in South Dakota, 86 sites have been documented across 11 counties in the State, but recent surveys indicate that the species is declining in the State (Service 2014, unpubl. geodatabase). Of the 86 historical sites, Dakota skipper is presumed extirpated from 17 sites and 2 counties (Brown and Moody), and is possibly extirpated from 10 additional sites. Dakota skipper is considered present at 14 sites, and the status of the species is unknown at 45 sites. Twenty-seven sites in South Dakota with previous Dakota skipper records were surveyed in 2012; the species was detected at 9 of those sites (Service 2014, unpubl. geodatabase). Eight additional sites within the species' historical range were surveyed during the 2012 flight period, which resulted in the discovery of two new nearby Dakota skipper sites (Service 2014, unpubl. geodatabase; Skadsen 2012a, pers. comm.). Twenty-eight sites in South Dakota with previous Dakota skipper records were surveyed in 2013; the species was detected at 9 of those sites (Service 2014, unpubl. geodatabase). Ten additional sites within the species' historical range were surveyed during the 2013 flight period, which resulted in no new Dakota skipper sites discovered (Service 2014, unpubl. geodatabase). The proportion of positive surveys at known sites has fluctuated over time; however, the 2012 and 2013 surveys had the lowest positive detection rate (35 percent and 32 percent, respectively) for the last 16 years (since 1996), much less than comparable survey years (years with 10 or more sites surveyed) in South Dakota.

While there are some sites with earlier records, most South Dakota sites were initially documented during extensive surveys conducted during 1996 to 1998. Forty-eight locations without previous records were surveyed during 2002–2004, which resulted in the discovery of 20 new Dakota skipper sites in northeastern South Dakota (Skadsen 2003, p. 8; Skadsen 2004, pp. 3–6), but due to more recent negative surveys, the occupancy of the species is currently unknown or extirpated at many of these sites (Skadsen 2011, p. 5; Skadsen 2012b, pp. 4–5; Skadsen, 2012, pers. comm.; Skadsen 2003, p. 10; Skadsen

2004, p. 2; Skadsen 2006a, p. 2, 10; Skadsen 2006b, p. 5; Skadsen 2007, p. 3; Skadsen 2008, p. 3, 12; Skadsen 2009, p. 3). Additional survey effort resulted in the discovery of nine new sites between 2005 and 2012, with a maximum of three new sites discovered in 2006 (Skadsen 2010a, p. 6; Skadsen 2012b, pp. 4–5; Skadsen 2012, pers. comm.; Skadsen 2005, pp. 5–6, Skadsen 2006a, p. 12; Skadsen 2006b, p. 5; Skadsen 2007, p. 3; Skadsen 2008, p. 9; Skadsen 2009, p. 2). Eight additional sites without previous documentation of the species were surveyed in 2012, which resulted in the discovery of two nearby sites (Service 2014, unpubl. geodatabase). To summarize, new sites have been discovered in South Dakota during most survey years since 2002, however, the number of new sites discovered each year has been low recently; two or three new sites have been discovered each survey year since 2005 (three sites in 2005, two sites in 2006, two sites in 2007, zero sites in 2010, two sites in 2012, and zero sites in 2013). The rate that known sites are becoming extirpated is higher than the rate of new discovery—the occupancy of the species at many sites is now unknown or extirpated due to more recent negative surveys.

The species has never been documented in Clark County, but because few surveys have been conducted there, the county may contain undiscovered populations (Skadsen 2006b, p. 1). Skadsen (2012b, pers. comm.) doubts the existence of public lands with suitable Dakota skipper habitat in Clark County and has not received permission to survey a few possible suitable locations that are privately owned.

Although only a small fraction of all grassland in eastern South Dakota has been surveyed for Dakota skippers (*e.g.,* Dakota skipper surveys have been conducted on less than approximately 30,000 acres (12,140 ha) in South Dakota within the species range (Service 2014, unpubl. geodatabase)), a significant proportion of the un-surveyed area may not be suitable for the Dakota skipper, based on surveys in additional areas of possible habitat where the species was not detected . For example, there is an estimated 1,620,549 acres (ac) (655,813 hectares (ha)) of unbroken (untilled) grasslands that may provide habitat for the Dakota skipper in the nine counties where the Dakota skipper is considered be present or to have unknown occupancy in South Dakota (HAPET 2012, unpubl. data). Additional areas of unbroken prairie were estimated in three other counties where the species may have occurred historically (HAPET 2012, unpubl. data). While these lands represent unbroken grassland in South Dakota, the models used to identify unbroken grassland are not able to identify plant species, plant species composition, floristic quality, or presence of invasive species (Loesch 2013, pers. comm.). Therefore, it is not known if these unbroken grasslands contain the specific native prairie plants that the Dakota skipper requires (as discussed in detail in the Background section of this proposed rule) and, therefore, may not equate to suitable habitat for the species.

The species was never detected at approximately 79 additional locations in South Dakota that were surveyed from 1991 through 2013 (USFWS 2014, unpubl. geodatabase). Several of these sites have been surveyed multiple times in one year or during multiple years (USFWS 2014, unpubl. geodatabase). Surveys for Dakota skipper are typically conducted only in areas where floristic characteristics are indicative of their presence. For example, in South Dakota, Skadsen (1997, p. 2) selected for surveys dry-mesic prairie that supported purple coneflower and wet-mesic prairie that supported wood lily and mountain deathcamas based on searches for these sites by car and reports from resource managers. Only sites with landowner permission are accessed for surveys, however, new potential sites surveyed are generally focused on prairie habitat that appears suitable for the species and has a good potential of hosting the species, in other words, sites are not randomly selected across the landscape. Therefore, researchers have a higher likelihood of detecting the species at these sites than at sites randomly selected across the landscape. Based on these surveys, the likelihood that significant undiscovered Dakota skipper populations occur in South Dakota is low. Moreover, data available from the numerous sites that have been surveyed are likely to be representative of areas that have not been surveyed—that is, population trends and the nature and extent of stressors that may impact the populations in un-surveyed areas can reasonably be inferred by analyzing data collected from the sites that have been surveyed.

Since there is little long-term quantitative data for sites in South Dakota, we examined presence–absence (non-detection) data over time. The percent of sites surveyed each year with positive detections of the species remained relatively stable from 1985 to 2010, with an average positive detection rate of 63 percent for all survey years with more than one site surveyed (excluding new sites for the first year of discovery), an average positive detection rate of 60 percent for survey years with at least 5 sites surveyed, and an average positive detection rate of 71 percent for survey years with at least 10 sites surveyed. One exception to the high detection rates was during the 1991 survey year when none (0 of 7 sites) of the sites surveyed in 1991 resulted in positive detections of the species, excluding 3 new sites that were discovered that year. Another exception was in 1996, when 2 of the 8 sites with previous records surveyed had a positive detection; however, 6 new sites were discovered that year. The detection rate remained relatively stable until 2010, when the percent of sites with positive detections fell from 89 percent (8 of 9 sites) in 2010, to 46 percent (5 of 11 sites) in 2011, 35 percent (9 of 26 sites) in 2012, and 32 percent (9 of 28 sites) in 2013 (Figure 2). These types of fluctuations had been observed in prior years; therefore, it is difficult to determine a clear trend in the data using positive detections—the last two survey years may fall within the normal range of variation.

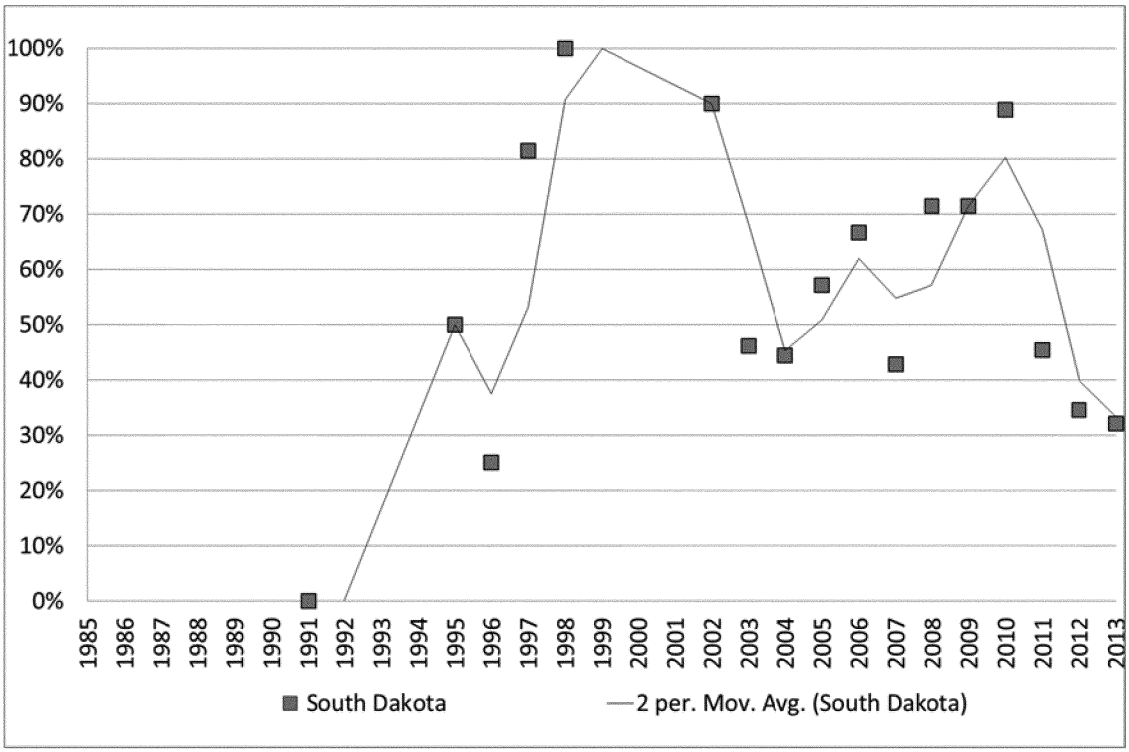

Figure 2: Percent of surveyed sites with positive detections of Dakota skipper for years with at least 5 surveys in South Dakota since 1985 with line showing the moving average over time. These data exclude new sites in the first year of discovery as well as sites that were surveyed, but where the species has never been found (null sites).

The Outer Coteau des Prairies subsection of the North Central Glaciated Plains section of Bailey's Ecoregions is thought to be a stronghold for Dakota skipper, since nearly 34 percent of the total documented Dakota skipper sites are within that subsection (89 of the 264 documented sites—Service 2014, unpubl. geodatabase). Most of these Outer Coteau des Prairie sites are in South Dakota; 73 of the 86 Dakota skipper sites in South Dakota are within the Outer Coteau des Prairies subsection (Service 2014, unpubl. geodatabase). Dakota skipper is considered to be present at only 9 of those 73 sites—the species status is unknown at 40 of those sites, possibly extirpated at 8 sites, and extirpated at the remaining 16 sites within that ecoregion subsection in South Dakota (Service 2014, unpubl. geodatabase).

In summary, South Dakota historically contained approximately 33 percent of all known locations of the species rangewide. The current occupancy status of the Dakota skipper is unknown at 45 sites, and it is considered to be extirpated or possibly extirpated from at least 27 of the 86 known sites in the State, although large areas of grasslands remain in South Dakota we don't expect significant additional populations to be found if more surveys were conducted. Furthermore, downward trends and threats impacting populations at known sites are also likely occurring at potentially undiscovered sites. The species is considered to be present at 14 of the 86 documented sites in the State. Twenty-six sites in South Dakota with previous Dakota skipper records were surveyed in 2012; the species was detected at nine of those sites; eight sites with no previous records for the species were surveyed during the 2012 flight period, which resulted in the discovery of two nearby sites. Twenty-eight sites in South Dakota with previous Dakota skipper records were surveyed in 2013; the species was detected at 9 of those sites (Service 2014, unpubl. geodatabase). Ten additional sites within the species' historical range were surveyed during the 2013 flight period, which resulted in no new Dakota skipper sites discovered (Service 2014, unpubl. geodatabase). The proportion of positive surveys at known sites has fluctuated over time; however, the 2012 and 2013 surveys had the lowest positive detection rate (35 percent and 32 percent, respectively) for the last 16 years (since 1996)—much less than comparable survey years in South Dakota.

Manitoba

Manitoba historically contained approximately 14 percent (N = 37) of the known locations of the Dakota skipper rangewide. The Dakota skipper is considered present at 1 isolated site and 28 sites split between 2 distinct complexes, 12 sites near Griswold and 16 sites along Lake Manitoba. The 12 sites near Griswold are located approximately 200 km (124 mi) southwest of the populations along Lake Manitoba (at 16 sites) and about 125 km (78 mi) northeast of the nearest population in Saskatchewan (Webster 2003, pp. 5–6; Webster 2007, p. 4). The species is considered to be unknown at one site near Griswold where the species was detected in 2007 and 2011, but not during the most recent survey year (2012) (Rigney 2013a, p.117). The species is presumed extirpated or possibly extirpated from eight sites in Manitoba, including from the Tallgrass Prairie Preserve, where it has not been

found in the seven most recent survey years (Webster 2003, p. 5; Westwood *et al.* 2012, p. 1; Westwood 2007, pers. comm.; Hamel *et al.* 2013, pp. 8–16)—(the later surveys were focused on Poweshiek skipperlings, but other species were recorded), and one site that was converted to a flaxseed field (Webster 2003, p. 7).

In 2007, researchers surveyed 16 sites for the Dakota skipper near Griswold, Manitoba (Webster 2007, p. 4), and found Dakota skippers at 14 of the 16 sites; 12 of these represent new sites for the species in Manitoba (Webster 2007, p. 4). Four of these sites were resurveyed in subsequent years (2010, 2011, and 2012)—the species is considered to be present at two sites, is unknown at one site due to a recent negative survey, and extirpated at the fourth site due to 3 consecutive negative survey years (Rigney 2013a, p. 117; Service 2014 unpublished database). The species is considered to be present at the remaining 10 sites that have not been surveyed since 2007.

Until recently, population estimates and trends at the sites near Griswold in south west Manitoba have not been examined quantitatively; however, the population appears to be relatively stable at one site, may be declining at a second site, and is considered extirpated from two sites with repeated survey years. Numbers observed during searches at a site near Griswold in 2007 did not appear to change appreciably since 2002 surveys, when the population was estimated (non-quantitatively) to be approximately 750 individuals (Webster 2003, p. 5; Webster 2007, p. 4). A total of 273 adults were observed during a 3.3-hour survey at the second site, where the population was estimated non-quantitatively to be about 2,000 individuals (Webster 2007, p. 4). Survey methodology changes in the years since 2007 (two to five surveys per site per flight period in the timeframe 2009–2013 compared to single site visits per year prior to 2008) have provided more rigorous population estimates at four Manitoba sites near Griswold and have shown a marked reduction in densities since 2002 or 2007 at three of the four sites (Rigney 2013a, p. 117). The Dakota skipper is present at two of the four sites near Griswold with repeated survey years. The estimated densities (mean number of individuals observed per hour) at one site remained at 1/hour in 2011 and 2012 and was approximately 30/hour in 2011 and 33/hour in 2012 at a second site. The species is considered extirpated at one of these sites, because it was not detected during 2010, 2011, and 2012 surveys. The status of the species is unknown at another site where the estimated numbers fell from 2/hour to zero detected in 2012 (Rigney 2013a, p. 117).

The Dakota skipper was first recorded near Winnipeg in 1933 and near Miniota in 1944 and then at two additional sites in the early 1990s. The species is considered to be extirpated or possibly extirpated at all of these sites (Service 2014 unpubl. geodatabase).

In 2002, the species was observed at 19 sites near Lundar, within about 25 km (16 mi) east of Lake Manitoba (Interlake region) (Webster 2003, p. 4); however, most of these sites have not been surveyed since. Similar to the Griswold sites, the survey methodology changes in years since 2007 (two to five surveys per site per flight period during 2009–2013 compared to single site visits per year prior to 2008) have provided more rigorous population estimates at four Manitoba sites near Lake Manitoba (Interlake region) and have shown a marked reduction in densities since 2002 or 2007 at two of the four sites (Rigney 2013a, p. 117). The species is considered present at two of four sites that have been surveyed since 2002 in this area; the species is considered extirpated from the other two sites due to three consecutive negative survey years (2010, 2011, and 2012) (Rigney 2013a, p. 117). The mean number of individuals observed per hour at one site has declined from 2/hour in 2011 to 1/hour in 2012 (Rigney 2013a, p. 117). The mean number per hour increased from approximately 1/hour to 6/hour at another site (Rigney 2013a, p. 117). The species is considered to be present at the remaining 14 Interlake sites that have not been resurveyed since 2002 (Service 2014, unpublished database).

Several additional areas were examined for potential Dakota skipper habitat in 2007, including areas east of Hwy 21, within the Lauder Sandhills Wildlife Management Area, north of Oak Lake and near Tilston, Sinclair, Cromer, and Brandon, as well as other locations. Most of the areas examined were under row crop agriculture, were heavily grazed, were dry scrub prairies, or were otherwise habitats unsuitable for Dakota skipper (Webster 2007, p. 6). In 2007, the areas near Brandon and the high ground within the wetland complexes near Oak Lake still contained potentially suitable habitat (Webster 2007, p. 6).

The nearest known extant (present) population of Dakota skippers in Manitoba is approximately 120 km (75 mi) from the closest extant (present) population in North Dakota and about 111 km (69 mi) from the closest Saskatchewan population. Britten and Glasford (2002, pp. 367, 372) suggested that Manitoba populations are genetically distinct from a group of populations in Minnesota and South Dakota, although populations in additional intervening locations should be sampled to confirm this hypothesis (Runquist 2012b, pers. comm.).

Saskatchewan

Saskatchewan historically contained approximately 5 percent (N=14) of all known records of Dakota skippers rangewide. In Saskatchewan, the Dakota skipper is restricted to undisturbed or lightly grazed, steep, south-facing hills near the Souris River (Webster 2007, p. ii). The Dakota skipper was first recorded south of Oxbow, Saskatchewan, in 2001 where three males were collected (Hooper 2003, p. 124) on an ungrazed knoll within a patch of mixed-grass prairie that was approximately 1 ha (2 ac) in extent. Dakota skippers were found at three additional sites during 2002 surveys (Webster 2003, pp. 6–7). In 2007, researchers surveyed 16 sites in southeastern Saskatchewan and found Dakota skippers at 10 of these sites (including Oxbow); 8 of these represent new sites for the species in Saskatchewan (Webster 2007, p. i). During 2007 surveys, which were conducted late in the flight period, only a few individuals were observed at each site where the species was present (Webster 2007, p. ii). Nine of these sites where the species was found in 2007 were surveyed along an approximate 50-km (31-mi) stretch of steep hillsides along the ridgeline north of Souris River; distances between sites range from 1 to 28 km (0.8 mi to 17 mi). We consider Dakota skipper to be present at all 14 sites in Saskatchewan, although 3 of those sites have not been surveyed since 2002. The nearest known extant population of Dakota skippers in Saskatchewan is approximately 111 km (69 mi) from the closest extant (present) population in North Dakota and 200 km (125 mi) from the closest Manitoba population.

Poweshiek Skipperling

Species Description

The Poweshiek skipperling (*Oarisma poweshiek*) is a member of the skipper family, Hesperiidae, and was first described by Parker (1870, pp. 271–272). Parker (1870, pp. 271–272) provided the original description of this species from his type series collected near Grinnell, Iowa. It was named for the county in which it was found (Poweshiek County), but it was misspelled, Powesheik, in the original

description. This spelling was retained by most early authorities (Lindsey 1922, p. 61; Holland 1931, p. 360). Miller and Brown (1981, p. 31) used the corrected spelling, Poweshiek, but then Miller and Ferris (1989, p. 31) changed it back in their supplement. Current usage is mixed, with many authorities retaining the original spelling (e.g., Miller 1992, p. 20), while others have opted for the corrected spelling (Layberry *et al.* 1998, p. 48; Opler *et al.* 1998, p. 363; Glassberg 1999, p. 167; Brock and Kaufman 2003, p. 306). Layberry *et al.* (1998, p. 48) state ''. . . since it is a clear case of an original incorrect spelling it can be corrected [rule 32(c)ii of the International Code of Zoological Nomenclature].''

Poweshiek skipperlings are small and slender-bodied, with a wingspan generally ranging from 2.3 to 3.0 cm (0.9 to 1.2 in). The size of Poweshiek skipperlings appears to vary somewhat across their range (Royer and Marrone 1992b, p. 3). North Dakota and South Dakota specimens tend to be slightly smaller than the 2.9 to 3.2 cm (1.1 to 1.3 in) range given by Parker (1870) for the type specimens from Grinnell, Iowa (Royer and Marrone 1992b, p. 3). A sample of Richland County, North Dakota, specimens from Royer's collection had an average wingspan of 2.8 cm (1.1 in) for males and 3.0 cm (1.2 in) for females. South Dakota specimens in Marrone's collection had an average wingspan of 2.6 cm (1.0 in) for males and 2.7 cm (1.1 in) for females. The upper wing surface is dark brown with a band of orange along the leading edge of the forewing. Ground color of the lower surface is also dark brown, but the veins of all but the anal third of the hindwing are outlined in hoary white, giving an overall white appearance to the undersurface.

The Poweshiek skipperling is most easily confused with the Garita skipperling (*Oarisma garita*), which can be distinguished from Poweshiek skipperling by their smaller size, quicker flight, and overall golden-bronze color (Royer and Marrone 1992b, p. 3). Another distinguishing feature is the color of the anal area of the ventral hindwing (orange in Garita; dark brown in Poweshiek). The Garita skipperling generally occurs west of Poweshiek skipperling range, although there are records of both species from two counties in southeastern North Dakota and two counties in northwestern Minnesota (Montana State University—Big Sky Institute 2012, Butterflies of North America *http://www.butterfliesandmoths.org,* Accessed 5/14/12; Minnesota Department of Natural Resources (DNR) 2012, Rare features database. Accessed 5/14/12).

McAlpine (1972, pp. 85–92) described Poweshiek skipperling eggs as pale yellowish green, mushroom shaped with a flattened bottom, a slightly depressed micropyle (pore in the egg's membrane through which the sperm enter) and smooth surfaced. They were 0.8 millimeters (mm) (0.01 in) long, 0.7 mm (0.03 in) wide and 0.5 mm (0.02 in) high. The overall color of the head and body of the larvae is pale grass-green, with a distinctive darker green mid-dorsal stripe and seven cream-colored stripes on each side. First instars were 1.8 mm (0.07 in) at hatching, and the lone 7th instar survivor was 23.6 mm (1.0 in) near the end of that stage. McAlpine did not have any observations past the 7th instar (the stage between successive molts, the first instar being between hatching and the first molt) (McAlpine 1972, pp. 85–93).

General Life History

Poweshiek skipperlings lay their eggs near the tips of leaf blades and overwinter as larvae on the host plants (Bureau of Endangered Resources in Swengel and Swengel 1999, p. 285, Borkin 2000, p. 7). Poweshiek skipperlings have also been documented laying eggs on the entire length of grass leaf blades and on low-growing deciduous foliage (Dupont 2013, p. 133). McAlpine (1972, pp. 85–92) described the various life-history stages of Poweshiek skipperling, and recent studies of captive Poweshiek skipperlings at the Minnesota Zoo provide additional information (Runquist 2013, pers. comm.). McAlpine (1972, pp. 85–93) observed hatching of larval Poweshiek skipperling after about 9 days. McAlpine's records were incomplete, and he did not have any observations past the 7th instar, but he believed that there should have been one or two additional instars, followed by the chrysalis (pupa) and then the imago (adult) stages (McAlpine 1972, pp. 85–93). Captive Poweshiek skipperling eggs hatched 8 to 9 days after oviposition (Runquist 2013, pers. comm.). After hatching, Poweshiek skipperling larvae crawl out near the tip of grasses and may remain stationary, with their head usually pointing downward (McAlpine 1972, pp. 88–92). Unlike Dakota skippers, Poweshiek skipperling do not form shelters underground (McAlpine 1972, pp. 88–92; Borkin 1995, p. 9; Borkin 2008, pers. comm.), instead the larvae overwinter up on the blades of grasses and on the stem near the base of the plant (Borkin 2008, pers. comm.; Dana 2008, pers. comm.). Borkin (2008, pers. comm.) observed larvae moving to the tips of grass blades to feed on the outer and thinner edges of the blades, with later movement down and among blades. Mature Poweshiek skipperling caterpillars reared in captivity ranged in size from approximately 22 to 25 mm (0.9 to 1 inch) in length just prior to pupation (Runquist 2013, pers. comm.).

Food and Water

For the Poweshiek skipperling, nectar plants vary across its geographic range. Smooth ox-eye (*Heliopsis helianthoides*) and purple coneflower were noted as the frequently visited nectar plants in Iowa, Minnesota, and North Dakota (Swengel and Swengel 1999, p. 280). Other nectar species used were stiff tickseed (*Coreopsis palmata*), black-eyed Susan, and palespike lobelia (Swengel and Swengel 1999, p. 280). On drier prairie habitats in Iowa and Minnesota, purple coneflower is used almost exclusively, and the emergence of the adults corresponds closely to the early maturity of this species' disk florets (Selby 2005, p. 5). On the wetter prairie habitats of Canada and the fen habitats of Michigan, favored nectar plants are black-eyed Susan, palespike lobelia, sticky tofieldia (*Triantha glutinosa*), and shrubby cinquefoil (*Dasiphora fruticosa ssp. floribunda*) (Nielsen 1970, p. 46; Holzman 1972, p. 111; Catling and Lafontaine 1986, p. 65; Bess 1988, p. 13; Summerville and Clampitt 1999, p. 231). Recent studies in Manitoba indicate that the most frequently used nectar plants are black-eyed Susan, upland white aster, and self-heal (*Prunella vulgaris*) (Dupont 2013, pp. 70–71). In addition to nutrition, the nectar of flowering forbs provides water for Poweshiek skipperling, which is necessary to avoid desiccation during flight activity (Dana 2013, pers. comm.).

Until recently, the larval food plant was presumed to be elliptic spikerush (*Eleocharis elliptica*) or sedges, but this was based on limited observations, primarily from the Michigan populations (*e.g.,* Holzman 1972, p. 113). More recent observations show that the preferred larval food plant for some populations of Poweshiek skipperling is prairie dropseed (Borkin 1995, p. 6); larvae have also been observed feeding on little bluestem (*Schizachyrium scoparium*) (Borkin 1995, pp. 5–6) and sideoats grama (*Bouteloua curtipendula*) (Dana 2005a, pers. comm.). Poweshiek skipperling larvae have been observed feeding on *Carex sp.* (Borkin 1994, p. 6; Borkin 1996, p. 2), although not through the entire larval development (Borkin 2014, pers. comm.). Poweshiek skipperling

have been observed laying eggs (ovipositing) on mat muhly (*Muhlenbergia richardsonis*) (Cuthrell 2012a, pers. comm.), a grass in Michigan's prairie fens (Penskar and Higman 1999, p. 1). Captive-reared caterpillars fed most successfully on prairie dropseed, and older caterpillars (late 2-day instar and older) successfully fed on little bluestem, big bluestem, and side-oats gramma (Runquist 2013, pers. comm.). One post-diapause Poweshiek skipperling was successfully reared to adulthood on Pennsylvania sedge (*Carex pensylvanica*) (Runquist 2013, pers. comm.).

In southwestern Minnesota dry hill prairies, Poweshiek skipperling oviposition was observed on prairie dropseed, little bluestem, big bluestem, porcupine grass, and a couple unidentified species; a larva was observed feeding on sideoats grama (Dana 2005a, pers. comm.). Poweshiek skipperlings were observed to oviposit on big bluestem in Wisconsin (Borkin 2012a, pers. comm.), although indiscriminate oviposition on unsuitable larval plants has been observed during high summer temperatures (Borkin 1995, p. 6). Borkin (1995, p. 4) also observed oviposition on an unidentified sedge (*Eleocharis sp.*), but only 2 eggs were found on the sedge in comparison to more than 100 eggs found on prairie dropseed. In Manitoba, Poweshiek skipperlings were observed ovipositing on big bluestem, white sweet clover, an unidentified goldenrod (*Solidago spp.*), and juvenile bur oak (*Quercus macrocarpa*) leaves (Dupont 2013, p. 73). Poweshiek skipperlings have also been documented laying eggs on the entire length of grass leaf blades, including the tips, and on low-growing deciduous foliage (Dupont 2013, p. 133). Dana (2013, pers. comm.) noted that larvae seem to begin feeding at a very fine, threadlike blade tip and females placed eggs on fine blade tips of grasses during some observed ovipositions. Consistent with field observations of female oviposition on fine blades of grass, captive-reared caterpillars (early instars) preferred feeding on finer leaf blades (Runquist 2013, pers. comm.).

Dispersal

Poweshiek skipperlings are also not known to disperse widely; the species was evaluated among 291 butterfly species in Canada as having relatively low mobility; experts estimated Poweshiek skipperling to have a mean mobility of 2 (standard deviation = 1.4) on a scale of 0 (sedentary) to 10 (highly mobile) (Burke *et al.* 2011, p. 2279; Fitzsimmons 2012, pers. comm.). A mark–recapture study was conducted in Manitoba in 2008 and 2009; however, only 2 of the 56 marked individuals in 2008 were recaptured and none of the 16 marked individuals in 2009 were recaptured, so available data are insufficient to examine within and between site dispersal (Dupont 2013, pp. 68–70). After 2 days, the two recaptured individuals were within 50 m (165 ft) of their initial capture location (Dupont 2013, p. 69).

Besides this study in Manitoba, which had too few recaptures to make any statistically significant conclusions, we are unaware of any other studies that documented the dispersal distance of the species. Therefore, we used the Dakota skipper as a surrogate species to estimate the maximum dispersal distance of Poweshiek skipperlings and verified our assumptions with expert review. In a mark–recapture study, average adult movements of Dakota skippers were less than 300 meters (m) (984 feet (ft)) during a period of 3–7 days; marked adults crossed less than 200 m (656 ft) of unsuitable habitat between two prairie patches and moved along ridges more frequently than across valleys (Dana 1991, pp. 38–40). Dana (1997, p. 5) later observed reduced movement rates across a small valley dominated by exotic grasses with roads and crop fields compared with movements in adjacent widespread prairie habitat. Roads and crop fields were suspected as impediments for movement among prairie patches along two sites of the main valley (Dana 1997, p. 5), although movements beyond the study area were beyond the scope of the 1997 mark–recapture study (Dana 2013, pers. comm.). Skadsen (1999, p. 2) reported possible movement of Dakota skippers in 1998 from a known population at least 800 m (2,625 ft) away to a site with an unusually heavy growth of purple coneflower; he had not found Dakota skippers in three previous years when coneflower production was sparse.

Based on expert opinion, a maximum dispersal distance of 1.6 km (1.0 mi) was estimated to be a reasonable and likely distance for male Poweshiek skipperling to travel between patches of prairie habitat separated by structurally similar habitats (*e.g.,* perennial grasslands but not necessarily native prairie) (Westwood 2012a and 2012b, pers. comm.; Dana 2012b, pers. comm.). The species, however, will not likely disperse across habitat that is not structurally similar to native prairies, such as certain types of row crops or anywhere not dominated by grasses (Westwood 2012a and 2012b, pers. comm.; Dana 2012b, pers. comm.). In Manitoba, Poweshiek skipperling have been observed avoiding dispersal over short distances, even to suitable habitat, if a barrier such as a road exists between suitable prairie habitat and nectar sources (Westwood *et al.* 2012, p. 18).

Since experts estimated Dakota skippers to have a mean mobility of 3.5 (standard deviation = 0.7) on a scale of 0 (sedentary) to 10 (highly mobile), which is higher than the estimate for the Poweshiek skipperling (mean mobility of 2) (Burke *et al.* 2011, p. 2279; Fitzsimmons 2012, pers. comm.), we used the estimated dispersal distance of the Dakota skipper, approximately 1 km (0.6 mi) (Cochrane and Delphey 2002, p. 6), which is more conservative than the 1.6 km (1.0 mi) estimated for the Poweshiek skipperling by expert opinion (Westwood 2012b, pers. comm., Dana 2012b, pers. comm.). One kilometer is a reasonable maximum dispersal distance, since no data documents the species that document a greater distance travelled.

In summary, using the best information available, dispersal of Poweshiek skipperling is very limited due in part to its short adult life span and single annual flight. Therefore, the species' extirpation from a site is likely permanent unless it is within about 1 km (0.6 mi) of a site that generates a sufficient number of emigrants or is artificially reintroduced to a site; however, the capability to propagate the Poweshiek skipperling is currently lacking.

Habitat

Poweshiek skipperling habitats include prairie fens, grassy lake and stream margins, moist meadows, sedge meadow, and wet-to-dry prairie. McCabe and Post (McCabe and Post 1977, pp. 36–38) describe the species' habitat in North Dakota as ''. . . high dry prairie and low, moist prairie stretches as well as old fields and meadows.'' Royer and Marrone (1992b, p. 12) describe Poweshiek skipperling habitat in North Dakota and South Dakota as moist ground in undisturbed native tallgrass prairies. Poweshiek skipperling habitat throughout Iowa and Minnesota is described as both ''high dry'' and ''low wet'' prairie (McCabe and Post 1977, pp. 36–38). The only documented Illinois record was associated with high rolling prairie (Dodge 1872, p. 218); the only documented Indiana record was from marshy lakeshores and wetlands (Blatchley 1891, p. 398; Shull 1987, p. 29).

Southern dry prairies in Minnesota are described as having sparse shrub cover (less than 5 percent) composed primarily of leadplant, with prairie rose,

wormwood sage, or smooth sumac present and few, if any, trees (Minnesota DNR 2012a, p. 1). Southern mesic prairies also have sparse shrubs (5–25 percent cover) consisting of leadplant and prairie rose with occasional wolfberry (*Symphoricarpos occidentalis*) and few, if any, trees (Minnesota DNR 2012b, p. 1).

The disjunct populations of Poweshiek skipperlings in Michigan have more narrowly defined habitat preferences, variously described as wet marshy meadows (Holzman 1972, p. 114), bog fen meadows or carrs (Shuey 1985, p. 181), sedge fens (Bess 1988, p. 13), and prairie fens (Michigan Natural Features Inventory 2011, unpubl. data; Michigan Natural Features Inventory 2012, unpubl. data); prairie fen is the currently accepted name for this habitat type. Bess (1988, p. 13) found the species primarily in the drier portions of Liberty Fen, Jackson County, dominated by ''low sedges'' and an abundance of nectar sources. Summerville and Clampitt (1999, p. 231) noted that the population was concentrated in areas dominated by spikerush and that only 10–15 percent of the fen area was occupied despite the abundance of nectar sources throughout. Poweshiek skipperling have been described as occupying peat domes within larger prairie fen complexes in areas either dominated by mat muhly or prairie dropseed (Cuthrell 2013a, pers. comm.). A few prairie fens in Michigan also contain other rare butterflies, such as Mitchell's satyr and swamp metalmark (Cuthrell 2013a, pers. comm.).

Poweshiek skipperling populations in Wisconsin are also disjunct from the population to the west and are associated with areas that contain intermixed wet prairie, wet-mesic, and dry-mesic prairie habitats (Borkin 1995, p. 6; Swengel 2013, pers. comm.). The dry-mesic habitats in the Scuppernong Prairie contain ''extensive patches of prairie dropseed and little bluestem grasses'' (Borkin 1995, p. 7). Survival in wetter areas, which tend to burn cooler and less completely, coupled with low recolonization rates, or the disproportionate loss of wet versus dry prairie could give the false impression that the wet areas were their preferred habitat (Borkin 1995, p. 7). Puchyan Prairie consists of wet-mesic prairie that grades lower into sedge meadow (WI DNR Web site *http://dnr.wi.gov/topic/Lands/naturalareas/index.asp?SNA=172;* Swengel 2013, pers. comm.) and adult Poweshiek Skipperlings have been observed in wet prairie there, although it is not known if these areas function as successful larval habitat (Swengel 2013, pers. comm.).

Like the Dakota skipper, it has been hypothesized that Poweshiek skipperling larvae may be vulnerable to desiccation during dry summer months (Borkin 2012a, pers. comm.) and require movement of shallow groundwater to the soil surface or wet low areas to provide relief from high summer temperatures or dry conditions (Royer *et al.* 2008, pp. 2, 16; Borkin 2012a, pers. comm.). Humidity may also be an essential factor to larval survival during winter months since the larvae cannot take in water during that time and depend on humid air to minimize water loss through respiration (Dana 2013, pers. comm.).

Royer (2008, pp. 14–15) measured microclimatological (climate in a small space, such as at or near the soil surface) levels within ''larval nesting zones'' (0 to 2 cm above the soil surface) at six known Poweshiek skipperling sites, and found an acceptable rangewide seasonal (summer) mean temperature range of 18 to 21 °C (64 to 70 °F), rangewide seasonal mean dew point ranging from 14 to 17 °C (57 to 63 °F), and rangewide seasonal mean relative humidity between 73 and 85 percent. Royer (2008) examined only occupied areas for these parameters; therefore, the statistical and biological significance of these edaphic variables cannot be determined from his study.

Canadian populations of Poweshiek skipperlings are restricted to a single 2,300-ha (5,683-ac) area in southeastern Manitoba (COSEWIC 2003, p. 5). The wet to mesic tallgrass prairie in this area is characterized by low relief (1–2 m (3–7 ft)), with alternating lower, wetter areas and higher, drier prairie; Poweshiek skipperlings tend to be concentrated on or near the edge of the higher, drier prairie (COSEWIC 2003, p. 8). Spikerush is frequent in the wetter areas, and prairie dropseed, black-eyed Susan, and palespike lobelia are frequent in the drier areas (COSEWIC 2003, pp. 7–8). The wet-mesic tallgrass prairies in Manitoba vary in size and occur along bluffs of Bur oak and trembling aspen (*Populus tremuloides* Michx.) (Catling and Lafontaine 1986; Dupont 2013, p. 17). Little bluestem, big bluestem, and Indian grass were the three most common grasses in managed study plots in Manitoba (Dupont 2013, p. 85). Plant species generally associated with upland, drier portions of the mesic tallgrass prairies in Manitoba include: Big bluestem, pale-spike lobelia, prairie dropseed, mountain death camas, stiff goldenrod, black-eyed Susan, and meadow blazing-star (Environment Canada 2012, p. 6). In lower, wetter prairies with Poweshiek skipperlings, the following species are listed as often seen: Willow (*Salix spp.*), sedges (*Carex spp.*), rushes (*Juncus spp.*), groundsels (*Pakera spp.*), tufted hairgrass, creeping bentgrass (*Agrostis stolonifera*), mat muhly, elliptic spike-rush, four-flowered yellow loosestrife (*Lysimachia quadriflora*), and common self-heal (Environment Canada 2012, p. 6). Most of these plants were also commonly observed in study plots surveyed in 2008–2009 (Dupont 2013, p. 86). The soils where the Poweshiek skipperling occurs in Manitoba are described as shallow, rocky, and highly calcareous (Westwood and Borkowsky 2004 in Dupont 2013, p. 19).

Prairie fen habitat soils in Michigan are described as saturated organic soils (sedge peat and wood peat) and marl, a calcium carbonate ($CaCO_3$) precipitate (MINFI Web site accessed August 3, 2012). In other States, soil textures in Poweshiek skipperling habitats are classified as loam, sandy loam, or loamy sand (Royer *et al.* 2008, pp. 3, 10); soils in moraine deposits are described as gravelly, except the deposits associated with glacial lakes.

Population Distribution and Occupancy

The Poweshiek skipperling is historically known from eight States, ranging widely over the native wet-mesic to dry tallgrass prairies from eastern North and South Dakota (Royer and Marrone 1992b, pp. 4–5) through Iowa (Nekola and Schlicht 2007, p. 7) and Minnesota (Minnesota DNR, Division of Ecological Resources, unpubl. data), with occurrences also documented in northern Illinois (Dodge 1872, p. 218), Indiana (Blatchley 1891, p. 898), Michigan (Holzman 1972, p. 111; McAlpine 1972, p. 83), and Wisconsin (Borkin 2011, in litt.; Selby 2010, p. 22). The relatively recent discovery of Poweshiek skipperling populations in the Canadian province of Manitoba further extends its known historical northern distribution (Westwood 2010, pp. 7–22; Dupont 2010, pers. comm.). Additional historical accounts of Poweshiek skipperling from the States of Montana, Colorado, and Nebraska are likely misidentifications of its western congener, the Garita skipperling.

Once common and abundant throughout native prairies in eight States and at least one Canadian province, the Poweshiek skipperling and its habitat have experienced significant declines. The species is considered to be present at a few native prairie remnants in two States and one location in Manitoba, Canada. The species is presumed extirpated from

Illinois and Indiana, and the status of the species is uncertain in four of the six States with relatively recent records (within the last 20 years). The historical distribution of Poweshiek skipperling may never be precisely known because ''much of tallgrass prairie was extirpated prior to extensive ecological study'' (Steinauer and Collins 1994, p. 42), such as butterfly surveys. Destruction of tallgrass and mixed-grass prairie began in 1830 (Sampson and Knopf 1994, p. 418), but significant documentation of the ecosystem's butterfly fauna did not begin until about 1960. Therefore, most of the decline of the Poweshiek skipperling probably went unrecorded. Poweshiek skipperling dispersal is very limited due in part to its short adult life span and single annual flight. Therefore, the species' extirpation from a site is likely permanent unless it is within about 1 km (0.6 mi) of a site that generates a sufficient number of emigrants or is artificially reintroduced to a site.

Recent survey data indicate that Poweshiek skipperling has declined to zero or to undetectable levels at 96 percent of sites where it has ever been recorded. Until about 2003, Poweshiek skipperling was regarded as the most frequently and reliably encountered prairie-obligate skipper butterfly in Minnesota, which contains approximately 48 percent of all known Poweshiek skipperling locations rangewide. Numbers and distribution dropped dramatically in subsequent years, however, and the species was not seen in Minnesota from 2007 through 2012. Two individuals were observed at one site in 2013 (Weber 2014, in litt.; Dana 2014, pers. comm.). In Iowa, the Poweshiek skipperling was found at 2 of 33 sites with previous records surveyed in 2007; the species was last observed at one site in 2008. Iowa contains about 14 percent of documented sites rangewide. Unidentified threats to the species have acted to extirpate or sharply diminish populations at all or the vast majority of sites in Iowa and Minnesota (Dana 2008, p. 16; Selby 2010, p. 7).

South Dakota historically contained about 23 percent of the rangewide sites with documented presence of Poweshiek skipperling, although recent surveys in that State also suggest an emergent and mysterious decline. The species was last observed in South Dakota in 2008, at three sites. Surveys conducted in 2009–2013 flight seasons in South Dakota resulted in zero detections of the species. North Dakota historically contained about six percent of the rangewide sites with documented presence of Poweshiek skipperling; the species was last observed in North Dakota in 2001. Survey efforts in North Dakota have been minimal between 1998 and 2011, but surveys conducted in 1997 documented more than 10 Poweshiek skipperlings at 1 site; 6 individuals were counted at 1 site, and 0 were detected at 6 other sites. Surveys conducted during the 2012 and 2013 flight seasons in North Dakota resulted in zero detections of the species.

Seven Michigan sites were recently ranked as having good or better ''viability,'' a habitat-based element occurrence rank assigned by the Michigan Natural Features Inventory (2011); however, the number of individuals observed at a few of those sites has declined in recent years, and the species is presumed extirpated from one of those sites. Currently, four of the ten extant occurrences of Poweshiek skipperling in Michigan are considered to have good or better viability (Michigan Natural Features Inventory (2011, unpubl. data). Each of those faces threats of at least low to moderate magnitude, and the State contains only about 6 percent of all known historical Poweshiek skipperling records. One population of Poweshiek skipperlings in Wisconsin had fairly consistent numbers observed over the last 5 years (17 to 63 individuals counted using modified Pollard transect covering 15 ac (6 ha) in approximately 40 minutes), but the species was not observed in 2013 surveys. One population in Manitoba has fairly consistent numbers (typically hundreds of individuals observed each year). To summarize, of the 298 documented sites, there are 12 sites where we consider the Poweshiek skipperling to be present, 111 sites with unknown status, 96 possibly extirpated sites, and 79 where we consider the species to be extirpated (Table 2). The distribution and status of Poweshiek skipperling in each State of known historical or extant occurrence are described in detail below.

TABLE 2—NUMBER OF HISTORICALLY DOCUMENTED POWESHIEK SKIPPERLING SITES WITHIN EACH STATE AND THE NUMBER OF SITES WHERE THE SPECIES IS THOUGHT TO BE PRESENT, UNKNOWN, POSSIBLY EXTIRPATED, OR EXTIRPATED

State	State's percentage of the total number of historical sites	Present	Unknown	Possibly extirpated	Extirpated	Total
Illinois	1.3	.....	.....	.....	4	4
Indiana	0.3	.....	.....	.....	1	1
Iowa	13.8	.....	4	24	13	41
Michigan	5.7	9	2	.....	6	17
Minnesota	48.3	1	58	64	21	144
North Dakota	5.7	.....	8	6	3	17
South Dakota	23.2	.....	36	2	31	69
Wisconsin	1.3	1	3	.....	.....	4
Manitoba	0.3	1	.....	.....	.....	1
Total Number of Historically Documented Sites	.....	12	111	96	79	298
Percent of the Total Number of Historical Sites by Occupancy	.....	4%	37%	32%	27%	.....

Illinois

The Poweshiek skipperling historically occurred in Illinois, although only one historical occurrence is supported (Table 2). In the early 1870s, Dodge (1872, p. 218) reported abundant Poweshiek skipperling occupying ''the high rolling prairie that forms the divide between the Illinois

and Rock rivers'' in Bureau County, Illinois. In addition to Bureau County, the Web site *Butterflies and Moths of North America* lists Poweshiek skipperling historical occurrences for Lake and Mason Counties, which were submitted to the Web site before the date field was required, so a default date of January 1, 1950, was assigned, which is outside of the typical flight period (*http://www.butterfliesandmoths.org/species/Oarisma-poweshiek*; accessed August 16, 2012). The Web site maintains a verifiable database on species occurrences, but there is no accessible supporting data for the Lake and Mason Counties records (Lundh 2012, pers. comm.). One additional record, housed at University of Wisconsin–Oshkosh, was collected in DuPage County in 1968 and was recently identified as a Poweshiek skipperling. The location where the specimen was collected has since been converted and is no longer a prairie, and it is presumed that the species is extirpated from that location (Borkin 2014, pers. comm.). Poweshiek skipperling is, therefore, presumed to be extirpated from Illinois.

Indiana

There is one supported historical occurrence of Poweshiek skipperlings in Indiana (Table 2). Blatchley (1891, p. 898) reported small numbers of Poweshiek skipperlings near Whiting, Indiana; Shull (1987, p. 49) expressed confidence that this record is authentic. The Poweshiek skipperling is considered extirpated from Indiana.

Iowa

Iowa historically contained approximately 14 percent (N=41) of all known records of Poweshiek skipperlings rangewide (Table 2). The Poweshiek skipperling was historically known to occur at 38 sites in 13 counties in Iowa (Nekola 1995, p. 8; Saunders 1995, pp. 27–28; Selby 2005, p. 18; Nekola and Schlicht 2007, p. 7; Selby 2010, p. 6); however, this number may vary slightly (up to 41 sites) depending on how one divides sites along the Little Sioux River in the Freda-Cayler area (Selby 2012a, pers. comm.). Early reports from Parker (1870, p. 271) described Poweshiek skipperling as abundant on a prairie slope at Grinnell, Iowa, while Lindsey (1917, p. 352; 1920, p. 320) noted additional rare occurrences in Story, Dickinson, Poweshiek, and Woodbury Counties, Iowa—among these, habitat has long since been destroyed in all but Dickinson County.

In 1993–1994, 65 sites were surveyed in 17 counties where Dakota skipper or Poweshiek skipperling had been previously recorded or where prairie and butterfly surveys or infra-red photography suggested the presence of Poweshiek skipperling habitat (Saunders 1995, pp. 7–8). Among the 65 sites surveyed, Poweshiek skipperlings were found at 29 sites in 10 counties (Saunders 1995, p. 27). In 2000, Poweshiek skipperlings were found at six sites surveyed in and near Cayler Prairie and Freda Haffner Kettlehole State preserves in Dickinson County (Selby 2000, p. 19). Followup surveys of this complex in 2004, 2005, and 2007, however, produced no confirmed sightings (Selby 2010, p. 6). Extensive surveys were conducted in 2007, and included 32 of the 38 sites in the State with post-1990 records (Selby 2008, pp. 4, 6). Poweshiek skipperlings were found at 2 of the 38 sites surveyed—Hoffman Prairie State Preserve in Cerro Gordo County and Highway 60 Railroad Prairie in Osceola County (Selby 2008, pp. 6–7). Five of the six sites not included in the 2007 surveys had very little quality prairie (Selby 2012a, pers. comm.). Supplementary surveys conducted further west along U.S. Highway 18 in Hancock County also produced no confirmed sightings (Selby 2010, p. 7). No surveys were conducted at previously known Poweshiek skipperling sites in the State during the 2012 flight season. No Poweshiek skipperlings were observed in surveys in 2013 at two sites with relatively recent records of the species (2005 and 2008) (Olsen 2013, p. 2).

The Poweshiek skipperling is presumed extirpated or possibly extirpated from all but four of the known sites in Iowa. The status of the Poweshiek skipperling is unknown at four sites: Highway 60 Railroad Prairie, Floete Prairie in Dickinson County, Florenceville Prairie, and Hayden Prairie in Howard County. There have been no surveys at Highway 60 Railroad Prairie since the species was observed there in 2007 (Selby 2012a, pers. comm.). The last observation of Poweshiek skipperling at Floete Prairie was in 1994, and the habitat ''did not appear to be very good quality'' in 2007, although the site was not surveyed for butterflies that year (Selby 2012a, pers. comm.) or in subsequent years. The Poweshiek skipperling was last observed at the Florenceville Prairie in 1994 (Saunders 1995, p. 27), but not during the 2007 survey year (Selby 2010, pp. 8–11). The species was last observed at Hayden Prairie in 2005, but not during surveys conducted in 2007 (Selby 2010, p. 10) or 2013 (Olsen 2013, p. 2). Four Poweshiek skipperlings were found at Hoffman Prairie in Cerro Gordo County in 2008 (Selby 2009b, p. 3), but none were found during surveys in 2009 (Selby 2009b, p. 7) and 2010 (Selby 2010, p. 7). We initially assigned an unknown status to the Hoffman Prairie site because the species had not been seen in the 2009 and 2010 survey years; however, Selby believes that the species may be extirpated from this site (Selby 2012a, pers. comm.), so we assigned a status of extirpated to this site, which was confirmed with negative surveys in the 2013 flight season (Olsen 2013, p. 2).

To summarize, the Poweshiek skipperling was historically documented in 41 sites in Iowa. The species occupancy is unknown at 4 of those sites, and the species is considered to be extirpated or possibly extirpated at 13 and 24 sites, respectively (Table 2). The species is not considered to be present at any of the sites in Iowa.

Michigan

Michigan historically contained approximately 6 percent (N=17) of all known records of Poweshiek skipperlings rangewide (Table 2). Poweshiek skipperling has been historically documented at 17 sites in 6 counties in Michigan. The species was first recorded in Michigan in 1893 at Lamberton Lake near Grand Rapids in Kent County (Holzman 1972, p. 111) and then at nearby Button Lake Fen (also known as Emerald Lake Fen) in 1944 (McAlpine 1972, p. 83). Shrubs have invaded both sites, however, and no Poweshiek skipperlings have been found at either of these two western Michigan sites since 1944 and 1968, respectively (Michigan Natural Features Inventory 2011, unpubl. data). Holzman (1972, p. 111) documented Poweshiek skipperling in Oakland County in 1970, and the species has since been found at a total of 15 locations in eastern Michigan.

The Poweshiek skipperling is currently considered to be present at nine sites (Table 2) in four counties in Michigan: Jackson, Lenawee, Oakland, and Washtenaw. The species has been observed recently (2008–2013) at most of those sites, except at the Liberty Bowl Fen in Jackson County, which has not been surveyed since one individual was observed in 1996. The status of the species is unknown at two sites; Bullard Lake in Livingston County, where Poweshiek skipperlings were last seen in 2007, but not in subsequent surveys in 2008 and 2009 (Cuthrell 2012a, pers. comm.), and Liberty Fen (Grand River Fen) in Jackson County, where Poweshiek skipperlings were observed in 2012 but not in 2013 surveys

(Cuthrell 2013, pers. comm.). The species is presumed extirpated from six sites including the only two sites in Kent County and three sites in Oakland County: Rattalee Road, Fenton Road, and Rattalee Lake Fen (Call C Burr Preserve) fens. The species has not been observed at the Rattalee Road and Fenton Road sites since 1970 and 1973, respectively (Michigan Natural Features Inventory 2011, unpubl. data). Four Poweshiek skipperlings were seen in 2009 at the Rattalee Lake Fen (Calla C Burr Preserve), but none were observed during surveys conducted in 2010, 2011, and 2012 (Cuthrell 2012a, pers. comm.; Michigan Natural Features Inventory 2011, unpubl. data). The Michigan Natural Features Inventory (MNFI) also considers the two sites in Kent County to be extirpated due to habitat loss and destruction, Lamberton Lake and Button Lake (also known as Emerald Lake); the species has not been observed at either site since 1968 and 1944, respectively. The species is presumed to be extirpated at Whalen Lake Fen in Livingston County, where the species has not been observed since 1998 despite three subsequent years of surveys (Michigan Natural Features Inventory 2011, unpubl. data).

Four of Michigan's nine extant (present) Poweshiek skipperling occurrences were recently considered to have at least good viability (Michigan Natural Features Inventory 2011, unpubl. data); however, 2013 survey results have put the viability in question. Three of these sites, Buckhorn Lake also known as Big Valley), Brandt Road Fen (also known as Holly Fen) and Long Lake Fen, are within 20 km (12 mi) of one another in Oakland County; all with relatively large numbers (61–389) of the species recorded in 2010–2012 surveys (Michigan Natural Features Inventory 2011, unpubl. data; Cuthrell 2012a, pers. comm.). In 2013, however, 2 individuals (0.008/hr.) were recorded at Buckhorn Lake, which was down from 84 individuals (0.35/hr.) recorded the previous survey year (2012) with similar effort, and 53 individuals (0.33/hr.) were recorded at Brandt Road in 2013, down from 71 individuals (0.59/hr.) recorded the previous survey year (2012) with similar effort. The largest extant (present) Poweshiek skipperling population in Michigan may be at Long Lake Fen, where 25 individuals (0.2/hr.) were counted during 2013 surveys, down from 389 individuals (2.2/hr.) and 225 individuals (1.3/hr.) observed in the previous two survey years (2011 and 2012, respectively) with similar sampling effort. In 2012, Long Lake Fen was thought to be the largest population of Poweshiek skipperling in the United States. However, it is subjected to intense development pressure, and results from 2013 surveys show low numbers. A fourth site, Grand River Fen (also known as Liberty Fen) in Jackson County, is approximately 100 km (62 mi) from the other three sites, and was also considered to have good viability in 2011, but the viability is questionable since 2013 surveys for the species were negative. In 2010, researchers counted 54 (0.3/hr.) Poweshiek skipperling at Grand River Fen, and 114 (0.6/hr.) in 2011 (Michigan Natural Features Inventory 2011, unpubl. data; Cuthrell 2012a, pers. comm.). This number fell to 14 (0.1/hr.) in 2012 and zero in 2013 (Cuthrell, 2012a, pers. comm.; 2012b, pers. comm.; 2013, pers. comm.).

Small populations, immediate threats that have significant impacts on the species, or both limit the viability of the remaining five sites where we consider Poweshiek skipperling to still be present in Michigan. In 2010, eight (0.1/hr.) Poweshiek skipperlings were recorded at Park Lydon in Washtenaw County; 12 individuals were counted in 2011 (0.1/hr.), 22 were counted in 2012 (0.2/hr.), and 1 individual was counted in 2013 (Cuthrell 2012a, pers. comm.; 2013, pers. comm.). Two individuals (0.02/hr.) were recorded at Goose Creek Grasslands (also known as Little Goose Lake Fen) in Lenawee County in 2010, and nine (0.07/hr.) were seen in 2011 (Cuthrell 2012a, pers. comm.; 2012b, pers. comm.). Only one Poweshiek skipperling was seen during a 15-minute 3-person survey in 2007 at the Snyder Lake site. Fourteen individuals were observed during 2008 surveys at Halstead Lake Fen (Michigan Natural Features Inventory 2011, unpubl. data), and 18 were observed in 2012 (Cuthrell 2012a, pers. comm.); neither survey year had units of effort associated with the counts at this site. One individual was counted at Bullard Lake fen in 2007, but the species was not observed in the two most recent survey years (2008 and 2009); therefore, the status is unknown at that site. We have only one year of data from Liberty Bowl Fen, where the species was recorded in 1996. The Eaton Road Fen is thought to be fairly viable, where 15–20 individuals were observed on multiple occasions in 2005, and a high of 68 individuals were observed in 2011 (Cuthrell 2012b, pers. comm.). The Eaton Road site is approximately 0.6 km (1 mi) from the Long Lake Fen site and is considered a sub-site within Long Lake Fen (Cuthrell 2012b, pers. comm.), but we consider it to be a separate site for the purposes of this rule.

To summarize, Poweshiek skipperling was historically documented in 17 sites in Michigan (Table 2). The species is considered to be present at 9 of the sites, although the numbers observed in 2013 were substantially less than in previous years with similar survey effort. The occupancy is unknown at 2 sites, and the species is considered to be extirpated at 6 sites.

Minnesota

Minnesota historically contained approximately 48 percent (N=144) of all known records of Poweshiek skipperlings rangewide (Table 2). There are approximately 189 historical Poweshiek skipperling occurrence records in 32 counties in Minnesota [Minnesota Natural Heritage Inventory (MN NHI) database accessed June 19, 2013, plus additional surveys]. Clusters of records occur within five general areas from the State's southwest corner to near the Canadian border in the north. Based on the proximity of some occurrences to one another (*e.g.,* overlapping or occurrences in close proximity to one another in one general location), there appear to be approximately 144 distinct historical site records in the State (Dana 2012d, pers. comm; Service 2014, unpubl. geodatabase). Poweshiek skipperling are presumed extirpated or possibly extirpated from at least 85 of these known sites. The status of the species is unknown at 58 sites, although 27 of those locations have not been surveyed since 2003, and the species has undergone a sharp decline in the State since then.

An extensive survey effort was completed in 1993 and 1994 (Schlicht and Saunders 1994, entire; Schlicht and Saunders 1995, entire). During those surveys, Poweshiek skipperlings were found in 11 of 19 sites on which the species had been previously recorded and in 13 new sites, for a total of 25 of 63 surveyed prairie sites; the species was present at 30 and 39 percent of the sites in 1993 and 1994, respectively (Schlicht and Saunders 1995, pp. 5–7). These results contrast sharply with those from the surveys conducted in 2007 and 2008, when the species was found at four and zero percent of sites, respectively. Although the species was apparently more common in 1993 and 1994, numbers of Poweshiek skipperling found during surveys were typically low. Large numbers were observed at only three sites (Schlicht and Saunders 1995, p. 4). At one of these sites, Glynn Prairie, 25 Poweshiek skipperling were recorded during a 50-minute survey in July 1993 (Schlicht and Saunders 1995, data sheet); no Poweshiek skipperling were observed at this site during the

2007 survey despite good survey conditions (Selby 2009a, p. xxxv).

Until about 2003, the Poweshiek skipperling was regarded as ''the most frequently and reliably encountered prairie-obligate skipper in Minnesota'' (Dana 2008, p. 1). Signs of the species' decline in Minnesota were noted in 2003 when Selby (2005, p. 20) found sharply lower numbers in and near Glacial Lakes State Park (Selby 2005, p. 20) compared to those observed in 2001 (Skadsen 2001, pp. 22–24). For example, numbers recorded along four transects that were surveyed in both years decreased from 104 to 2 individuals (Selby 2006b, Appendix 2, p. ii). In 2004 and 2005, Selby (2006b, Appendix 2, p. 2) did not record a single Poweshiek skipperling on any of these transects in and around the park during 11 separate surveys.

An extensive survey effort was conducted in 2007 and 2008 throughout most of the species' known range in the State (Selby 2009a, entire). Sites with previous Poweshiek skipperling records that were considered to have the greatest conservation importance to the species (large, high-quality prairie remnants) were surveyed, as well as sites with no previous records that appeared likely to support the species (Selby 2009a, p. 2). In 2007, 70 sites in 15 counties were surveyed, including 26 sites with previous Poweshiek skipperling records (Selby 2009a, pp. 1, 6). In 2008, 58 sites were surveyed in 13 counties, including 22 sites with prior records (Selby 2009a, pp. 1, 6). A total of 34 sites with previous Poweshiek skipperling records were surveyed in both years combined. Poweshiek skipperling presence was recorded on only three of the 70 surveyed sites in 2007; each of these three sites had just one confirmed individual (Selby 2009a, p. 1). No Poweshiek skipperlings were observed on any of the 58 sites surveyed during the 2008 flight period (Selby 2009a, p. 1).

In 2007, multiple transect surveys were conducted in four sites with previously well-documented Poweshiek skipperling populations—transects totaling 52,985 m (33 mi) were surveyed without observing a single Poweshiek skipperling (Dana 2008, p. 5). About half of these transects (totaling 20,959 m (13 mi)) were in the Prairie Coteau Scientific and Natural Area (SNA), where in 1990 Selby recorded 116 Poweshiek skipperlings during the flight peak (Selby and Glenn-Lewin 1990, pp. 19–20) along a total of about 6,250 m (4 mi) of transects (Dana 2008, p. 16). No Poweshiek skipperling were observed during surveys of the Prairie Coteau SNA in 2012 (Runquist 2012, pp. 9–10).

Additional surveys were conducted in 2012; however, Poweshiek skipperling were not observed at any of the 18 sites with relatively recent records (Runquist 2012, pp. 4–25; Selby 2012, p. 2; Selby 2013, p. 2; Dana 2012c, pers. comm.; Runquist 2012a, pers. comm.; Olsen 2012a, pers. comm.). Fifteen additional prairie sites with potential habitat or records of other skippers were surveyed in 2012, but no Poweshiek skipperling were observed (Runquist 2012, pp. 4–25; Selby 2012, p. 2; Selby 2013, p. 2; Dana 2012c, pers. comm.; Runquist 2012a, pers. comm.; Olsen 2012a, pers. comm.). Twenty-one sites with previous records of the species were resurveyed in 2013 and 7 additional sites, with no previous records, were also surveyed for the species (Runquist 2014, pp. 3–6; Selby 2014, pp. 2–5; Rigney 2013b, p. Appendix B). Three individual Poweshiek skipperlings were observed at one site in Polk County—this is the first credible sighting of the species in the State since 2007 (Webster 2013, pers. comm.; Dana 2014, pers. comm.; Service 2014, unpub. database).

Nearly half (approximately 48 percent) of all documented Poweshiek skipperling sites rangewide are in Minnesota, thus the apparent collapse of large numbers of Poweshiek skipperling populations across the State may pose a significant challenge for the long-term existence of this species. Although the possibility remains that the species is extant at some sites where recent (2007, 2008, 2012, or 2013) surveys were negative, it seems unlikely that it is present at those sites in any significant numbers. Extensive surveys in 1993 and 1994 documented the species at about 35 percent of all surveyed sites, whereas the 2007 effort found them at only about 2 percent of all sites surveyed; no Poweshiek skipperling were detected despite widespread and robust survey efforts involving multiple observers in 2008 or 2012 (Dana 2008, p. 8; Selby 2009a, p. 1; Dana 2012c, pers. comm.; Runquist 2012a, pers. comm.; Olsen 2012, pers. comm.; Runquist 2012, pp. 4–25; Selby 2012, p. 2, 2013, p. 2). Three individuals were sighted at one location in 2013 (Webster 2013, pers. comm.; Dana 2014, pers. comm.).

To summarize, Poweshiek skipperling was historically documented in approximately 144 sites in Minnesota (Table 2). The species is not considered to be present at any of these sites, except at one location (Table 2). The occupancy is unknown at 58 sites, and the species is considered to be extirpated or possibly extirpated at 21 and 64 sites, respectively (Table 2).

North Dakota

North Dakota historically contained approximately 6 percent (N=17) of all known records of Poweshiek skipperlings rangewide (Table 2). Poweshiek skipperlings have been historically documented at 17 sites (Table 2) in 7 North Dakota counties (Selby 2010, p. 18; Service 2014, unpubl. geodatabase): Cass, Dickey, LaMoure, Ransom, Richland, and Sargent in the southeastern corner of the State and Grand Forks County in the Northeast. Poweshiek skipperling are now considered extirpated or possibly extirpated from nine sites and four counties (Cass, Dickey, LaMoure, and Grand Forks) in North Dakota. The status of the species is unknown at 8 sites, where the species was last observed between 1996 and 2001, but not during the most recent 1–2 year(s) surveyed. Four sites with fairly recent Poweshiek skipperling records were surveyed in 2012; Poweshiek skipperling were not found at any of those sites (Royer and Royer 2012b, pp. 21–24; Royer and Royer 2012a, p. 6). One additional site was surveyed, which had the potential for Poweshiek skipperling presence because of its proximity to a known site for the species; however, no Poweshiek skipperling were found (Royer and Royer 2012b, pp. 18–19; Royer and Royer 2012a, p. 6; Royer 2012b, pers. comm.). The species was not observed at six sites with previous records of Poweshiek skipperlings that were surveyed in 2013. The species occupancy at two of these sites with 2013 surveys was updated from unknown to extirpated based on three consecutive years of negative surveys (Service 2014, unpubl. geodatabase).

The Poweshiek skipperling was known from seven North Dakota sites across six counties in the 1990s; however, only two of those sites were considered to have extant populations at that time; three records were represented by incomplete or ambiguous locality data, and the species was assumed to be extirpated at one site (Royer and Marrone 1992b, pp. 8–11). Surveys conducted in the State after 1992 documented additional populations, but the most recent surveys at these sites were mostly negative. Orwig discovered eight new populations of Poweshiek skipperling (six in Richland County and two in Sargent County) during 3 years of survey work (1995–1997) in southeastern North Dakota (Orwig 1995, pp. 3–4; Orwig 1996, pp. 4–6, 9–12; Orwig 1997, p. 2). The species was found at two of the eight sites surveyed in 1997 (Orwig

1997, p. 2) and at two additional sites in 1996 (Spomer 2004, p. 11).

Once abundant at several known sites in North Dakota, Poweshiek skipperlings have experienced a dramatic decline over the last few decades. In 1977, McCabe and Post (1977a, p. 38), for example, found Poweshiek skipperling to be abundant at McLeod Prairie in Ransom County, stating that they could ''be collected two at a time on the blossoms of Long-headed coneflower . . .'' In 6 years of subsequent monitoring (1986–1991), however, Royer failed to find a single Poweshiek skipperling at the site after it was converted to a cattle-loading area (Royer and Marrone 1992b, p. 10). Royer and Marrone (1992b, pp. 10–11) assumed the species had been extirpated at this site. Similarly, the number of Poweshiek skipperlings recorded during surveys at the West Prairie Church site along the boundary of Cass and Richland counties, fell from hundreds in 1986, to four in 1990, and zero in 1991 and 2012 (Royer and Marrone 1992b, p. 8; Royer and Royer 2012b, p. 21). Poweshiek skipperlings are unlikely to persist at this small and isolated site (Royer and Royer 2012b, p. 21; Royer 2012c, pers. comm.).

The last observation of a live Poweshiek skipperling in North Dakota was in 2001, at a new site discovered by Spomer (2001, p. 9) in Ransom County. Poweshiek skipperlings were not found in subsequent surveys at this site in 2002, 2003, and 2012 (Spomer 2001, p. 2; Spomer 2002, p. 3; Spomer 2004 p. 36; Selby 2010, p. 18; Royer and Royer 2012b, p. 22), although the 2012 survey may have been conducted too late in the year to detect the species at that site (Royer 2012b, pers. comm; Royer 2012d, pers. comm.). Therefore, the status of the species at this site is unknown.

To summarize, Poweshiek skipperling was historically documented in 17 sites in North Dakota (Table 2). The species is not considered to be present at any of these sites (Table 2). The occupancy is unknown at eight sites, and the species is considered to be extirpated or possibly extirpated at three and six sites, respectively (Table 2).

South Dakota

South Dakota historically contained approximately 24 percent (N=69) of all known records of Poweshiek skipperlings rangewide (Table 2). The Poweshiek skipperling has been historically documented at approximately 69 sites (Table 2) across 10 counties in South Dakota (Selby 2010, p. 19). Based on expert review and additional survey and habitat information, the status of the species was determined to be unknown at 36 sites, possibly extirpated at 2 sites, and presumed extirpated at the remaining 31 sites (Table 2); at least 8 of the extirpated sites have been destroyed by conversion, gravel mining, loss of native vegetation, flooding, or heavy grazing (Skadsen 2012c, pers. comm.).

The Poweshiek skipperling was not detected at any site that was surveyed between 2009 and 2013: 6 sites in 2009, 10 sites in 2010, 1 site in 2011, 10 sites in 2012, and 25 sites in 2013 (Skadsen 2009, p. 12; Skadsen 2011, p. 5; Skadsen 2010, pers. comm.; Skadsen 2012a, pers. comm.; Skadsen 2012b, p. 3; Skadsen 2013, pp. 3–4). The 2009 to 2013 results are in marked contrast to surveys conducted in 2002 when the species was recorded at 23 of 24 sites surveyed (Skadsen 2003, pp. 11–45). Cool and wet weather may have depressed butterfly populations, in general, in eastern South Dakota and west-central Minnesota in 2009 as it apparently did in 2004 (Skadsen 2004, p. 2; Skadsen 2009, p. 2). In 2012 and 2013, five and nine additional sites, respectively, with potentially suitable native-prairie habitat but with no previous records of the species were surveyed, but no Poweshiek skipperling were observed (Service 2014, unpubl. geodatabase).

Wisconsin

Wisconsin historically contained approximately 1 percent (N=4) of all known records of Poweshiek skipperlings rangewide (Table 2). Naturalists reported Poweshiek skipperling to be common to abundant on prairies in southeastern Wisconsin in the late 1800s (*e.g.,* in Milwaukee and Racine Counties), although exact localities are unknown (Borkin 2011, in litt.; Selby 2010, p. 22). By 1989, however, the species was listed as State endangered (Borkin 2011, in litt.). The Poweshiek skipperling is considered to be present at one site in Wisconsin (Table 2); Puchyan Prairie State Natural Area (SNA) is approximately 100 km (62 mi) to the northwest of the Kettle Moraine State Forest in Green Lake County. The status of the species is unknown at three sites within the Southern Unit of the Kettle Moraine State Forest in Waukesha County. An additional 2010 record of a butterfly was incorrectly identified as a Poweshiek skipperling at Melendy's Prairie Unit of the Scuppernong Prairie SNA (Borkin 2012b, pers. comm.).

The two occurrences of Poweshiek skipperling in the Kettle Moraine State Forest inhabit small areas that were once part of a larger prairie complex, which was fragmented by conversion to agriculture, other human development, and encroachment of woody vegetation (Borkin 2011, in litt.). Up until 2013, the largest population in Wisconsin was within a 6-ha (15-ac) prairie remnant on Scuppernong Prairie SNA at Kettle Moraine State Forest, which had record counts exceeding 100 individuals in 1994, 1995, 1998, and 1999 (Borkin 1995, p. 10; Borkin 1996, p. 7; Borkin 2000, p. 4; Borkin 2011, in litt.). Four were found in 2007 (Borkin 2008, in litt., p. 1), although these data were collected during a single transect survey that may have been early in the flight season and are, therefore, not comparable to other survey years (Borkin 2012a, pers. comm.). A maximum count of 42, 17, 63, and 45 were counted in 2009, 2010, 2011, and 2012, respectively (Borkin 2011a, pers. comm.; Borkin 2012c, pers. comm.). The relatively low maximum count in 2010 may be due to the timing of the flight (early) and the timing of the survey effort (late); therefore, the peak flight may have been missed (Borkin 2013, pers. comm.). A controlled burn in late March of 2012 may correlate with lower numbers observed during the 2012 flight (Borkin 2012a, pers. comm.). While this difference may be within the range of variation observed over the previous 4 years (Wisconsin DNR 2012, in litt.), the range in variation may be skewed due to the low numbers observed in 2010 due to the timing of the flight and the survey effort (Borkin 2013, pers. comm.). No Poweshiek skipperlings were observed at Scuppernong during repeated surveys in 2013 (Borkin 2013, pers. comm.)—this is the first time no individuals have been observed there since regular surveys began in the 1990s (Borkin 2014 pers. comm.). Each year, surveys were conducted with similar effort—modified Pollard transect covering 15 ac (6 ha) in approximately 40 minutes (Borkin 2014, pers. comm.).

After brush was cleared from the area in 2002, a small number of Poweshiek skipperlings were discovered the following year in a small isolated prairie remnant patch at a second site in the Kettle Moraine State Forest, (Borkin in litt 2008). Once the intervening woody growth was removed, individuals presumably dispersed from the Scuppernong SNA remnant prairie to a small habitat patch about 200 ft (61 m) away (Borkin 2012a, pers. comm.). Surveys at each habitat patch have consistently yielded counts of less than 10 (Borkin 2008, in litt.), with a combined high count of 11 to 15 individuals in 2011. A total of six individuals, with a high single day count of three, were observed in eight surveys during 2012 (Borkin 2012c,

pers. comm.; Borkin 2012a, pers. comm.). No Poweshiek skipperlings were observed in 2013 (Borkin 2013, pers. comm).

The status of the Poweshiek skipperling is unknown at a third and much larger fragment of Kettle Moraine State Forest, the Kettle Moraine Low Prairie SNA, which is adjacent to the Wilton Road site. The Kettle Moraine Low Prairie SNA was overgrown by shrubs including willows (*Salix spp.*), quaking aspen (*Populus tremuloides*), and glossy buckthorn *(Frangula alnus*) and has been managed with a series of controlled burns, in addition to a 1975 wildfire (Borkin 2011, in litt; Borkin 2012a, pers. comm.; Wisconsin DNR 2012, in litt). The highest number recorded at the Kettle Moraine Low Prairie SNA was 28 on July 8, 1995 (Borkin 2012a, pers. comm.). Preliminary attempts in 2000 to 2003 to augment the population with adults from Scuppernong SNA and captive-reared larvae were not successful (Borkin 2012a, pers. comm.). A single Poweshiek skipperling was sighted there on July 2, 2004, but none were found in surveys conducted in 2007–2009 and 2011–2012 (Borkin 2011b, pers. comm.; Borkin 2012a and 2012c, pers. comm.). Two Poweshiek skipperlings were recorded in 2010 at this site (Wisconsin DNR2012, in litt.); however, no photographs or voucher specimens confirm the sighting. This site was surveyed less intensively than Scuppernong Prairie, because of the species' relatively low density and abundance at Kettle Moraine Low Prairie SNA (Borkin 2012a, pers. comm.). Extensive brush cutting, additional burns, and restoration of the hydrology have been undertaken in recent years (Borkin 2012a, pers. comm.).

Poweshiek skipperlings are present at a third site in Wisconsin, Puchyan Prairie SNA, in Green Lake County, although this population is small and declining (Borkin 2009, pers. comm.). The Poweshiek skipperling was first discovered at Puchyan Prairie in 1995, and 6 to 30 individuals have been recorded in subsequent surveys (Borkin 2008, in litt.; Swengel 2012, pers. comm). In 2012, Swengel (2012, pers. comm.) found a maximum of three individuals, despite several hours of searching over 3 days. In 2013, Swengel (2013, pers. comm.) found a total of three individuals during 2 days of searching.

Additional sites in eight counties (Crawford, Grant, Iowa, Jefferson, Monroe, Rock, Sauk, and Walworth) have been surveyed in an attempt to find undiscovered Poweshiek skipperling populations. Four of the eight sites surveyed in 1998 and 1999 seemed to have adequate host plants, nectar resources, and size typical of Poweshiek skipperling habitat, but Poweshiek skipperling were not present at any of the sites (Borkin 2000, pp. 5–7).

To summarize, Poweshiek skipperling was historically documented in 4 sites in Wisconsin (Table 2). The species is considered to be present at one site and the occupancy is unknown at three sites (Table 2).

Manitoba

Manitoba historically contained less than 1 percent (N=1) of all known records of Poweshiek skipperlings rangewide (Table 2); however, multiple Poweshiek skipperling historical records occur in one general location—a complex of several nearby small sites within the Tallgrass Prairie Preserve—in far southern Manitoba, near the United States border. Poweshiek skipperlings were first recorded in Canada near Vita, Manitoba, in 1985 at each of seven prairies surveyed, and populations were described as abundant but localized (Catling and Lafontaine 1986, p. 63). Poweshiek skipperlings were found at 15 of 18 locations surveyed within the same area in 2002 (COSEWIC 2003, p. 5).

The Poweshiek skipperling is currently present at one location in Canada, The Nature Conservancy of Canada Tall Grass Prairie Preserve near Vita, Manitoba (Westwood 2010, p. 2; Westwood *et al.* 2012, p. 1; Hamel *et al.* 2013, p. 1). Poweshiek skipperlings were historically moderately common in areas of the preserve (Klassen *et al.* 1989, p. 27). In 2002, Webster (2003, p. 5) counted approximately 150 individuals, and in 2006, approximately 126 individuals were sighted across 10 sites (Westwood 2010, p. 3). Surveys of 10 sites in 2008 and 2009 yielded 281 and 79 Poweshiek skipperlings, respectively (Dupont 2010, pers. comm.). Poweshiek skipperling numbers in the preserve declined sharply after a 647-ha (1,600-ac) wildfire in fall 2009 burned much of the species' habitat, including areas that likely contained the largest and highest density populations (Westwood 2010, p. 2); surveys of comparable effort to the 2008 and 2009 surveys yielded only 13 Poweshiek skipperlings on the preserve in 2010 (Westwood 2010, pp. 7–22). Surveys of 45 sites within the Tall Grass Prairie Reserve during 2011 resulted in 13 sites with positive sightings, 9 of which were new sites (Westwood *et al.* 2012, p. 11; Dupont 2011, pers. comm.). The average number of Poweshiek skipperlings found at each site ranged from 10 to 15 per hour. These numbers are up considerably from 2010, but not as high as observed in 2008 (Dupont 2011, pers. comm.). In 2012, a total of 50 individuals were observed, which was ''low when compared to historic densities'' (Hamel *et al.* 2013, p. 17). Poweshiek skipperling sites in Manitoba are often surveyed up to 7 times during the flight period each year (Westwood 2013, pers. comm.). The preserve has detailed management recommendations to facilitate recovery of the Poweshiek skipperling (Westwood 2010, p. 5).

Following an assessment and status report completed in 2003 under the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), the Poweshiek skipperling was listed under the Species at Risk Act as Threatened in Canada in July 2005 (COSEWIC 2003). A recovery strategy is now in place for the species in Canada (Environment Canada 2012), which includes critical habitat designations within and adjacent to The Nature Conservancy of Canada Tall Grass Prairie Preserve (Environment Canada 2012, p. ii).

Summary of Comments and Recommendations

In the proposed rule published on October 24, 2013 (78 FR 63574), we requested that all interested parties submit written comments on the proposal by December 23, 2013, during which we held public meetings on November 5, 2013, in Minot, North Dakota; November 6, 2013, in Milbank, South Dakota; November 7, 2013, in Milford, Iowa; November 13, 2013, in Holly, Michigan; and November 14, 2013, in Berlin, Wisconsin. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the following papers: Detroit Free Press, Detroit, MI; The Detroit News, Detroit, MI; Berlin Journal, Berlin, WI; The Forum of Fargo-Moorhead, Fargo, ND; Minneapolis Star-Tribune, Minneapolis, MN; Mukwonago Chief, Mukwonago, WI; The Des Moines Register, Des Moines, IA; Bismark Tribune, Bismark, ND; The Argus Leader, Sioux Falls, SD. We did not receive any requests for a public hearing. All substantive information provided during comment periods has either been incorporated directly into this final determination or addressed below. Comments specific to the proposed designation of critical habitat for the two species (78 FR 63625) will

be addressed in the final critical habitat determination.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from ten knowledgeable individuals with scientific expertise that included familiarity with the Dakota skipper or the Poweshiek skipperling and its habitat, biological needs, and threats. We received responses from seven of the peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the listing of the Dakota skipper or the Poweshiek skipperling. The peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve the final rule. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

General

(1) Comment: Peer reviewers thought that the Service's interpretation of literature addressing threats to these species was well researched. However, some peer reviewers suggested that further research would strengthen or refine our understanding of these butterflies.

Our Response: The Act requires us to make a determination on the status of species based on the best available information. However, we agree that that further studies of these species would further our understanding and help us with the recovery planning and implementation. We will consider further research needs in our recovery planning efforts.

(2) Comment: One peer reviewer stated that, in the Executive Summary, the Service did not describe the effects of habitat management on butterflies, but rather focused on the impacts to native vegetation.

Our Response: We have updated the executive summary to include the direct mortality that may occur due to management activities or natural occurrences. This subject is discussed in further detail in the Background section of this final listing rule.

Taxonomy

(3) Comment: One peer reviewer provided a correction to the number of subfamilies in the family Hesperiidae and the number of species in the genus Hesperia. Specifically, the family comprises 7 subfamilies world-wide, 4 of which occur in North America, north of Mexico. There are 21 recognized species in the genus Hesperia (ibid), not 18 as cited in the proposal.

Our Response: We corrected the statements in the Background section of this final listing rule.

Species Biology

(4) Comment: One peer reviewer provided details on Dakota skipper and Poweshiek skipperling biology, specifically, information pertaining to early life stages and larval food choices, which were learned from captive-rearing trials at the Minnesota Zoo.

Our Response: We have incorporated the updated information into the Background section of this final listing rule.

(5) Comment: Two peer reviewers suggested that we incorporate the findings of two recently published Master's theses (Dupont 2013, Rigney 2013a) that have new information on the Dakota skipper and Poweshiek skipperling, including data from surveys at several locations for both species in Manitoba. These studies also show a greater decline in both species in Canada over the last 10 years than is indicated in the proposed listing rule.

Our Response: We incorporated data from the referenced Master's theses in the Dakota skipper Background section in this final listing rule. The new information, although important to our full understanding of the status of the species throughout their ranges, does not change our listing determinations for the two species.

(6) Comment: A peer reviewer stated that based on personal observations and McAlpine's 1972 report, upon hatching, Poweshiek skipperling larvae crawl out near the tip of grasses, and do not crawl to the base of grasses, as was stated in the proposal.

Our Response: We corrected the statement regarding Poweshiek skipperling larval behavior in the Background section of this final listing rule.

(7) Comment: A peer reviewer noted that a species' nectar preference is usually indicated by selection in greater frequency rather than the proportion of the species among all available nectar sources (because random selection would be expected to result in selection frequency equal to the species' proportion of the available choices). All of the references cited in the rule report nectar preferences as the relative proportion among observed choices.

Our Response: We clarified this point in the Background section of this final listing rule.

Food and Water

(8) Comment: Peer reviewers provided corrections to the lists of flowers used as nectar sources and the importance of several plants as nectar sources for the butterflies.

Our Response: We corrected the nectar flowers for Dakota skipper accordingly in the Background section of this final listing rule. Also, we removed upright prairie coneflower, fleabane, and white prairie clover from our list of important nectar species. We did not remove black-eyed Susan, because Rigney (2013a, p. 142) reported Dakota skippers were frequently observed nectaring on that species in Canada.

(9) Comment: One peer reviewer stated that the assertion that Dakota skipper larvae feed only on native grasses has not been established, and further stated that when confined with no other choice, Dakota skipper larvae may feed on a variety of native and nonnative grasses. Exotic cool-season grasses, such as Kentucky bluegrass and smooth brome are available, and generally of good nutritional quality, when overwintering larvae emerge from hibernation and begin feeding. The tight empirical correlation between occurrence of this skipper and the dominance of native plants in the habitat, however, indicates that the species requires native grasses.

Our Response: We have incorporated this information into the final listing rule, and recognize that Dakota skipper larvae can use both native and nonnative plants as food during certain stages of larval development. Some exotic cool-season grasses may be suitable larval food plants during limited times of larval development; however, the morphology and growth of these grasses may determine the suitability for the species, and if those grasses dominate a site, the chances for larvae finding suitable food sources is decreased.

(10) Comment: One peer reviewer provided additional information on observations of Poweshiek skipperling oviposition and larval food use in Wisconsin.

Our Response: We have incorporated the information into the Background section of this final listing rule.

(11) Comment: One peer reviewer corrected our interpretation of his observations on Poweshiek skipperling oviposition (egg-laying) to state that larvae need to begin feeding on very fine, threadlike blade tips, and that females placed eggs on fine blade tips of grasses during some observed ovipositions.

Our Response: We have incorporated this information into the Background section of this final listing rule.

(12) Comment: One peer reviewer stated that the summary of the best available information for Dakota skipper dispersal is adequate and incorporates all of the information of which the reviewer is aware. The reviewer did correct our interpretation of Dana's 1997 mark-and-recapture study. The reviewer stated that roads and crop-fields were suspected to be impediments to Dakota skipper movement; however, this was not explicitly tested during the study. Another reviewer wanted clarification on our basis for the estimated maximum dispersal distance of the Poweshiek skipperling.

Our Response: We corrected the dispersal section of this final rule to accurately present Dana's 1997 mark-and-recapture study findings, and added information from an additional study. In one mark-and-recapture study in Manitoba, the Poweshiek skipperling was found within 50 m (165 ft) of its original capture location (Dupont 2013, p. 69). Besides this study in Manitoba, which had too few recaptures to make any statistically significant conclusions, we are unaware of any other dispersal studies for the species. Therefore, we used Dakota skipper (and dispersal studies on this species) as a surrogate species to estimate the maximum dispersal distance of the Poweshiek skipperling (*e.g.,* Dana 1991, Dana 1997, Skadsen 1999a), and verified our assumptions with expert opinion and Burke (2011). Experts generally agreed that 1.6 km (1.0 mi) was a reasonable estimate for Poweshiek skipperling dispersal distance (Westwood 2012b, pers. comm.; Dana 2012b, pers. comm.). However, according to Burke *et al.* (2011), the Poweshiek skipperling was less mobile than the Dakota skipper. Since experts generally assumed the maximum dispersal distance of the Dakota skipper was 1 km (0.6 mi), we used 1 km (0.6 mi) as a conservative maximum dispersal distance for the Poweshiek skipperling.

(13) Comment: One peer reviewer questioned the accuracy of the mobility value assigned to the Dakota skipper from the Burke *et al.* (2011) publication. The reviewer suggested that the strongest evidence for limited dispersal capabilities is the absence of observations outside of native-prairie habitat. Butterflies that are highly mobile are occasionally observed in unsuitable habitat; however, factors such as the rarity of the species, its small size and inconspicuous appearance, and the rarity of observers that are both interested in skippers and capable of identifying them, makes the absence of observations in unsuitable habitats weak evidence for the absence of movement over long distances. The reviewer further stated that, since we have little basis for measuring dispersal in this species, but we have no evidence that it does much dispersing, we should assume that dispersal is very limited.

Our Response: The Burke *et al.* (2011) paper was published in a peer-reviewed scientific journal (using expert interviews); however, we recognize the limitations of the data therein and, therefore, have arrived at our conclusion that the Dakota skipper has low dispersal capability based on this paper in conjunction with other reports and observations.

Habitat

(14) Comment: One peer reviewer corrected the statement that Type B habitat (as explained in the Background section above) was the only habitat type inhabited by the Dakota skipper in Minnesota, as the species has been documented in other habitat types, particularly in Type A habitat in Kittson and Stearns Counties.

Our Response: We corrected the statement regarding Dakota skipper habitat types in Minnesota in this final listing rule. It should be noted, however, that there is only one recent (2009) record of a Dakota skipper in Kittison County, Minnesota, and two sites in Stearns County where the species is possibly extirpated.

(15) Comment: One peer reviewer stated that the assertion in our proposed rule that Dakota skipper larvae are ''particularly vulnerable to desiccation during dry summer months'' was a hypothesis, with no confirming evidence. The paper cited only surveyed occupied habitat and did not test unoccupied areas for the same parameters.

Our Response: We realize the limitations of Royer's 2008 study, and have corrected our interpretations accordingly in this final rule; specifically, the sampling design (edaphic parameters were measured only in occupied areas, and no unoccupied areas were examined to test the significance of the findings) does not allow for statistically significant conclusions.

(16) Comment: One peer reviewer corrected the definition given for ''larval nesting zones'' measured for edaphic characteristics in Royer (2008). The ''primary larval nest zone'' in which they measured temperature and humidity is described as 0–2 cm above the soil surface, not between the soil surface and 2 cm deep as stated in the proposed rule.

Our Response: We have corrected the statement regarding larval nesting zones in the Background section of this final rule.

Occupancy

(17) Comment: Ane peer reviewer commented on the adequacy of the categorization of population status, and stated that it was done in an appropriately conservative way, but did not think this would affect the ultimate decision for either species

Our Response: We developed the occupancy criteria to be as objective as possible in light of the information we had, which was complicated by the variability of the frequency and lack of error quantification of the survey data. We applied the occupancy rules consistently, in the same way throughout the range of each species, with discretion given to species experts who were familiar (e.g., who had conducted relatively recent site visits or butterfly surveys) with the sites within their State. Using the best information available, we attempted to balance our determination as to whether the species was likely present or not at a particular location. We determined that at sites where the species was detected during the most recent survey, if the survey was conducted in 2002 or more recently, this was a reasonable timeframe to assume its presence, if there was no evidence of habitat destruction or significant degradation of the habitat. Some other comments, however, indicated that the 10-year timeframe was too long to assume presence of an annual species, such as these butterflies, while others thought we should still be assuming presence at locations with detections much farther back (prior to 1993), if we had no evidence that the habitat hadn't been destroyed there. However, we believe that we have taken the most reasonable approach to defining occupancy, used the best available scientific information appropriately, and have been consistent in making this determination.

(18) Comment: One peer reviewer noted that it would be useful to clarify the importance of unknown sites and to determine if habitat in ''unknown'' sites, and sites where extirpation has presumed to have occurred, is actually in a condition to support future populations, particularly for future reintroductions.

Our Response: It is important to distinguish among sites where the species is likely extirpated, where the species is still present, and where we are unsure of the species' presence, in

order to determine the current status of these species. The habitat at individual sites varies, but where we had evidence that the habitat was destroyed, we considered those sites to be extirpated (and, thus, unsuitable for future reintroductions). The habitat at other sites may still be suitable for one or both species, and its role in future recovery efforts, such as reintroductions, will be considered during the recovery planning and implementation phase for these species.

(19) Comment: One peer reviewer requested that we define some terms used in the proposed rule; in particular, the terms ''positive detections,'' ''detection rate,'' and ''liv''.

Our Response: Positive detections refers to the number of times the species was detected during a survey. Detection rate is calculated as the number of times the species was detected (at a singular site or groups of sites), divided by the number of surveys (at a singular site or groups of sites). Finally, ''liv'' refers to the page number in the preface of a cited publication (Roman numeral for page 54).

(20) Comment: Does the definition of species extirpation from a site apply to surveys conducted in 1993, or to those done more recently?

Our Response: We considered the species to be extirpated from a site if there were at least three sequential years of negative surveys, no matter the year those sites were surveyed, and the species has not subsequently been documented at the site. For example, if a site was only surveyed in 1991, 1995, and 1999, and there were no positive detections of the species during all 3 years, we assumed that the species is extirpated from that site. The species occupancy at that site would not change unless the species is detected at that site in the future. We have clarified this definition in the Background section of this final listing rule.

(21) Comment: One peer reviewer wanted further clarification on our justification for including four Dakota skipper sites with older records in the present occupancy category. The reviewer suggested we review the previous densities of the species at the four sites and the proximity of nearby sites from which individuals could recolonize the sites in question.

Our Response: The species occupancy at one of four South Dakota sites has been updated to ''unknown'' after further review of the information available for the site, including 2013 survey data that were not available to us at the time we drafted the proposed rule. However, there is no evidence to suggest that the species is not still present at the remaining three sites (all in Minnesota), because the best information indicates that the sites' habitats are still suitable for the butterfly, and, therefore, despite the lack of recent surveys, the species may still be present there.

(22) Comment: A peer reviewer noted that at several points the proposed rule indicates that survey efforts may vary in number of visits, but that certain survey results were not considered, because they were not conducted at the appropriate time. The peer reviewer questioned whether we can presume that the surveys that were considered are comparable, regardless of the number of visits visits, whether those surveys all meet some minimum criteria, and whether there was a standard survey effort measurement.

Our Response: Since the purpose of site surveys differed by site, the amount of effort also varied. For example, if the goal of the survey was to verify if the species was present at a particular location, a surveyor may have stopped the survey effort as soon as the first individual was detected, which may have occurred after a short, one-time visit. On the other hand, if the survey purpose was to count individuals during the peak flight of a species, the site may have been visited every day throughout the adult flight period, and more quantitative measurements, such as number of individuals observed per hour, may have been recorded. We used all types of surveys, as long as they were conducted during the appropriate time of the year (mid-June through mid- to late July), and during appropriate conditions (*e.g.,* generally wind speeds less than 16 mph, unless the species was detected at higher speeds). Furthermore, we only considered surveys from individual surveyors who are able to reliably identify the species in the field.

(23) Comment: A peer reviewer noted that the proposed rule states that existing models are unable to identify specific plant species, invasive species, and floristic quality, and the Service concludes that unbroken grasslands ''may not contain the specific native prairie plants that the Dakota skipper requires. . . .'' This statement appears to be contradicted later in the document.

Our Response: We clarified the statements in this final listing rule. The intent of the first statement is to acknowledge that existing habitat models cannot identify specific species or determine floristic quality necessary to support Dakota skipper populations. The models may be useful in narrowing down areas that may contain the necessary nectar plants and larval food plants, but presence of specific plant species and suitability for the Dakota skipper must be verified by other means (*e.g.,* on the ground plant surveys). The second statement refers to the possibility of yet undiscovered areas of suitable habitat where the Dakota skipper may exist, because not every area that is suitable has been surveyed for the species.

(24) Comment: A peer reviewer noted that survey site selection may be influenced by the expert's knowledge of potential habitats, land ownership, and the ability to gain landowner permission to access areas for surveys.

Our Response: We acknowledge that survey sites may be selected for a variety of reasons. A site may be surveyed because there is known suitable prairie habitat in an area, but the exact survey location may depend on other variables, such as the ability to gain landowner permission to survey.

Status and Trends

(25) Comment: One peer reviewer provided additional 2009 data for the Felton Prairie site in Minnesota.

Our Response: We incorporated this data into this final listing rule.

(26) Comment: One peer reviewer requested clarification on the butterfly survey methodology and how floristic diversity was rated at some of the survey locations.

Our Response: The survey methodology varied among locations, years, surveyors, and by other factors, and it is difficult to succinctly describe the methodology used for more than 20 years of surveys for hundreds of survey sites. For that reason, we examined the data in terms of the rate of positive detections over the years at each survey location as a way to compare data across multiple survey methods and years. We applied certain standards that each survey must meet (see response to comment 22, above). In this final listing, we describe survey methods or floristic quality determination methods for specific locations when it is necessary to understand the results for a particular survey, and describe typical survey and floristic methodologies in the Background section of this final rule.

(27) Comment: A peer reviewer commented that the number of historical populations of Dakota skipper that remain extant is probably overestimated, given the results of recent resurvey efforts. In particular, this peer reviewer questioned whether it was realistic to assume species presence at five Minnesota sites, given the dramatic declines and apparent extirpation of populations at some of the

best sites within recent years. The reviewer suggested assigning those sites as ''possibly present'' or ''status unknown'' category, and targeting these sites for future surveys to determine the species' presence, particularly because recent declines do not appear to be due to habitat degradation or loss.

Our Response: Based on 2013 survey data, we changed the occupancy for several sites. When determining species occupancy at a site, we balanced information on habitat succession with the available survey data to avoid falsely assuming the species is absent from less-surveyed sites that still have suitable habitat.

(28) Comment: A peer reviewer commented that, based on surveys conducted in 2013, the status of both the Dakota skipper and the Poweshiek skipperling in Minnesota is likely more dire than suggested in the proposal. No Dakota skippers or Poweshiek skipperlings were observed during duplicate surveys conducted at 13 sites. During single surveys conducted later in the flight period (the time when adult butterflies are able to fly) at two additional sites in Clay County, MN, six Dakota skippers were seen at one of those sites and no Poweshiek skipperling were observed at either site. Both sites had fairly good numbers during 2008 surveys. Additionally, one peer reviewer suggested that we incorporate results from 2013 surveys of sites in Kittson County, Minnesota. No Dakota skippers were observed at Lake Bronson in 2013; however, there was one highly likely sighting, and the area contains moderate-quality habitat. The Frenchman's Bluff sites in Minnesota were surveyed on July 11, 2013, which was during the period of peak abundance in the phenologically (relationship between a periodic biological phenomenon and climatic conditions) delayed year, but the Dakota skipper was not observed. The estimated probability of the species presence at the site is 90 percent, based on the abundance of habitat and purple coneflower in bloom.

Our Response: We incorporated the 2013 data into this final listing rule. Due to several negative results from 2013 surveys, particularly in Minnesota, the occupancy status at several sites has been updated in this final listing rule. We still determine that the Dakota skipper should be listed as threatened, and provide justification for our determination in this final listing rule.

(29) Comment: One peer reviewer suggested that we incorporate information from a 2013 report of butterfly surveys in South Dakota.

Our Response: We incorporated 2013 survey results in this final listing rule.

(30) Comment: A peer reviewer suggested that the Dakota skipper population densities as described in 2003 and 2007 status assessments may no longer accurately describe the populations and the threats causing population declines. For example, reported sightings of Dakota skippers within the Riding Mountain National Park in Manitoba (Walleyn 2002) are likely not valid; there are no voucher specimens to confirm the report. There are no known sites that are owned by the Government in Canada.

Our Response: We incorporated updated information regarding several sites in Manitoba and Saskatchewan. We have no records of any confirmed Dakota skipper sites within the Riding Mountain National Park in Manitoba.

(31) Comment: One peer reviewer noted that there has been a decline in the number of individual Dakota skippers observed during the flight period compared to the populations observed in 2002 and 2007. The current population estimates are much lower than those described in Webster's 2002 and 2007 reports. Furthermore, the methods for estimating densities have changed; survey methodology has become more rigorous, with 2 to 5 visits per site per year from 2009–2013 compared to single visits prior to 2008.

Our Response: We incorporated 2013 data into this final listing rule. Due to largely negative results from 2013 surveys, the occupancy status of the species at several sites has been updated in this final listing rule.

(32) Comment: One peer reviewer stated that there is a DuPage County, Illinois, record of a Poweshiek skipperling—the specimen was collected in 1968 near the DuPage River, and was only recently identified as a Poweshiek skipperling.

Our Response: We have added the DuPage County record to the Illinois status and distribution section of this final listing rule.

(33) Comment: One peer reviewer stated that, because no Poweshiek skipperlings were observed in 2013 at Scuppernong Scientific and Natural Area (SNA) in Wisconsin, nor at the nearby Wilton Road site, those populations may be extirpated. The peer reviewer also stated that the apparent decline in numbers was also observed in Michigan.

Our Response: We have updated the Background section of this final listing rule to include the 2013 data for those two locations. Because there are just one or two years of negative data at the Scuppernong SNA and Wilton Road sites, the occupancy status at both sites is unknown.

(34) Comment: A peer reviewer commented that the low numbers of Poweshiek skipperling observed in 2012 at Scuppernong SNA were at least partially due to the spring burns of 25–30 percent of their prime breeding habitat at that location. The range of variation of the maximum numbers observed in 2009–2012 may be skewed due to the low numbers observed in 2010, when the peak flight may have been missed due to an early flight and late survey effort. The anticipated increase in the population in 2012 due to a mild winter and early spring phenology was not observed, which may indicate that the burn killed a high number of larvae.

Our Response: We clarified the statements regarding the uncertainty of the effect that the 2012 spring burn had on the Poweshiek skipperling population at that location. It is difficult to make cause-and-effect statements without direct measures of larvae mortality following a burn.

(35) Comment: A peer reviewer stated that the same protocol has been used for Poweshiek skipperling surveys in Wisconsin since the early 1990s—a modified Pollard transect count with a set transect pattern covering 6 ha (15 ac) of area and 40 minutes to complete.

Our Response: We clarified the methodology used at the Scuppernong SNA sites in the Background section of this final listing rule.

Factors Affecting the Species

(36) Comment: A peer reviewer suggested that it would be useful to rank or evaluate risks to the butterfly populations as they relate to management recommendations. For example, would haying carry a lower risk of causing extirpations? The level of risk, however, would depend on the type, duration, and timing of haying activities versus the type of fire management applied to sites.

Our Response: Ranking management methods goes beyond the scope of this final listing document and is more appropriate for recovery planning. Furthermore, management recommendations may vary for each location, based on the habitat type and condition; therefore, it may not be possible to generalize the level of risk associated with various management types.

(37) Comment: One peer reviewer commented on the level of private landowner awareness of the species and its status on their lands. Specifically, in Canada, most private landowners are unaware of the presence of the Dakota

skipper, and this may also be true for private landowners in the United States. Even where current management on lands may be conducive to the species, it is not typically due to a conscious effort to conserve the species. Landowner apathy should be considered a threat of considerable concern.

Our Response: We agree that some landowners may not be aware of the presence of either butterfly on their lands and that land may not be intentionally managed for the conservation of the species, but rather used in ways that are inadvertently favorable to the species. We have discussed this issue further in *Factor E* of this final listing rule. In the United States, we have notified private landowners of most of the sites where we believe the species is still present or its status is unknown, and many of the sites where the species is extirpated or possibly extirpated, but where the habitat may still be suitable for the species. We will continue to focus on public awareness and work cooperatively with landowners following listing.

(38) Comment: One peer reviewer asked for clarification on the reduction of Dakota skipper range, specifically what was meant by our statement of ''an approximately 690-km (430-mi) reduction of its range''

Our Response: We have removed this phrase from this final listing rule, because it was unclear. The Dakota skipper is considered to be extirpated from Illinois and Iowa and no longer occurs in eastern Minnesota.

Factor A

(39) Comment: One peer reviewer recommended that the date of first allowable haying be after July 22, because some adult flight has been documented after the date of July 16, which was our recommendation for the earliest haying. Another peer reviewer noted that in Manitoba, August 1 is the recommended earliest haying date at Dakota skipper and Poweshiek skipperling sites, although little haying is occurring where the Poweshiek skipperling is present. Sites should not be hayed within 3 to 4 weeks of the beginning of the adult flight period to prevent destruction of nectar plants. While there may be situations in the United States where sites undergo haying ''no more than every other year,'' most sites in Manitoba are hayed for several years in a row, but there are no studies on the impact of repeat annual haying.

Our Response: Our categorization of stressors as having high, medium, or low impacts on the species, and the criteria we use to define those categories, were developed specifically to guide our analysis of the factors affecting the species, and are not intended as guidelines for conservation efforts. Conservation guidelines for the Dakota skipper are available (online at *http://www.fws.gov/midwest/endangered/insects/dask/DASKconservationguidelines.html*), and we are developing similar guidelines for the Poweshiek skipperling. In those guidelines, we recommend that haying activities occur after the adult flight period.

(40) Comment: A peer reviewer asked whether, in the grazing section of the proposed rule, did the Service mean that even when grazing is hard enough to eliminate the skipper, the habitat potential isn't completely destroyed, as it is by mining or plowing, and can be restored?

Our Response: This is correct, and we clarified the language in this rule to more clearly state that, unlike habitat destroyed by mining or plowing, for example, intensely grazed habitat has potential to recover or be restored. Attempts have been made to restore prairie remnants that have been plowed or mined (where significant soil disturbance has occurred), but such restorations have not been successful for the Dakota skipper or Poweshiek skipperling, at least in observable timeframes.

(41) Comment: A peer reviewer noted that the proposal asserts that ''grazing is one of the primary treatments for controlling smooth brome and enhancing native plant diversity in prairies that have been invaded by this nonnative grass species.'' The peer reviewer stated that the assertion goes beyond anything in the cited document (Service 2006). There is no supporting research for grazing reducing brome, while at the same time maintaining or improving the native species composition. There is, however, support for the opposite—that grazing can stimulate brome and reduce native diversity. Smart *et al.* (2011) discuss grazing as a promising possibility, based on inferential, circumstantial, and anecdotal information, and the group agreed that experimental investigation is a big need. More accurately, the citation would support this statement: ''grazing may be a valuable tool for controlling smooth brome invasion and maintaining native diversity in prairies, especially where circumstances make the use of fire difficult.''

Our Response: We clarified the statement regarding grazing as a potential management tool for invasive species control to more accurately reflect the proceedings of the Service workshop (Service 2006) and Smart *et al.* (2011). Smart *et al.* (2011) used repeated clipping methods to simulate intensive early-season grazing and discusses the potential for using grazing as a tool to improve native prairie under certain conditions.

(42) Comment: One peer reviewer said that recent statistics related to habitat conversion show that the statement, ''The economic benefit of grazing to ranchers may also benefit the species at some sites by deterring conversion of remnant prairies to row crop agriculture'' is out-of-date, and said this sentence contributes little to the argument that remaining habitat is secure.

Our Response: We clarified the statement on conversion in this final rule to reflect the current economic conditions that row crop agriculture is generally more economically profitable than light grazing.

(43) Comment: A peer reviewer noted that the proposed rule includes little discussion of soil compaction as a result of grazing. A field demonstration by Natural Resources Conservation Service (NRCS) staff showed that soil compaction on a heavily grazed pasture was almost as hard as a brick, and very little of the water falling on it soaked in. Soil of this character would be quite difficult for the larvae of Dakota skipper to penetrate for shelter construction, causing them to be more exposed to predators, parasitoids, and other environmental stresses. The Poweshiek skipperling would not be affected by compaction, as it doesn't burrow.

Our Response: We agree that soil compaction due to heavy grazing may cause the Dakota skipper to be more exposed to predators, parasites, and other environmental stresses, such as fire, than if they were able to build underground shelters, and we have taken this into consideration in our evaluation of the threats to the species.

(44) Comment: A peer reviewer commented that the effects of grazing in Manitoba and Saskatchewan, as stated in Webster (2007), may not be applicable under current population scenarios. Even light grazing may be detrimental on dry short-grass prairie sites prior to and during the adult flight period.

Our Response: We incorporated this information into the *Factor A* threats analysis of this final listing rule, below.

(45) Comment: A peer reviewer stated that potash mining, gravel mining, flooding, and associated flooding protection activities may be significant threats to these species in Canada.

Our Response: We incorporated this information into the *Factor A* threats analysis of this final listing rule, below.

(46) Comment: One peer reviewer recommended that we not include the research from an unpublished paper by Schlicht (2001a), due to serious flaws in the methodology.

Our Response: Because of serious concern over the methods used in this unpublished paper, we removed the information from Schlicht (2001a) from this final listing rule (under *Factor A*—Fire), below.

(47) Comment: A peer reviewer stated that the discussion on threats from fire in the proposed rule focuses on controlled burns, but wildfires are a serious problem in Manitoba and previously inhabited sites in northwestern Minnesota. Due to the highly fragmented nature and comparatively small size of sites, wildfire may be a greater threat than either haying or grazing activities.

Our Response: We considered wildfires to have moderate to high impacts to Dakota skipper and Poweshiek skipperling populations; the impacts would depend on the timing, intensity, and extent of the burn. We discuss wildfires in Manitoba in the Background (population distribution and status) section and in *Factor E* of this final rule, and considered that fragmentation due to stochastic events, such as wildfires, may lead to extinction at isolated sites (*Factor E*).

(48) Comment: One peer reviewer provided a link to the Northern Tallgrass Prairie Lepidoptera Conservation Conference Working Group Reports Synthesis.

Our Response: We added the reference to the discussion regarding conservation efforts under *Factor A* in this final listing rule, below.

(49) Comment: A peer reviewer noted that, in the Conservation Efforts To Reduce Habitat Destruction, Modification, or Curtailment of Its Range section of the proposed rule, there was reference to a 1995 expert panel and plan. The peer reviewer asked whether an actual plan was developed.

Our Response: The group outlined a plan for surveying populations and characterizing sites and habitats at priority areas, identifying and recommending management needs, monitoring, and outreach and education; however, this plan was not drafted or finalized.

(50) Comment: A peer reviewer noted that, in a number of incidences within the last decade in Canada, sites have had general population declines or sites have been lost to intense agricultural use.

Our Response: We are aware of four sites in Canada where the Dakota skipper is now extirpated or possibly extirpated due to habitat destruction. Only sites where we believed the species is currently present or possibly present (unknown) were evaluated in our threats assessment.

(51) Comment: One peer reviewer provided details on Poweshiek skipperling populations following prescribed burns in Manitoba (based on Dupont 2013). Specifically, Poweshiek skipperling populations were most numerous in sites burned 5 to 8 years previously. The species was absent in sites that were burned the previous year, in small numbers in areas that were burned 2 to 4 years prior, and absent from areas that were burned 10 or more years before the survey.

Our Response: We have incorporated this information under *Factor A* of this final listing rule, below.

Factor C

(52) Comment: One peer reviewer provided additional information on Wolbachia, a bacteria affecting many butterfly species.

Our Response: We incorporated the new information into our discussion on Wolbachia under *Factor C* of this final listing rule, below.

(53) Comment: A peer reviewer commented that parasitism, predation, and disease may be significant stressors to Poweshiek skipperlings and Dakota skippers. A hypothesis in the rapid decline of the Poweshiek skipperling, and possibly the Dakota skipper, is that a newly virulent pathogen or a new parasitoid has increased mortality above normal levels. The small number of predation and parasitization events that were observed is evidence only of the difficultly in documenting such events. Dana (1991, pp. 26–27) reported observing predation on the butterfly by arthropods and large robber flies (Asilidae), which are common in upland prairie habitats. The peer reviewer also cited and discussed several studies that pertain to predation on butterflies.

Our Response: We reviewed the McCabe (1981) and Dana (1991) reports again and considered additional information on the normal population dynamics of insects, how these factors may explain the rapid decline of the Poweshiek skipperling, and perhaps the Dakota skipper, and how these factors may affect small, isolated populations in the future. We cannot conclude with certainty that parasitism and predation are significant stressors, because these occurrences are extremely difficult to observe, and only a few studies document these events. Therefore, we conclude that the level of impact from disease, parasitism, and predation is uncertain, but do not dismiss the possibility that these factors may become significant in the future.

Factor D

(54) Comment: A peer reviewer commented that, in North Dakota, the fundamental purpose of management of State School lands is economic, not scientific or environmental. Consequently, if such land does not produce income for the State, it may be subjected to deliberate change in management strategy, including sale at auction. The Dakota skipper's security at no fewer than two sites in North Dakota, therefore, depends on the economic value of hay, because those sites are on North Dakota Trustlands and are currently under haying management.

Our Response: We have incorporated this information into *Factor D* of this final listing rule.

(55) Comment: A peer reviewer stated that the Poweshiek skipperling was listed as State-endangered in Minnesota on August 19, 2013.

Our Response: We have updated the State status of the Poweshiek skipperling in Minnesota in this final rule.

Factor E

(56) Comment: One peer reviewer stated that, although the Service has not collected much direct evidence of threats to populations of the Poweshiek skipperling in North Dakota compared to Dakota skippers in the State, it is reasonable to assume that the same factors that affect the Dakota skipper have similarly affected the Poweshiek skipperling, because the two species share a preponderance of habitat characteristics, and often are sympatric (have overlapping ranges).

Our Response: The Service agrees with the reviewer's statement. We also think that the reverse is true: It is reasonable to assume that Dakota skipper may be vulnerable to the factors that have caused dramatic declines in the Poweshiek skipperling, but perhaps with a delay in timing. We consider this possibility in our analysis.

(57) Comment: One peer reviewer provided detailed information on the size and isolation of Dakota skipper sites in central Manitoba. These sites are generally greater than 158 ac (64 ha), and all are separated by 1 km (0.6 mi). Several sites are separated by many kilometers (miles). The reviewer also suggested that the Service consider the implications of the separation of the U.S. and Canada sites.

Our Response: We have incorporated this information, supplemented by information in two recently published Master's theses (Dupont 2013, Rigney 2013a), to update our threats analysis for Canadian populations. Although we were unsure of the size of many sites in Canada, most sites were separated by more than 1 km (0.6 mi); therefore, approximately 25 of the sites evaluated in Canada were thought to be at least moderately affected by small size and isolation. The Canada sites where Dakota skippers are considered to be present are approximately 115 km (71 mi) from the nearest U.S. sites, and the Manitoba site is approximately 166 km (103 mi) from the nearest Poweshiek skipperling site in Minnesota.

(58) Comment: A peer reviewer noted that South Dakota State University conducted a climate change analysis, with an emphasis on terrestrial habitats, in association with the revision of the South Dakota Wildlife Action Plan.

Our Response: We reviewed that report and incorporated relevant information into *Factor E* of this final listing rule. We will also consider this report during recovery planning for the two species.

(59) Comment: One peer reviewer queried as to whether either species has been evaluated using NatureServe's Climate Change Vulnerability Index (*https://connect.natureserve.org/science/climate-change/ccvi*)?

Our Response: The Service has not evaluated either species using NatureServe's Climate Change Vulnerability Index, but will consider using this tool in the recovery phase. We used several studies specific to the Dakota skipper and Poweshiek skipperling, as well as general studies of climate-related changes in the Midwest and throughout North America. See the Climate Change section of this final rule for more details on the studies used.

(60) Comment: A peer reviewer suggested that the Service should provide more detail on the need for future planning, potential dispersal corridors, restoration of existing sites, and potential reintroduction and augmentation sites. The high degree of habitat fragmentation and isolation of sites combined with the limited dispersal ability of these species have potential for long-term implications, and management actions, even if effective in short-term conservation of local populations, may not be enough to prevent the species from extirpation.

Our Response: We agree with the peer reviewer that detailed planning will be needed to recover the Dakota skipper and Poweshiek skipperling. The Service will begin the recovery planning process once the final listing becomes effective.

(61) Comment: One peer reviewer wanted to know how the species would be treated for law enforcement purposes, in order to ensure that private landowners and others that may have these species on their land would comply with section 9 of the Act. The reviewer asked specifically about unauthorized collection, handling, and possession that could result in a violation of section 9 of the Act, as listed in the ''Available Conservation Measures'' section of the proposed listing rule. The reviewer stated that it may be likely that private citizens have specimens of these species in their possession.

Our Response: If private citizens hold specimens of either species that have been collected in the past, they should report these specimens to their local conservation officer or Service enforcement official to receive the appropriate documentation that they were collected prior to listing. Collecting either the Dakota skipper or Poweshiek skipperling after they are listed would be a violation of section 9 of the Act, unless the collector held an appropriate permit from the Service.

(62) Comment: One peer reviewer noted that the list of nonnative species in the ''Available Conservation Measures'' section of the proposed listing rule are already well-established species. A more meaningful list would include species that are not already established, to prevent future invasive species issues that negatively impact these and other native species, and that would inform land managers of plant selection for grassland or wildlife-related plantings.

Our Response: We agree that glossy buckthorn, reed canary grass, and leafy spurge are well established in many areas within the range of the species. It is still important for landowners to know that these nonnative species are detrimental to the butterflies and their habitat, so they may avoid introducing them to additional areas or conduct activities that would spread their growth. We added purple loosestrife to the list of invasive plants as well. Purposeful introductions of any of the above species would be detrimental to the butterflies and their habitats. This list is not exhaustive, and other nonnative species may be destructive to the butterflies or their habitats.

(63) Comment: A peer reviewer asked how the habitats in which the Poweshiek skipperling or Dakota skipper is known to occur will be defined, and whether that information will be available to the public, such that landowners can comply with section 9 of the Act.

Our Response: The Service maintains a list of counties that are within the current range of the species on publicly accessible Web sites. We suggest that project proponents contact their State's U.S. Fish and Wildlife Service Ecological Services Field Office for specific information on their area. The species are likely to be present only in areas with suitable native-prairie habitat, and may be present in nearby grass-dominated areas suitable for dispersal during the adult flight period. Suitable habitats are further described in the Background section of this final listing rule.

4(d) Rule

(64) Comment: A peer reviewer suggested that the 4(d) rule should exempt take caused by haying only after July 22, because the Dakota skipper flight period extends until after July 15 at some sites in some years.

Our Response: We acknowledge that extending the earliest date of haying from July 15 to July 22 may further minimize the likelihood of adverse effects to the Dakota skipper, but we will retain the July 15 date for the following reasons: First, factors other than the date in the 4(d) rule will likely play a greater role in determining actual haying dates, and those factors are likely to cause much of the haying conducted in areas where the Dakota skipper occurs to be carried out later than the July 22 date suggested by the commenter. Second, the July 15 date has been used for many years in a variety of conservation agreements as a date to ensure that the effects of haying on nesting birds is minimized. It is typically included, for example, as a required provision in grassland conservation easements purchased on private lands by the Service. By retaining the July 15 date, we minimize the likelihood of causing confusion, and encourage greater cooperation with our conservation partners. Third, even if haying is conducted immediately after July 15, it may be sufficient to minimize adverse effects to Dakota skippers at most sites and in most years. Moreover, in years when the flight period is ongoing past July 15, the Service can work voluntarily with landowners and land managers to delay haying until the flight period is over.

Comments From Federal Agencies

(65) Comment: The National Guard in North Dakota (NDARNG) commented on their concern that training activities on the Camp Grafton South (CGS) and Garrison Training Area (GTA) will be

restricted and that the NDARNG would be overwhelmed with new permitting and reporting requirements due to the listing of the Dakota skipper. The NDARNG requested that either State-owned or federally-owned land that is operated and managed by the NDARNG be exempt from these proposed rules per proposed § 17.47(b)(3) for military training conducted on lands covered under an Integrated Natural Resources Management Plan (INRMP).

Our Response: Neither the CGS nor the GTA was included in the proposed critical habitat designation. However, according to section 4(b)(B)(iii) of the Act, the Department of Defense must still comply with section 9 of the Act, including the prohibition preventing extinction and taking of endangered species and threatened species.

(66) Comment: The NDARNG provided additional reports by Fauske for surveys conducted in the CGS and GTA in 2003 and 2004. The National Guard also mentioned surveys that were conducted by Fauske in 2013 at those locations. Dakota skipper was not observed at those sites in those years.

Our Response: We incorporated the data from the 2003 and 2004 reports into this final listing rule. We have not been able to obtain the data from Fauske's 2013 surveys, but did incorporate the National Guard's claim of negative surveys in 2013 into this final listing rule.

(67) Comment: One commenter stated that two publications (Grant *et al.* 2009, DeKeyser *et al.* 2009) that discuss management of prairies show that sometimes prescriptions for long-term management of habitat are at odds with short-term management of the species. For example, no or light grazing or late-season haying may lead to invasion of cool-season exotic grasses and loss of native forb and grasses. Thus no management could sometimes be considered a threat, just as prairie conversion may cause take.

Our Response: We agree that no management or lack of disturbance may be a threat to Dakota skipper and Poweshiek skipperling habitat and that haying, grazing, and fire may be an important management tool for these butterflies, if carried out appropriately. These topics are discussed further in *Factor A* in this final listing rule, below. Adaptive management may be necessary at many locations to take into account the underlying causes of habitat degradation and the long-term and short-term consequences of management to the habitat and the species. We will be addressing management at specific locations during recovery planning for both species.

(68) Comment: A Federal agency commented that some native-prairie plant species decrease without proper grazing management, and long-term monitoring is needed to properly examine plant species declines. Furthermore, plant species declines may be due to other factors, such as landscape position, climatic factors, historical and current management, and other ecological site conditions. Several papers cited in the proposed rule incorrectly identify forb species that decrease due to grazing, such as the purple coneflower.

Our Response: We acknowledge that long-term monitoring data would be a valuable indicator of important plant species declines. Unfortunately, we do not have long-term monitoring established at most sites; therefore, we must rely on the best information available. Most references to grazing impacts on prairie butterflies are based on ancillary observations made during research focused on other management impacts. Some of these may be observational data of changes in site conditions at a particular site from one year to the next following changes in management regimes. We cite a few studies that show that certain levels of grazing remove nectar sources and are, therefore, likely to adversely affect Dakota skipper populations (*e.g.,* Rigney 2013a, pp. 143, 153). We discuss grazing, including the effects of grazing management in different habitat types, further in *Factor A* of this final listing rule, below.

(69) Comment: A Federal agency noted that the proposed listing rule states that a large portion of the Dakota skipper habitat should remain ungrazed or lightly grazed during the adult flight period. Management focused on preserving every life stage of the butterflies will actually lead to their demise by inadvertently destroying their habitat.

Our Response: Britten and Glasford (2002) recommend minimizing disturbance of Dakota skipper habitat during the flight period (late June to early July) to maximize genetically effective population sizes (the number of adults reproducing), to offset the effects of genetic drift of small populations (change in gene frequency over time due to random sampling or chance, rather than natural selection). All life stages are essential to the survival of the species, including the adult flight stage, which is when breeding occurs. Removal of important nectar sources during the short adult flight period can adversely affect the Dakota skipper (*e.g.,* Rigney 2013a, pp. 143, 153). Thus, it is equally important to minimize disturbance of Poweshiek skipperling habitat during their adult flight period for the same reasons.

(70) Comment: A Federal agency noted that Britten and Glasford (2002, p. 373), cited in the proposed rule, does not identify grazing as a disturbance, as the proposed rule indicates.

Our Response: Although Britten and Glasford (2002) did not specifically identify grazing as a disturbance, other information sources indicate that grazing can disturb adult Dakota skippers and Poweshiek skipperlings, because it may remove important nectar sources (*e.g.,* Rigney 2013a, pp. 143, 153). Both the beneficial and negative effects of grazing are further discussed in *Factor A* of this final listing rule, below.

Comments From States

(71) Comment: A State commented that a comprehensive survey effort throughout the range of the two species is prudent, if not necessary, before any listing can occur.

Our Response: Under the Act, we are obligated to use the best available scientific and commercial information in decisions on whether to list a species. In this case, the best available information included results from surveys, reports by scientists and biological consultants, natural heritage data, and expert opinion from biologists with extensive experience studying the Dakota skippers and Poweshiek skipperling and their habitats, whether published or unpublished. We are required to make a decision based on that available data. Also, see response to comment 76.

(72) Comment: The Minnesota Department of Natural Resources (MN DNR) agrees with the Service's conclusion that these species warrant protection under the Act and fully supports the proposed threatened status for the Dakota skipper and the proposed endangered status for the Poweshiek skipperling. The MN DNR has a long history of commitment to the conservation of these species and has been an active participant in recent efforts to assess their status in Minnesota. The MN DNR agrees with the Service's conclusions regarding factors affecting the species and their resulting status. In light of recent findings, the MN DNR has reclassified both species as endangered under Minnesota's Endangered Species Statute, effective August 19, 2013.

Our Response: We appreciate our partnership with MN DNR and their supporting comments, and have updated the information regarding the reclassification of both species under

Minnesota's Endangered Species Statute in *Factor D* of this final listing rule.

Habitat

(73) Comment: The North Dakota Game and Fish Department suggests that the Service use NRCS Ecological Sites of North Dakota as a means to describe specific potential habitat, rather than Type A and Type B habitat as described in the proposed rule. The ecological site descriptions and transition models would help direct the proper grazing prescription to promote and achieve the plant species composition appropriate for the given site and requisites for these two butterfly species.

Our Response: We are considering using NRCS ecological site descriptions as a tool for managers and others to narrow down potential habitat for one or both species. However, NRCS ecological site descriptions have not been developed for all areas where the species may be present. For the purposes of this final listing, we found that Type A and Type B habitat descriptions were descriptive of the habitat and flowering forbs and grasses necessary for the two butterflies.

(74) Comment: North Dakota commented that, based on the specific precipitation and evaporation rates of Dakota skipper habitat that McCabe suggests, the western area of North Dakota should not be considered as part of the range for the Dakota skipper, as those areas do not meet those specific rates.

Our Response: We have determined that the Dakota skipper is threatened throughout its range, which includes the 18 counties where the species has been documented in North Dakota. The Dakota skipper is historically known from several counties in western North Dakota (*e.g.,* McKenzie, Burke, Montrail, and Dunn counties) and is considered to be present in at least two locations in McKenzie County. The Dakota skipper may still occur in areas of western North Dakota that may have conditions that are different from what McCabe (1981) describes for some of the eastern counties. See the Background section of this final listing rule for a list of counties in each State.

(75) Comment: North Dakota commented that it appears that any native grassland in North Dakota that has not been cultivated is potential Dakota skipper habitat.

Our Response: To more clearly define what constitutes Dakota Skipper habitat and where take of Dakota skippers may occur, the Service developed tools to help determine whether the species may be present in specific areas, which are available on the Internet at *https://www.fws.gov/midwest/Endangered/section7/s7process/s7guid_cons.html#dask.* We will continue to refine these materials to help reduce uncertainty as to where Dakota skippers may occur. Dakota skippers are present on only a subset of native grassland and are unlikely to be present in areas where key habitat features are lacking. Those features are described in the Background section of this rule and in the materials available on the Internet. As we work to conserve Dakota skippers, we will provide landowners and land managers with information that is as accurate and up-to-date as possible to describe the areas where the species is likely to be present. In addition, we will also work with these parties to ensure that they understand what activities are likely to cause take of the species, whether or not the take would be exempted under the 4(d) rule, and what actions may be implemented to conserve the species.

Population Status and Distribution

(76) Comment: A State commented that surveys appear to be focused on repeated visits to sites that were previously inventoried, and a systematic search for additional sites has not been conducted. Furthermore, a few new sites have been discovered since 1996 without such a systematic search for new sites, which suggests that many new sites may be found with a systematic search. Additionally, roadside searches for habitat are not a scientifically valid method for identifying potential habitat.

Our Response: The search for additional locations of both species has been conducted using a variety of approaches over the years, and potential sites have been narrowed down on the landscape using topographic and aerial maps, State natural heritage habitat mapping data, aerial surveys, roadside surveys, and other methods. Other sites have been surveyed because of a proposed project and the known potential for suitable habitat in the area or proximity to other known locations of the butterflies. Many sites are repeatedly surveyed to understand long-term trends in the presence of the species or to quantify other population parameters. Although only a small fraction of all grassland in North Dakota, South Dakota, and Minnesota has been surveyed, a significant proportion of the un-surveyed area is likely not suitable for the species. For example, the species was not detected at approximately 108 additional locations in North Dakota that were surveyed for the species in the period 1991–2013 (USFWS 2014, unpubl. geodatabase). Similarly, in South Dakota and Minnesota, 79 and 148 additional locations, respectively, were surveyed for the species in the period 1991–2013 (USFWS 2014, unpubl. geodatabase).

Many of these sites have been surveyed multiple times over several years. Surveys for the Dakota skipper are typically conducted only in areas that have the particular plant species the skipper requires. New potential sites surveyed are generally focused on prairie habitat that appears suitable for the species and has a good potential of hosting the species. Therefore, researchers have a higher likelihood of detecting the species at these sites than at sites randomly selected across the landscape. Based on these surveys, the likelihood that significant numbers of undiscovered Dakota skipper populations occur in North Dakota, South Dakota, or Minnesota is low. We acknowledge that there may be some undiscovered populations, however, and are exploring using spatially explicit modeling to develop probability occurrence maps of both species, to help direct future surveys and conservation efforts.

(77) Comment: Since the Poweshiek skipperling has not been detected in South Dakota since 2002, South Dakota should not be included in the listing proposal. Further research needs to be conducted to determine if this species is present in South Dakota before it is listed.

Our Response: According to our data and analysis, the species' presence is unknown at 36 of the total 69 sites where the species has been documented in South Dakota. The species was detected at least once at all 36 of these sites in 1993 or later; 19 of these sites had positive detections of the species in 2002 or later. The most recent detection of the species in South Dakota was at two sites in 2008. Surveys for the species were not conducted at any of the 36 sites with unknown occupancy between the years 2007 and 2011, and we cannot presume that the species is not persisting at a site only because there have not been consistent annual surveys. At several sites, the species has persisted for longer than 20 years; for example, the Dakota skipper was first recorded at Scarlet Fawn Prairie in South Dakota in 1985 and the species was detected during every survey since that date. Similarly, the Poweshiek skipperling was first recorded at Waubay National Wildlife Refuge in 1969 and was recorded during every year the site was surveyed through 2003. South Dakota is in the range of the Poweshiek skipperling, and the species is listed throughout its range. See our

response to comment 76 regarding additional surveys or research.

Factor A

(78) Comment: A State commented that careful implementation of grazing and prescribed fire can be an effective management tool in prairie remnants. The Service should provide clear and practical HMGs/BMPs (Habitat Management Guidelines/Best Management Practices) for acceptable use of prescribed fire and grazing implementation.

Our Response: We developed Dakota skipper conservation guidelines (*http://www.fws.gov/midwest/endangered/insects/dask/DASKconservationguidelines.html*) that address grazing, prescribed fire, weed/invasive species control, and other topics, and are preparing similar guidelines for the Poweshiek skipperling. While some detail is provided in terms of timing, periods of rest, and number and size of burn units, the Service stresses that effective implementation of the conservation measures relies on a thorough and accurate understanding of the distribution and status of the Dakota skipper and Poweshiek skipperling and their habitat within a management area. These two species are likely to be non-uniformly distributed within habitat areas (*e.g.,* Rigney 2013a, p. 140). Therefore, a species expert should frequently assess and map habitat and distribution of the species within management areas to ensure that managers may act based on correct and up-to-date information.

(79) Comment: A State asked whether grazing of potential butterfly habitat other than low mesic sites will constitute take.

Our Response: Such decisions will require site-specific information. If a project occurring in potential butterfly habitat may affect one or both species or its habitat, we suggest contacting the Service's Ecological Service Office in your State.

(80) Comment: A State commented that habitat modification and fragmentation may be a large threat to many grassland species. While other factors may need to be addressed to protect the species, conversion of grasslands is the largest single issue. Once land conversions have occurred, the land cannot be restored to match the specific requirements of these specialist species. Listing can be viewed by private landowners as an encumbrance and a disincentive to conserve grassland; hence privately owned grassland could be converted, due to the current crop commodity environment and demand for additional cropland.

Our Response: We agree that conversion of remnant prairies is a significant concern. Conversion of land to agricultural and other uses is discussed in *Factor A* of this final listing rule, below.

Factor E

(81) Comment: South Dakota commented that, as part of the South Dakota Wildlife Action Plan Revision, experts at South Dakota State University conducted a climate change analysis with an emphasis on terrestrial habitats.

Our Response: The Service appreciates this information. We reviewed the climate report and included information from it into *Factor E* of this final listing rule. This report will also help inform recovery planning and implementation.

Economic Concerns

(82) Comment: A State questioned how a private landowner would be compensated if, during the course of the Service's activities for monitoring the critical habitat areas, the private landowner's land or property is damaged.

Our Response: Surveys for either species on private lands would only be conducted with landowner permission. Surveys for the species and its habitat are not destructive in nature and have little, if any, impact on the land.

(83) Comment: North Dakota commented that listing these two species will add a substantial workload relative to highway improvement project development, construction, and maintenance, due to additional section 7 consultations with the Service. This increased workload could add months to project timelines and would cause a major and unnecessary disruption to the highway and road systems in North Dakota.

Our Response: Although an increased workload for section 7 consultations may be associated with listing these two species, section 4 of the Act requires species to be listed as endangered or threatened solely on the basis of their biological status and threats to their existence. Section 7 of the Act requires Federal agencies to use their legal authorities to promote the conservation purposes of the Act and to consult with the Service to ensure that effects of actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species. During consultation, the action agency receives a biological opinion or concurrence letter addressing the proposed action. In the relatively few cases in which the Service makes a jeopardy determination, the agency offers reasonable and prudent alternatives for how the proposed action could be modified to avoid jeopardy. The Service will work with the consulting agency as expeditiously as possible to complete the section 7 consulation process in a timely manner.

(84) Comment: A State asked, what would happen should a private landowner incidentally take either species during the course of routine farming operations on private land.

Our Response: Under the Act, it is unlawful for a person to take a listed animal without a permit. Take is defined as ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct.'' Through regulations, the term ''harm'' is defined as ''an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.'' Section 10 of the Act may be used by landowners including private citizens, corporations, Tribes, States, and counties who want to develop property inhabited by listed species. Landowners may receive a permit to take such species incidentally to otherwise legal activities, provided they have developed an approved habitat conservation plan (HCP). HCPs include an assessment of the likely impacts on the species from the proposed action, the steps that the permit holder will take to avoid, minimize, and mitigate the impacts, and the funding available to carry out the steps. HCPs may benefit both landowners and the species by securing and managing important habitat, and by addressing economic development with a focus on species conservation.

We recognize that the Dakota skipper and Poweshiek skipperling remain only on lands where management has allowed them to survive. This is due to good land-stewardship, and we want to encourage management practices that support the butterflies. To minimize impacts to landowners and promote continued cooperation with them while recovering the Dakota skipper, the Service developed a 4(d) rule under the Act for that species. This 4(d) rule exempts incidental take of Dakota skippers caused by certain routine livestock operations and mowing recreational trails. Any ''take'' that results from private landowner activities not exempted under the 4(d) rule would require a permit from the Service. Therefore, private landowners with

Dakota skippers on their property should become familiar with the contents of the 4(d) rule and contact the Service if they have questions. Actions that may cause ''take'' and require a permit from the Service include prescribed burns, haying before the adult flight period ends, broadcast herbicide treatments, some insecticide treatments, and permanent conversion of the Dakota skipper's grassland habitats. The 4(d) rule does not apply to take of the Poweshiek skipperling because it is listed as endangered, and the Act does not allow 4(d) rules for endangered species. Any activity that would result in take of Poweshiek skipperlings would first require a permit from the Service.

(85) Comment: A State commented that where section 7 consultations will be required is unclear. What areas would have to be surveyed to determine whether the species is present? A large amount of potential habitat may need to be surveyed during the short adult flight period, and there are a limited number of qualified entomologists to conduct the surveys.

Our Response: The Dakota skipper and the Poweshiek skipperling are both closely tied to native-prairie habitats and are unable to inhabit areas such as nonnative grasslands, weedy roadsides, or tame haylands. In addition, these butterflies are not likely to inhabit reconstructed prairies (e.g., former cropland replanted to native-prairie species). Therefore, the Service recommends that, to determine whether a section 7 consultation may be required or recommended, action agencies should first coordinate with their local U.S. Fish and Wildlife Service Ecological Services field office and provide a description of the area that would be affected, directly or indirectly, by the proposed or ongoing action. If survey data are unavailable or inconclusive for the action area, and features of Dakota skipper or Poweshiek skipperling habitat are predominant in at least part of the area, a survey by a qualified individual may be recommended. The Service is developing a list of qualified surveyors, which will be available through the field offices in each State.

(86) Comment: North Dakota expressed concern that any impact to native grasslands in North Dakota will be considered take and require an incidental take permit. Adjusting the timing of construction activities will not avoid take because of the species' biology.

Our Response: The Dakota skipper and Poweshiek skipperling historically occurred in 18 and 7 counties in North Dakota, respectively, and unless the species are discovered in additional counties, section 7 consultation would be required only in those counties and on a subset of lands within those counties where the species may occur or where critical habitat has been designated. You may obtain a list of counties in which the species may occur from the U.S. Fish and Wildlife Service Ecological Services field office in your State. Furthermore, these two species have specific habitat requirements (native, unbroken prairies), and it is likely that many action areas will not contain those types of prairie habitats. Therefore, project proponents should first provide the field office with a description of the area that would be affected by the proposed or ongoing action to determine whether a section 7 consultation may be required or recommended. See our response to comment 85 and the Background of this final listing rule for additional information regarding the habitats these two species inhabit.

(87) Comment: A State asked whether reinitiation under section 7 of the Act will need to occur, or will any new restrictions be recommended when new projects begin or existing projects are renewed.

Our Response: Section 7(a)(2) of the Act requires Federal agencies to consult with the Service to ensure that actions they fund, authorize, permit, or otherwise carry out will not jeopardize the continued existence of any listed species or adversely modify designated critical habitat. Therefore, reinitiation of section 7 consultations may be required for ongoing, new, or revised actions that may affect the Dakota skipper or Poweshiek skipperling or their designated critical habitat. We recommend contacting the U.S. Fish and Wildlife Service Ecological Services field office in your State to determine the need for section 7 consultations on specific projects.

(88) Comment: A State asked what types of conservation or mitigation measures would be needed to offset potential impacts to the species or designated critical habitat, and how will the Service ensure timely approval of mitigation measures.

Our Response: The Service developed conservation guidelines for the Dakota skipper that are available online (*http://www.fws.gov/midwest/endangered/insects/dask/DASKconservationguidelines.html*) and is developing similar guidelines for the Poweshiek skipperling. We suggest that private landowners implement applicable guidelines to assist species and habitat conservation efforts and contact their local Service Ecological Services field office if they are planning an activity that may affect one of these species. For actions with a Federal nexus, action agencies should contact their local field office to discuss the timeliness of our section 7 consultation process. For example, from the date that formal consultation is initiated, the Service is allowed 90 days to consult with the agency and applicant (if any) and 45 days to prepare and submit a biological opinion. Biological opinions may include reasonable and prudent measures and terms and conditions, both intended to minimize the impact of incidental take.

(89) Comment: A State asked whether State natural resource agencies be expected to restore the species to State-owned lands where they are considered to be extirpated.

Our Response: The Service will work with the State agencies and other stakeholders through recovery planning to identify areas that would aid in recovery of these species, and determine appropriate actions to take on those lands.

(90) Comment: A state commented that incentive-based voluntary programs work well for other species and may be a better solution to conserving the species than listing and critical habitat designations. The State would like to provide potential voluntary methods and programs to assist and incentivize landowners to implement conservation measures and practices that enhance butterfly habitat.

Our Response: We appreciate any assistance to incentivize landowners to conserve these species. Voluntary actions can have a significant contribution to conservation. If such measures are in place when we are evaluating a species for listing, we consider those measures and how they affect the status of the species in our determination. The Service's policy regarding voluntary prelisting conservation actions (79 FR 42525, July 22, 2014), encourages voluntary conservation actions for non-listed species. However, a species may still warrant listing if such voluntary actions are not in place when we are evaluating a species for listing, or if those actions are not sufficient to affect the need to list a species. We suggest you contact the Service's Ecological Services Field Office in your State to discuss voluntary conservation programs in detail.

(91) Comment: A State suggested that the Service should develop habitat management guidelines and best management practices (HMGs/BMPs) in close collaboration with State agencies and others knowledgeable about

effective prairie management. Many State-owned prairies are managed with the support of Federal funding, and HMGs/BMPs are needed immediately in order for the State agencies to comply with the Act. Such HMGs/BMPs should include clear guidance on: Prescribed fire; grazing; appropriate use of herbicides on occupied sites; pesticide buffers around occupied sites and notice to landowners adjacent to occupied sites; adherence to and enforcement of pesticide labels; available tools and incentives, including incentives and management practices for expanding prairie restoration to adjacent restorable lands; distinct measures for occupied habitat and unoccupied habitat, including lands targeted for restoration or enhancement; measures for restored habitat, and the point at which habitat is considered restored; and importance of effectiveness monitoring and adaptive management practices in ensuring that HMGs/BMPs produce the desired benefits to the species and their habitat.

Our Response: We appreciate this comment and look forward to working with our State partners in implementing conservation and providing assistance. The Service has developed conservation guidelines for the Dakota skipper that are available online (*http://www.fws.gov/midwest/endangered/insects/dask/DASKconservationguidelines.html*) and is developing similar guidelines for the Poweshiek skipperling. The Dakota skipper conservation guidelines address: Prescribed fire management, grazing, haying and native seed harvest, habitat preservation, habitat restoration, weed/invasive species control, maintenance of genetic diversity within populations, and coordinated management. The Service looks forward to continued collaboration with State agencies and other stakeholders to further develop and refine these conservation guidelines. These guidelines will be used as a basis to begin a discussion of HMGs/BMPs development.

(92) Comment: A State suggested that, if HMGs/BMPs cannot be completed before the effective date of the listing, the final rule should be delayed until the necessary guidance is available.

Our Response: Section 4(b)(6)(A) of the Act establishes that the Service must make a final determination as to its proposed action within 1 year of publishing the proposal, unless there is substantial disagreement about the sufficiency or accuracy of the available data on which that decision is based, for which the Service may seek up to a 6-month extension.

4(d) Rule

(93) Comment: A state suggested that the 4(d) rule be expanded to exempt take caused by prescribed burns, as it is a valuable habitat management tool.

Our Response: Although we can establish general guidelines for managers and landowners who are planning prescribed burns in Dakota skipper habitats, we determined that it would not be advisable to broadly exempt take caused by burning in the 4(d) rule. The impacts of prescribed fires on Dakota skipper populations depend on numerous factors that warrant site-specific evaluation, including the number, proximity, and size of populations in nearby unburned areas; fuel loads; timing of the fire; likelihood of escape from fire units; and post-fire management of unburned units. If fires are proposed in areas where they are likely to result in take of Dakota skippers, individual reviews should be conducted to determine potential effects to the species.

(94) Comment: A state suggested that the 4(d) rule should specifically exempt mowing and haying of road rights-of-way under all jurisdictions (State, county, or township). Exemptions should apply in the area from the road surface to the right-of-way boundary.

Our Response: We modified the 4(d) rule to exempt take of Dakota skippers caused by mowing native grassland for hay after July 15 within transportation rights-of-way. Except for mowing of section line rights-of-way and recreational trails, the 4(d) rule only exempts take of Dakota skippers that occurs as a result of mowing or haying that is part of routine livestock ranching activities. Except for the two specific cases mentioned above—mowing section line rights-of-way and recreational trails—the 4(d) rule does not exempt take of Dakota skippers caused by mowing that does not produce hay for livestock consumption. Regardless, the 4(d) rule exempts take of Dakota skippers only if the haying is carried out after July 15. We also further clarified that Dakota skippers do not inhabit tame hayland or grassland (hayland or grassland planted to, and composed primarily of, nonnative grass species, such as smooth brome).

(95) Comment: One commenting agency indicated its support for the 4(d) rule, but also stated that it does not support the exemption of the listed activities for purposes other than ranching and trail maintenance, and requested that the Service clarify that the listed activities would not be permitted if used for other categories of actions. These activities include haying and spot application of herbicides to control noxious weeds.

Our Response: In the final 4(d) rule, the Service clarifies that take would be exempted for certain activities listed in the 4(d) rule when carried out in relation to routine livestock operations. We did, however, also clarify that take that occurred as a result of mowing native grassland for hay would be exempted if conducted after July 15 in transportation rights-of-way.

(96) Comment: A State commented that, in the 4(d) rule, only exempting spot spraying of weeds is overly restrictive. Leafy spurge, for example, cannot be effectively controlled at the seedling stage by spot spraying.

Our Response: We understand that there may be cases where spot-spraying is insufficient to control outbreaks of noxious weeds. Frequent herbicide applications, however, have been associated with reduced diversity of native flowering plants in native rangelands (*e.g.,* Smart *et al.* 2011, p. 184). Therefore, take caused by broadcast herbicide applications is not exempted by the 4(d) rule. It many cases, Dakota skippers may not be present in areas where broadcast applications are necessary. The Service can provide technical assistance to help determine whether Dakota skipper may be present. If noxious weed control is needed where the Dakota skipper is likely to be present, the Service will work with landowners or land managers to identify techniques that avoid take.

(97) Comment: One commenter requested guidance on whether prescribed fire and the activities described under the 4(d) rule could be implemented ''on sites that might have historically supported'' Dakota skipper.

Our Response: Take of Dakota skipper is prohibited under the Act, unless it is a specific action that is exempted under the 4(d) rule, which applies to all State, private, or tribal lands. If an action is implemented on a site where the Dakota skipper is no longer present, then take is unlikely. An action could result in take of Dakota skippers at sites where the species has been extirpated if key habitat features are still present and an extant population inhabits a nearby area. In those cases, Dakota skipper may have reoccupied the site, and we recommend coordinating with the Service to ensure that a proposed activity is not likely to result in take of Dakota skippers.

(98) Comment: One commenter stated that the list of counties in which the proposed 4(d) rule did not exempt take caused by grazing (Eddy, McHenry, Richland, Rolette, Sargent, and Stutsman) did not directly correspond

to the list of counties in which critical habitat was proposed (McHenry, McKenzie, Ransom, Richland, Rolette, and Wells).

Our Response: We revised the 4(d) rule to exempt take caused by grazing throughout the range of the species, and not limited to certain counties. Thus, the final 4(d) rule exempts take of Dakota skippers caused by livestock grazing on all private, State, tribal, and other non-Federal (*e.g.,* county) lands.

Public Comments

General

(99) Comment: A number of public comments opposed the listing of the Dakota skipper and Poweshiek skipperling as federally threatened or endangered species, but provided no substantive scientific or commercial evidence suggesting that listing is not warranted.

Our Response: While we appreciate the opinion of all interested parties, the Service must base its decision of whether to list the Dakota skipper and Poweshiek skipperling solely on the basis of the best scientific and commercial data available.

(100) Comment: Several comments stated that listing these species will interfere with private property rights and cause economic impacts, such as reduction in land values, fines to citizens, prohibitions to development, wasteful use of taxpayer money, and intrusion to grazing and farming operations.

Our Response: For listing actions, the Act requires that we make determinations ''solely on the basis of the best available scientific and commercial data available'' (16 U.S.C. 1533(b)(1)(A)) regarding the status of the species. Therefore, we do not consider any information concerning potential economic or other possible impacts when making listing determinations. We will work with entities to conserve the butterflies and develop workable solutions. Furthermore, in this rule, we have included a 4(d) rule for the Dakota skipper that exempts take from certain routine grazing activities. The presence of a listed species does not give government employees or representatives any rights to access private property.

(101) Comment: A commenter stated that the Service did not use the best available science in the proposal. There is a lack of evidence to justify the proposed actions.

Our Response: The comment did not provide details on what scientific information we failed to consider in our proposal. In preparation of the proposal and this final rule, we used the best available scientific and commercial information of which we are aware. We sought comments from independent peer reviewers to ensure that our determination is based on scientifically sound data, assumptions, and analysis. The peer reviewers stated that our proposed rule was based on the best available scientific information. Additionally, the results of 2013 surveys conducted throughout the range of both species in the United States and information from recently published research conducted in Saskatchewan and Manitoba were considered in our final listing rule.

(102) Comment: A commenter stated that listing under the Act and critical habitat designations are intertwined and cannot be separated, as the Service has done with these proposals.

Our Response: When a species is proposed for listing as endangered or threatened under the Endangered Species Act (Act), we must consider whether there are areas of habitat we believe are essential to the species' conservation. The listing determination and critical habitat determination for the Dakota skipper and Poweshiek skipperling were conducted at the same time and in coordination with each other. The proposed rules for each action were published on the same date, but in separate documents. We are currently working to finalize the critical habitat determination for these two species, which will be published shortly.

(103) Comment: A commenter requested that we clarify the status that is proposed for each species, as it is confusing which is proposed as threatened and which as endangered.

Our Response: The Dakota skipper is listed in this rule as a threatened species, and the Poweshiek skipperling, as an endangered species.

(104) Comment: A commenter requested that the listing and critical habitat designations for these species will create an adversarial atmosphere between the Service and the agricultural community, and punish producers, who are the best stewards of habitat for a variety of species.

Our Response: We based our listing decisions on the basis of biological information and have determined that the Dakota skipper is threatened and the Poweshiek skipperling is endangered under the Act. The Service is committed to working with private landowners, public land managers, conservation agencies, nongovernmental organizations, and the scientific community to conserve the Dakota skipper and Poweshiek skipperling and their habitats. For example, in recognition of efforts that provide for conservation and management of the Dakota skipper and its habitat in a manner consistent with the purposes of the Act, we developed a 4(d) rule that outlines the prohibitions, and exceptions to those prohibitions, necessary and advisable for the conservation of the Dakota skipper. We believe that exempting incidental take of Dakota skippers that may result from grazing in certain geographic areas will afford us more time to protect the species' habitats in these areas and will facilitate the coordination and partnerships needed to recover the species.

(105) Comment: The North Dakota Stockman's Association commented that they have policy supporting the use of sound science in decisionmaking. Much of the science used to develop these proposals was not peer-reviewed or published, and was largely based on internal documents. The Service's own ''Information Standards Under the Endangered Species Act'' policy calls for ''review of all scientific and other information used by the Services to prepare biological opinions, incidental take statements, and biological assessments to ensure that any information used by the Services to implement the Act is reliable, credible, and represents the best scientific and commercial data available.'' Sound, peer-reviewed science needs to be the foundation of any proposal, but particularly of those with such serious implications for citizens.

Our Response: Under the Act, we are obligated to use the best available scientific and commercial information, which in this cased included results from surveys, reports by scientists and biological consultants, natural heritage data, and expert opinion from biologists with extensive experience studying the Dakota skipper and Poweshiek skipperling and their habitats, whether published or unpublished. The Service's databases were also referenced several times within the document (e.g., Service 2014, unpublished geodatabase). These databases were built using hundreds of sources, including unpublished reports, published papers, and State heritage data. We referenced these databases in the proposed and final listing document, in places where we summarized data across many sources. All of the reports utilized in these databases are publically available, upon request.

Additionally, we sought comments from independent peer reviewers to ensure that our determinations are based on scientifically sound data,

assumptions, and analysis. We solicited information from the general public, nongovernmental conservation organizations, State and Federal agencies that are familiar with the species and their habitats, academic institutions, and groups and individuals that might have information that would contribute to an update of our knowledge of the species, as well as the activities and natural processes that might be contributing to the decline of either species. The existing body of literature on the Dakota skipper and Poweshiek skipperling, including results from surveys, reports by scientists and biological consultants, natural heritage data, and expert opinion from biologists with extensive experience studying the Dakota skipper and Poweshiek skipperling and their habitats, whether published or unpublished, is the best available information.

(106) Comment: A commenter noted that the Dakota skipper listing priority number indicating threats of moderate to low magnitude.

Our Response: The Service believes that the Dakota skipper warrants protection under the Act, as a threatened species, as discussed in detail in this final listing rule. The listing priority number was changed from 11 to 8 on December 6, 2007 (72 FR 69034), and the Dakota skipper remained a candidate species with a listing priority number of 8 in subsequent notices through October 26, 2011 (76 FR 66370). The listing priority numbers range from 1 to 12, indicating the relative urgency for listing plants or animals as threatened or endangered. The criteria used to assign this number reflect the magnitude and immediacy of threat to the species, as well as the relative distinctiveness or isolation of the genetic material they possess. This latter criterion is applied by giving a higher priority number to species that are the only remaining species in their genus, and a lower priority number to subspecies and varieties. The listing priority number assigned to a species, however, does not necessarily reflect the classification the Service ultimately determines is appropriate for a species when making a listing determination, as new information may become available that affects that decision.

(107) Comment: A commenter questioned how this listing would adversely affect other species.

Our Response: We are unaware of any adverse effects that these listings would have on other native species of plants or animals. Nonnative or invasive plant species and species of woody plants encroaching into prairie habitats may be managed to maintain or increase the quality of native-prairie habitats.

(108) Comment: Commenters asked whether those who are enrolled in the Conservation Reserve Program, Environmental Quality Incentive Program, or other U.S. Department of Agriculture programs would be subject to special requirements. How will the listing affect those who have Federal crop insurance, have received a Federal loan or Federal disaster assistance, or own property that has a Federal easement? If a landowner is required to seek consultation before requesting Federal funding or authorization for an action that may affect a listed species or critical habitat, what cost will be involved, both in terms of money and time? Will this be reflected in the economic impact analysis the Service is preparing?

Our Response: Proposed projects in areas where one or both species may be present or on designated critical habitat that has a Federal nexus (in other words, funded, authorized, or carried out by a Federal agency) will be required to undergo consultation with the Service under section 7 of the Act. In such cases, it is the responsibility of the Federal agency involved to complete the consultation. In those instances, the action agency should contact the Service's Ecological Services Office in their State if they are planning an activity that may affect the species or its critical habitat. For more information about section 7 consultations, visit the Service's Web site (*http://www.fws.gov/endangered/what-we-do/consultations-overview.html*). In accordance with the Act, we cannot consider possible economic impacts in making a listing determination. However, section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat.

(109) Comment: One commenter recommended that better documentation is needed when Landowner Incentive Program grants or other government funding is used.

Our Response: Government-funded grant accomplishment reports are typically available online. Information on our grant programs available to aid species recovery can be found at *http://www.fws.gov/grants.*

(110) Comment: Private landowners who are participating in the Service's recovery program for the Karner blue butterfly commented that private landowners are critical to the protection of endangered and threatened species. Private landowners often provide suitable 'stepping stone' habitat otherwise unavailable to public agencies. The Federal status of the Karner blue butterfly facilitated habitat improvements and public awareness that may not have occurred but for the protection of that species. The commenter believes that listing the Dakota skipper and Poweshiek skipperling will similarly benefit these two species.

Our Response: We thank you for your comment and participation in species recovery efforts. The Service understands the importance of private landowner participation and support in recovery of the Dakota skipper and Poweshiek skipperling and will continue to work with all stakeholders to this end.

(111) Comment: One commenter expressed disappointment with the Service stating that other Service projects that are of great benefit to society, the commenter did not believe that listing the butterflies was one of them. The commenter questioned why these two butterflies are of such importance that they should be listed.

Our Response: In the preamble to the Endangered Species Act of 1973, Congress recognized that endangered and threatened species of wildlife and plants ''are of esthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people.'' In this statement, Congress summarized convincing arguments made by scientists, conservationists, and others who are concerned by the disappearance of unique creatures. The Service is responsible for implementing the Act, and as such, must determine whether any species is an endangered or threatened species, based on the best scientific and commercial data available regarding the status of that species, not based on a certain benefit to society or importance.

Although the Service does not consider the value of a particular species when making a listing determination, these butterflies are important and do provide a societal benefit. Humans depend on the variety of life for food, clothing and medicines. When we lose species we lose their potential for the future and we lose their effect on other species which, in turn, have ecosystem roles and future value. Continued degradation of our lands and waters that reduces our biological diversity—the variety of life—is important. Habitat and water degradation, and maybe even climate change, can be reversed, but the loss of a species and its genes are irreversible.

Further, the prairie ecosystem is not completely gone, yet, but it will be if we do not take measures to save its plants and animals. Protecting these small butterflies means protecting their habitats, so that some of this ecosystem, with all its variety of life, remains. Humans depend on the variety of life for food, clothing and medicines. The variety of life that we have in this country, including functioning ecosystems, is our natural heritage.

(112) Comment: One commenter stated that change, both desired and undesired, is a natural part of the evolutionary cycle.

Our Response: Although extinctions occur naturally, scientific evidence strongly indicates that the current rate of extinction is much higher than the natural or background rate of the past. The main force driving this higher rate of loss is habitat loss. Over-exploitation of wildlife for commercial purposes, the introduction of harmful exotic (nonnative) organisms, environmental pollution, and the spread of diseases also pose serious threats to our world's biological heritage. None of these creatures exists in a vacuum. All living things are part of a complex, often delicately balanced, network called the biosphere. The earth's biosphere, in turn, is composed of countless ecosystems, which include plants and animals and their physical environments. No one knows the myriad ways the extinction of organisms will affect the other members of its ecosystem, but the removal of a single species can set off a chain reaction affecting many others. Furthermore, many individual species are uniquely important as indicators of environmental quality. The rapid decline of the Poweshiek skipperling and Dakota skipper may be an indicator of a greater environmental problem. Regardless of the reason for the species' decline, it it meets the definitions of a threatened or endangered species under the Act, we are obligated list it under the Act.

(113) Comment: A commenter noted that prairie ecosystems are one of the most endangered ecosystems of the world. Currently only 4 percent of remnant tallgrass prairie remains in the United States, and the loss in habitat has led to the declines in the Poweshiek skipperling and Dakota skipper. Furthermore, these two species play an important role in the prairie ecosystem, and by protecting them, we also protect other prairie plants and animals.

Our Response: Native tallgrass and mixed-grass prairies have been reduced by 85 to 99.9 percent of their former area throughout the historical range of both species (Samson and Knopf 1994, pp. 418–419). Even further destruction of remnant prairies has occurred since Samson and Knopf's study. Conversion is discussed in *Factor A* of this final listing rule, below.

(114) Comment: A commenter stated that the limits and prohibitions on land uses like grazing and haying that are a result of this listing will negatively affect livestock producers. For example, the areas in North Dakota within the range of the butterflies are significant beef-producing counties. Limiting grazing or haying on those lands will have serious economic ramifications for the cattle-ranching landowners. Because of the terrain, some of these lands are suited only for livestock grazing. If those lands cannot be used for that purpose, their value will largely be diminished. Under the Service proposals, six North Dakota counties are deemed too sensitive for grazing, and it appears that grazing will be prohibited there altogether.

Landowner concerns about compliance could influence those impacted to convert their grass and haylands to other uses before a final rule is in effect. This would be detrimental to both the livestock industry and the butterflies the Service is aiming to protect.

Our Response: Through public meetings, meetings with private landowners, and outreach efforts, the Service has attempted to reduce the concerns of private individuals. It is important for private individuals to know that only those projects or actions that occur in areas where the butterflies may be present or on designated critical habitat and that have a Federal nexus (in other words, funded, authorized, or carried out by a Federal agency) must undergo consultation with the Service under section 7 of the Act. In such cases, it is the responsibility of the Federal agency involved to complete the consultation. We suggest that private landowners contact their local Service Ecological Services Office if they are planning an activity with a Federal nexus that may affect the species or its critical habitat. For more information about section 7 consultations, visit the Service's Web site (*http://www.fws.gov/endangered/what-we-do/consultations-overview.html*). Under the 4(d) rule for the Dakota skipper, take of Dakota skippers caused by certain routine livestock operations on all non-Federal lands is exempt from the prohibitions under section 9 of the Act. For more information on the 4(d) rule for the Dakota skipper, refer to the Provisions of the 4(d) Rule for the Dakota Skipper section of the preamble to this final rule.

(115) Comment: A commenter stated that livestock owners are the original stewards of this land and other natural resources, and the general management practices utilized by these owners are ecologically sound and enhance the productive capabilities of the land. These practices may even be enhancing the habitat for these two butterflies. As private landowners and stewards of livestock, land, and other natural resources, we look for policies that allow coexistence and do not threaten our livelihood.

Our Response: We appreciate your comment. Landowners deserve great credit for their land stewardship, and we want to continue to encourage those management practices that support the butterflies. The Service also strives to find ways to work with people while protecting imperiled species. To this end, the Act allows for some flexibility for species that are listed as threatened; the Service is able to tailor the protections of the Act to what it deems as necessary and advisable to provide for the conservation of such species. We have developed a 4(d) rule for the Dakota skipper that provides for the conservation of the species while allowing some flexibilities for landowners. This 4(d) rule exempts incidental take of Dakota skippers that is caused by certain routine livestock operations and mowing of recreational trails. For more information on the 4(d) rule for the Dakota skipper, refer to the Provisions of the 4(d) Rule for the Dakota Skipper section of this final rule, below.

Biology and Habitat

(116) Comment: A commenter stated that the Service is correct to rely on Royer *et al.* (2008) for understanding and describing Dakota skipper habitat. Dakota skipper data in Minnesota are overwhelmingly attributable to Type B (upland prairie: Dry-mesic or dry). However, type A and B habitats can blend into each other. As correctly described by the Service here, upland and lowland prairie are often intermixed in both habitat types (A and B).

Our Response: We describe prairie types as Type A or Type B habitat, but realize that the two habitat types may be intermixed, there may be smaller patches that may be better categorized, or specific microhabitats that the species uses at various times to fulfill their biological needs.

Occupancy

(117) Comment: A commenter stated that the definition of occupancy is

difficult to understand and should be clarified.

Our Response: We clarified the definition of occupancy in this final rule by adding language that clarifies that the three sequential years of negative surveys necessary to consider the species extirpated from a site could be from any survey year. We also clarified that the occupancy status of an extirpated site would not change unless the species was detected at that location during future surveys. We strove to be as accurate as possible in defining occupancy for the purposes of the listing and critical habitat determinations. If you are unsure whether either species may occur on your property, we suggest you contact the Service's Ecological Services Field Office in your state.

(118) Comment: A commenter stated that the Service's methodology for classifying occupancy is well supported. Given the difficulties of detecting these small butterflies most observable in the brief period per year when it is in the adult life stage, a conservative approach is justified. The timing of the adult flight period and the species' abundance varies greatly among years, due to climatic variation. At least 3 years of surveys are needed before an area should be considered extirpated. Furthermore, those 3 years of surveys need to be detailed efforts per survey, with multiple dates of surveys per year.

Our Response: We appreciate your comment in support of our occupancy rationale. We agree that multiple dates of surveys per year are desired to verify non-detection of the species in a given year. We have added language to clarify that point in the Background section of this final listing rule, above.

(119) Comment: A commenter stated that the determinations to list these two butterflies are based on historical declines, although significant documentation of butterfly fauna did not occur until 1960, and it is, therefore, impossible to determine anything about the historical range or any possible historical declines. How are past declines relevant to the species now, and why is the Service listing these species now, as opposed to when those declines were occurring? It is not possible to characterize the magnitude of threats to these species without knowing what has caused the historical decline and understanding what constitutes natural levels of inter-annual population fluctuation.

Our Response: We consider historical declines, and the ongoing effects of those historical declines, as well as current and recent declines, in our determinations. Significant population declines have occurred in both species very recently and are still ongoing, and the effects of historical declines continue to impact both species today. Populations that were historically fragmented by habitat destruction continue to be isolated from one another, which may have negative genetic consequences or increased vulnerability to stochastic events, for example.

Population Status and Distribution

(120) Comment: A commenter stated that the survey methods are inadequate and poorly described. In particular, it appears that a high percentage of survey sites are in close proximity to roads. These sites may be disturbed sites, and some literature indicates Dakota skippers do not occupy formerly disturbed and subsequently restored sites.

Our Response: As described in the Background section of this final listing rule, above, Dakota skippers occupy native-prairie sites that have never been plowed. During the adult flight period, it is possible that Dakota skipper may use lesser quality grassland dominated areas to travel (disperse) from one native-prairie site to another nearby native-prairie site. Surveys were conducted using various protocols (for example, Pollard walks (Pollard 1975), modified Pollard walks, wandering transects, and timed transects) depending on the objective of the survey, funding, or available resources and staff. Describing the details of survey methods for each site is beyond the scope of this rule, however, those details are described in the survey reports that are cited within this final rule. We added some brief examples of commonly used survey methodologies in the Background section of this final listing rule.

(121) Comment: A few commenters suggested that there are multiple approaches to interpreting data and conducting trend analyses. One such suggested approach is to use the concepts of Schlicht *et al.* (2009, Table 10, p. 439) and Swengel and Swengel (2012b, Table 2). The observed timing of population declines may differ depending on the approach used. As such, the commenter cautions that the information included in Figures 1 and 2 of the proposed listing rule should be interpreted carefully, and provides specific suggestions for an alternate approach.

Our Response: We acknowledge that there are other ways to look at the data and the approach suggested by the commenter would be a good way to determine the apparent disappearance (either absence or undetectable levels) of a species at each particular site. These types of analyses may be an appropriate approach for recovery planning and implementation, and we will consider their utility at that time. We believe the way we interpreted the data in the listing rule is appropriate for looking at the overall trends in detections and non-detections of the species through the years across all of the known sites, without relying on the numbers of individuals observed at each site during each survey year, since we often do not have those data. Although many of the skipper sites have been surveyed over multiple years, the frequency and type of surveys varied among, and sometimes within, sites and years. Surveys may have been conducted using various protocols and with varied objectives and, therefore, had varying results. For instance, some surveys focused simply on documenting species presence while others documented the numbers observed in a certain area, distance, or period of time. Whether or not the species was detected in a given year is the only common result of all the surveys, so that is the data we used to evaluate trends through time.

(122) Comment: One private citizen commented that he has never observed the Dakota skipper and the Poweshiek skipperling on his property or anywhere else.

Our Response: Dakota skippers and Poweshiek skipperlings have a single adult flight period per year that typically occurs from the middle of June through the end of July. The actual flight period varies somewhat across the range of each species and can also vary significantly from year-to-year, but typically lasts 2 to 4 weeks. Both the Dakota skipper and Poweshiek skipperling are small and cryptic species. Therefore, it is unlikely someone will observe these two species unless they are actively searching for the species in suitable habitat within their ranges during the short adult flight period. The likelihood of observing these species recently is low, because these two species have reached undetectable levels, even by experienced observers, at most of their known locations.

(123) Comment: One commenter recommended that surveying and monitoring protocols be developed for the two species.

Our Response: Because the objectives of surveys may vary across the range of these species, we recommend contacting the Service's Ecological Services Field Office in your State to discuss the appropriate survey protocol to use for

particular projects, habitat types, and geographic areas. To facilitate effective cooperation among agencies, organizations, and individuals interested in the distribution of these species, the Service will maintain a list of individuals who meet certain qualifications for conducting reliable surveys for the target species.

(124) Comment: One commenter provided results from butterfly surveys conducted for the past 19 years (1995–2013) in Clay and Polk counties, Minnesota. Low numbers of Dakota skippers were observed in 1996, 2006, 2007, and 2010. The Poweshiek skipperling was observed in 1997–2002, 2004–2006, and two individual Poweshiek skipperlings were observed in 2013.

Our Response: We appreciate receiving the new information on Dakota skipper and Poweshiek skipperling occurrences in Minnesota. We verified the information with Minnesota Department of Natural Resources staff (a qualified surveyor), who confirmed the validity of the data. We confirmed that the individual was capable of identifying the Poweshiek skipperling and that the 2013 observations were valid. This information was incorporated into this final listing rule. The Service has prioritized the Polk County location for surveys in future years.

(125) Comment: A commenter noted that the Service included two graphs indicating a decline in Dakota skipper sites in Minnesota and South Dakota, but did not include a graph for North Dakota. The 2012 abstract by Royer indicates that ''essentially the same proportion of count locations hosted detectable Dakota skipper populations . . .'' in 1996, 1997 and 2012, but that the encounters per hour had decreased. The commenter contend that fewer ''encounters per hour'' could be the result of many factors, including the very specific conditions necessary to do an accurate sampling. The summary data does not provide the necessary background to determine other factors that could have influenced the ''encounters per hour'' count.

Our Response: The detection versus non-detection data for Dakota skippers in North Dakota produced no clear trend. If we examine years with more than 10 sites surveyed, for example, we find that in 1991, the species was detected at 19 of the 31 sites surveyed (61 percent); in 1995, the species was detected at 5 of the 10 sites surveyed (50 percent); in 1996, the species was detected at 13 of the 18 sites surveyed (72 percent); in 1997, the species was detected at 10 of the 25 sites surveyed (40 percent); in 1998, the species was detected at 11 of the 17 sites surveyed (65 percent); and in 2012, the species was detected at 15 of the 27 sites (56 percent) surveyed (where the species had previously been observed). Royer (2012) was correct that the proportion of sites with detections versus non-detections of Dakota skippers were similar (*e.g.,* statewide proportions in 1996 (72 percent), 1997 (40 percent), and 2012 (56 percent)). Therefore, we examined the results of sites that Royer (2012) surveyed using methods that quantified results such that they could be compared among years.

Royer used the same survey protocol, timed transect searches (where the number of individuals observed per hour were recorded), for the surveys conducted in 1996–1997, 1998, and 2012 (Royer 1997, Royer and Royer 2012b). Furthermore, Royer's 1996, 1997, 1998, and 2012 surveys (Royer 1997, Royer and Royer 2012b) adhered to our acceptable survey standards (*e.g.,* wind speeds, time of day). Therefore, the variation in numbers observed attributable to survey error is expected to be negligible. Average encounter frequencies observed across the State in 2012 (10.7 encounters per hour) were lower than during the 1996–1997 and 1998 statewide surveys (North Dakota State average = 16.94 encounters per hour and 22.67 encounters per hour, respectively). At the site level, sites surveyed in 1996–1997 or 1998 generally had higher numbers of Dakota skippers encountered per hour than in 2012.

(126) Comment: A commenter stated that the proposed listing of the Dakota skipper as a threatened species is unwarranted at this time. In North Dakota, surveys show that essentially the same proportion of locations had detectable levels of Dakota skipper in 1996–1997 (46 percent) as in 2012 (46 percent). Additionally, new sites have been discovered in North Dakota, even though a systematic survey has not been conducted. A substantially lower encounter rate in 2012 compared to historical surveys was reported, but one year of data does not justify listing.

Our Response: Although the proportion of sites surveyed with positive detections of the species is similar when comparing sites surveyed in North Dakota in 1996–1997 with those surveyed in 2012, the numbers of individuals observed recently were substantially lower than in previous surveys; see our response to Comment 125. In addition to the survey data and population trend information, the Service also considers listing species based on an analysis of threats, described in detail in this final listing rule. The results of that threat analysis indicates that all of the Dakota skipper sites where the species is considered to be present or unknown in North Dakota have one or more documented threat of moderate to high levels. At least one moderate- to high-level threat is documented in all Minnesota, North Dakota, South Dakota, and Canada Dakota skipper sites with present or unknown occupancy.

(127) Comment: A commenter stated that the Service rightly states that most Poweshiek skipperling decline likely went unrecorded because most prairie destruction occurred prior to 1960, but most prairie butterfly surveys post-date those declines. Most decline during 1960–2000 also went largely undocumented. This is evidenced by the large number of sites in Minnesota that fall into an uncertain occupancy category. Longer term Poweshiek skipperling decline has been masked by data paucity and turnover in sites surveyed.

Our Response: We agree that there is a paucity of data at many sites in recent years (1960–1993). However, most Poweshiek skipperling sites and Dakota skipper sites have been surveyed at least once in 1993 or more recently. The lack of surveys at a given site since 1993 does mean that we are uncertain of the occupancy at many sites. We used a cautious approach; by assigning sites unknown status, we cannot say that the species is truly absent or extirpated from a site, while acknowledging that the species may still be present, possibly at undetectable levels, if suitable habitat is still present. More surveys are needed at these sites to determine if the species is present.

(128) Comment: A commenter stated that, at the time of Swengel's (1992) review, Poweshiek skipperlings had fewer known populations, were more highly concentrated in preserves (a single kind of ownership and land use category), were in a narrower range, were more concentrated in a highly destroyed ecosystem (tallgrass prairie), and had a worse immediate response to typical preserve management (fire) than Karner blue butterflies, which were federally listed in 1992. Poweshiek skipperlings are capable of high local abundance in a few sites, but these population numbers are highly volatile, and so extremely low numbers also occur during these abundance fluctuations. Compared to Dakota skipper incidence within Poweshiek skipperling range, Poweshiek skipperlings occurred on relatively more preserves, but Dakota skippers had a range further west, including mixed-

grass prairie, less of which has been destroyed. Also, the Dakota skipper is more compatibile with agricultural uses on ranch land (*e.g.,* Royer 1992; Marrone 1992). Thus, the Dakota skipper had relatively more habitat, even if there were fewer known sites specifically in Minnesota. Furthermore, there is a tendency to assume that habitat protection (making a site a preserve) means the skippers in the preserve are secure; thus, if few are found on a given survey, the assumption is that this is due to the surveys being conducted at the wrong time, or due to fluctuations in abundance resulting from climatic variation. It is only through consistent long-term monitoring with the sites held constant (as in Swengel and Swengel 2013) that trend can be distinguished from those issues.

Our Response: Because of the number of historical sites and the various ways that data were collected at those sites, we examined the range-wide data using detections and non-detections. We agree that there are few sites with consecutive years of data, and even fewer that have data over the long term. We have examined the data at individual sites where we had several consecutive years of data, and found that Poweshiek skipperling numbers have appeared to decline, along with the number of sites with positive detections (vs. non-detections) of the species.

(129) Comment: A commenter stated that the sudden recent decline in Poweshiek skipperlings over the last 10 years is likely because there are few new populations being discovered to replace the already undetectable, previously known populations. Furthermore, conservationists identified the best sites first; thus, more recently discovered populations were not as large and robust as the earlier discovered populations. Those more fragile populations would have less favorable prospects for long-term persistence. This also contributes to the sense that decline is now occurring everywhere. In addition, in some places, such as North Dakota, the dramatic population declines of the Poweshiek skipperling primarily occurred prior to 2000 (see Royer and Marrone 1992a, b; and Orwig 1994; 1995; 1996; and 1997).

Our Response: We acknowledge that there are documented declines in Poweshiek skipperling populations prior to 2000. However, in our comprehensive review, it appears that many sites with known populations of Poweshiek skipperlings have simultaneously declined to undetectable levels across much of the species' range in the early 2000s.

Factors Affecting the Species—General

(130) Comment: A commenter stated that, throughout the proposed listing rule, the Service attributes perceived threats to the Dakota skipper as threats to the Poweshiek skipperling or vice versa. The Service must independently evaluate threats to each species and may not assume that a threat to one species is necessarily a threat to the other.

Our Response: We have conducted the analysis of factors affecting the species separately for the two species. Since these two species have similar biology and are often found in the same locations, they face similar or identical threats at many locations. Therefore, when describing the factors, we discuss their effects to both species together when they are the same or similar. For example, if a remnant (untilled) native tallgrass prairie is being considered for a housing development, the resulting habitat conversion would affect both species by removing suitable habitat from the landscape.

(131) Comment: A commenter stated that listing these species will impede the use of certain grassland management tools such as grazing, haying, burning, and chemical spraying that are necessary to meet the desired habitat for these butterflies.

Our Response: The listing of these two butterflies will not necessarily impede the use of these grassland management tools. The Service recognizes that management, including grazing, haying, prescriptive fire or targeted herbicide treatments, may be needed to benefit the species and their habitats, as discussed in *Factor A* and *Factor E* of this final listing rule, below. The types, extent, duration, and intensity of various management regimes that would benefit the butterflies may depend on the specific past, present, or future threats at that location. The success of management regimes will need to be monitored and adjusted accordingly.

(132) Comment: A commenter noted that suggestions of ''light,'' ''limited'' and ''no'' grazing and ''late-season haying'' are mentioned in the proposed rule to support rebuilding the butterfly populations. However, such practices have proven to have long-term implications that will actually do the opposite. For instance, limiting or eliminating grazing and haying is likely to promote invasion by exotic grasses, such as smooth brome grass and Kentucky bluegrass, which will compete with the very same native species that the butterflies require for habitat. The Service should encourage and incentivize grazing and haying approaches, such as rotational grazing, that would support both the economic viability of livestock operations and butterfly population growth.

Our Response: Conservation of Dakota skipper and Poweshiek skipperling populations relies on careful implementation of management practices that conserve its habitat while minimizing adverse effects to reproduction and survival. Rotational late-season haying after the adult flight period, for example, can be beneficial to the species' habitat. We have developed Dakota skipper conservation guidelines (*http://www.fws.gov/midwest/endangered/insects/dask/DASKconservationguidelines.html*), which describe those practices in more detail, and are developing similar guidelines for the Poweshiek skipperling. We discuss both the harm and the benefits that various management practices may have on prairie habitats in Factors A and E of this final listing rule (below).

(133) Comment: A commenter stated that grassland easements are a broad-brush approach to conserve native prairies, but there is no targeted program or recovery plan specific to the Dakota skipper that would provide financial incentives and technical information for ranchers and farmers to manage habitat in a way that would expand the population of Dakota skippers.

Our Response: Service programs, including Partners for Fish and Wildlife and State and tribal grant programs, are available to develop projects and partnerships to conserve these and other species. Following listing, the Service will develop a recovery plan for these two species.

(134) Comment: A commenter stated that beaver dams can cause water level fluctuations in some Poweshiek skipperling areas in Michigan. The commenter asked whether these fluctuations, or the act of returning the water level to its normal level, harm Poweshiek skipperling larvae or habitat.

Our Response: It is possible that higher than normal water levels, for an extended amount of time, may harm larvae. We discuss fluctuating water levels in *Factor E* of this final listing rule, below.

Factor A

(135) Comment: A commenter stated that current Dakota skipper population sites are already protected, and the imminent threat to the species is deemed to be on ''remnant habitat.''

Our Response: While some Dakota skipper sites are on land that is protected from some threats, such as

conversion of remnant prairies to other uses, the Dakota skipper populations at these sites are still exposed to other stressors, as we detailed in the Summary of the Factors Affecting the Species section of this final listing rule, below.

(136) Comment: A commenter stated that the Dakota skipper and Poweshiek skipperling do not warrant listing because the Service improperly characterized oil and gas development as a threat to the Dakota skipper and Poweshiek skipperling, overstated the amount of oil and gas development occurring in the ranges of the Dakota skipper and Poweshiek skipperling, incorrectly assumed that the level of oil and gas development seen in western North Dakota will occur throughout the species' ranges, and erred by concluding that impacts from oil development in western North Dakota to the two butterflies are similar to impacts from coal-bed natural gas in Wyoming on the greater sage-grouse. Accordingly, the Service should withdraw the listing and critical habitat rules.

Our Response: The Act directs us to determine whether a species is an endangered species or a threatened species because of any factors affecting its continued existence. Listing actions may be warranted based on any of the five factors, singly or in combination. We completed a comprehensive assessment of the biological status of the Dakota skipper and Poweshiek skipperling, and all factors that might affect its existence. The effects from oil and gas activities are just one of the factors we considered. Our determinations that the Dakota skipper is a threatened species and the Poweshiek skipperling is an endangered species are based on numerous threats, acting individually and synergistically, that are leading to substantial population declines.

Specifically with regard to our evaluation of impacts from oil and gas activities, much of this activity is currently occurring in areas of native prairie overlying the Bakken and Three Forks formations, to the west of known locations for both butterfly species. However, current Bakken oil and gas development is occurring in two counties that have records of Dakota skippers (McKenzie and McLean counties in North Dakota). In those areas, oil and gas development is a stressor to the populations that may be present. Because there are few locations where the butterflies may still be extant, significant stressors to these few populations can be threats to the species as a whole. Furthermore, although oil and gas development is unlikely to occur throughout the entire range of the two butterflies in the foreseeable future, there may be future development or increases in current activities associated with the shale-oil formations (such as the Bakken formation in North Dakota) that may affect butterfly populations in those areas. Finally, we used the Naugle *et al.* (2011) study and its impacts to sage grouse as a surrogate to estimate the impacts of similar energy development projects to the butterfly habitat. Because the Powder River Basin development varies from the development in the Bakken formation, we have corrected our estimations and analysis in this final listing rule (see Destruction and Conversion of Prairies to Nonagricultural Development, below).

(137) Comment: A commenter noted that wind energy is not a threat to the species in North Dakota. The Service's conclusion that wind energy development will expand into the ranges of the Dakota skipper and Poweshiek skipperling, and thus is a threat to the species, is based on outdated data and is poorly supported. The Service must justify its assumptions that wind energy will expand into Dakota skipper and Poweshiek skipperling range and consequently be a threat to the species.

Our Response: We have evaluated the stressors to populations at sites where we had sufficient information to do so. Generally, we consider that wind development will have localized impacts in a few sites. We know of at least one site where a proposed wind development project poses a threat to the Dakota skipper and its habitat. Another wind farm is proposed within 2 miles of areas we proposed as critical habitat, with expansion phases that could overlap that critical habitat. Both of these projects are in the draft Environmental Analysis stage of development. See Destruction and Conversion of Prairies to Agricultural Land, below, for a full discussion on impacts from wind energy development.

(138) Comment: The proposed listing determination relies heavily on the work of McCabe and Royer for North Dakota, who have both published generalized statements about impacts of grazing on the Dakota skipper. These authors do not discuss the types of animals, season of use, intensity of grazing, or whether a grazing system is involved.

Our Response: The Service used butterfly surveys and habitat reports written by Royer, McCabe, Spomer, and others to inform our determination on the status of the species in North Dakota. These authors also often reported stressors they observed at sites, such as invasive species encroachment or intensive grazing practices. We also used other reports and publications to inform the discussion regarding grazing effects on the butterflies, which included a discussion regarding types of animals, intensity of grazing, habitat type, proximity of nearby populations, associated herbicide use, and timing. In the conservation guidelines for the Dakota skipper (*http://www.fws.gov/midwest/endangered/insects/dask/DASKconservationguidelines2013.html*), we further discuss grazing in terms of intensity, duration, season of use, and type of habitat.

(139) Comment: A commenter stated that invasive plant control needs to be done very carefully and in small-scale treatments to ensure any adverse effects on the Poweshiek skipperling, or the vegetative conditions they specifically require, are minimized, as invasive plant and brush control is not automatically beneficial to the butterfly. Specifically, at the Puchyan Prairie site, there is greater risk of unintended negative side effects of invasive plant control on Poweshiek skipperlings themselves, or the specific types and structures of vegetation they require, than risk of habitat deterioration in the next several years, if a more cautious approach is used. More time should be allowed to assess and describe the full extent of the kinds of microhabitats used by the Poweshiek skipperling, which likely differ among years due to climatic variation, and the extent of any change or deterioration in the vegetation in their core habitat areas.

The commenter also stated that the Service is also correct that fire management, without careful planning, may have significant adverse effects on these skippers; however, the Service understates the risks of fire. A number of areas of good Dakota skipper and Poweshiek skipperling habitat have been converted by fire management over the last several decades from light agricultural land uses to areas lacking the features needed by the butterflies. These converted areas in Iowa, Minnesota, and westward have few recent records of either species. Fen wetland preserves in Michigan do have recent Poweshiek skipperling records, but some of these sites have new, not long-term, fire management. The Poweshiek skipperling has not fared well in the working landscape; thus, deliberate conservation effort is needed.

Our Response: We agree that conservation of Poweshiek skipperling populations relies on careful implementation of management practices that conserve its habitat, while

minimizing adverse effects to reproduction and survival, including invasive species control at the few sites where the Poweshiek skipperling remains, such as Puchyan Prairie. As discussed in *Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range,* below, encroaching invasive plants may replace or reduce the coverage of native forbs and grasses used by adults and larval butterflies and, therefore, need to be controlled. However, we further discuss that control methods (such as fire and herbicide spraying) may have their own unintended consequences, such as reduced native forbs and grasses and direct mortality of the butterflies, if not conducted carefully. Furthermore, various habitat types at these sites may respond differently to various types of control treatments. Therefore, when considering recovery planning for the species, it will be important to continue to individually assess sites to determine the need to control invasive species, exercise caution when implementing treatments, monitor the response to any treatments over the long-term, and refine or modify treatments as needed to get desired outcomes. Similarly, assessment and long-term monitoring of the species' needs, such as microhabitat use, will help inform conservation efforts at specific locations.

(140) Comment: One commenter recommended that land managers be advised as to the appropriateness of prescribed burns in Poweshiek skipperling habitat.

Our Response: The Service contacted all of the landowners within proposed critical habitat designations as part of this rulemaking process. We have developed conservation guidelines for the Dakota skipper (online at *http://www.fws.gov/midwest/endangered/insects/dask/DASKconservationguidelines.html*), and are developing similar guidelines for Poweshiek skipperling. Contact the Service's Ecological Services Field Office in your State to discuss prescribed burn practices on land where one or both species may be present.

(141) Comment: One commenter recommended that sites with Dakota skipper populations where fire management is not already occurring should remain fire-free, and that fire management should cease in core habitat for the Dakota skipper. Instead, cautious rotational haying or grazing regimes should be used to rehabilitate grassland vegetation to the shorter turf height that Dana (1991) recommends for the species.

Our Response: We have developed conservation guidelines for the Dakota skipper (*http://www.fws.gov/midwest/endangered/insects/dask/DASKconservationguidelines.html*), and are developing similar guidelines for Poweshiek skipperling. The recommendations will be reviewed for possible incorporation as we continue to refine these guidelines.

(142) Comment: A commenter noted that the proposed rule states that the negative effects of fire persist for 1 to 5 years, citing Swengel (1996, pp. 73, 79, 81) and Panzer (2002, pp. 1302–3). These papers, however, include a range of butterfly species found in prairies, not just localized prairie specialists like the Dakota skipper and Poweshiek skipperling. Panzer's study contains no data on the Poweshiek skipperling or Dakota skipper. Swengel (1996) includes specific analysis of both species, but no explicit predictions are made. Swengel (1996, pp. 73, 79) describes that the negative effects of fire persist for specialists for 3 to 5 or more years. Swengel (1996) does not indicate an expectation of recovery 1–2 years post-burn for these species. Thus, Swengel's analysis is better used to define when recovery has certainly not occurred (within years 0–3), but not when recovery actually has occurred.

Our Response: We corrected our interpretation of the Swengel (1996) and the Panzer (2002) papers as discussed under *Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range,* below, to better reflect the included data and information. We also changed our use of the word ''recovery'' in this context to the term ''rebound,'' which more accurately describes an upward trend, but does not imply a stable recovered trend in populations.

(143) Comment: A commenter noted that Dana (1991, pp. 55–56) discusses concern about grass growth structure and height, namely that fire encourages taller grass growth, but that Dakota skippers prefer shorter grass. Therefore, effectively controlling weeds and brush does not necessarily mean that the management is creating suitable habitat for skippers. In the long run, fire does not produce a suitable vegetative structure for skippers. The long-term compounding indirect effect of fire on the vegetation (increasing grass height and thickness) may have a more lasting impact on the species and be more difficult to manage.

Our Response: We will consider the longterm effect of fire on native vegetation growth and structure when developing and refining conservation guidelines for the Dakota skipper and Poweshiek skipperling.

(144) Comment: The data used for North Dakota in the proposed listing rule relies heavily on the work of McCabe and Royer, who have both published generalized statements about grazing and its effects on the Dakota skipper. These authors do not discuss the types of animals, season of use, intensity of grazing or whether a grazing system is involved.

Our Response: The Service relied on butterfly surveys and habitat reports written by Royer, McCabe, Spomer, and others to inform species and habitat data in North Dakota. These authors also often reported stressors they observed at sites, such as invasive species encroachment or intensive grazing practices. We used various other reports and publications to inform the discussion regarding grazing in *Factor A* of this final listing rule and included a discussion regarding types of animals, intensity of grazing, habitat type, proximity of nearby populations, associated herbicide use, and timing. In our conservation guidelines for Dakota skipper, we further discuss grazing in terms of intensity, duration, season of use, and type of habitat.

(145) Comment: A commenter noted that low-intensity grazing is mentioned as a potential management tool to help maintain habitat and abate other threats to these two species. In some cases, high-intensity, short-duration grazing may have a role in providing the disturbance that prairies require to prevent them from being overrun by woody plants, and invasive species.

Our Response: We have developed conservation guidelines for the Dakota skipper's specific needs. These guidelines include some grazing recommendations; however, we are interested to learn more details about the effects of grazing practices implemented in various areas as we continue to refine our recommendations, and will take this information into consideration.

(146) Comment: A commenter noted that data suggest Poweshiek skipperling populations at sites that were hayed prior to preservation did not recover to the same level following any subsequent fire.

Our Response: We acknowledge that fire management may be detrimental to the Poweshiek skipperling, if not conducted properly. We are developing conservation guidelines for the Poweshiek skipperling that will address fire management and other actions, and are interested to learn more about the implications of fire practices as we continue to develop and refine our conservation recommendations.

(147) Comment: A commenter stated that the Service should provide data to support that fire management, even if applied to most or all of the patch occupied by the Dakota skipper or Poweshiek skipperling, has a low effect on the long-term persistence of these populations. The Service does not cite long-term studies of impacts from fire, but instead provides a list of assumptions, such as the following: (1) Fire happens in prairie (although the extent of that in a natural context is open to great debate; see literature review in Swengel and Swengel 2007, p. 264); (2) these skippers live in prairie; (3) fire has various effects on prairie plants (although it should not be assumed that fire controls brush and weeds; see Swengel *et al.* 2011, p. 535); (4) those floristic effects are assumed to be beneficial to these skippers (although vigorous tall grass growth caused by fire may not be; see Dana 1991, pp. 5–56). Based on these assumptions, the Service concludes that fire should be fine for these skippers. The Service needs to provide direct positive evidence indicating that the skippers, especially the larvae, actually succeed in the long term following a fire.

Our Response: We will consider all factors and data regarding the effects of fire on the species during recovery planning and implementation and in developing and refining the conservation guidelines for these two species. We acknowledge that there are no long-term (more than two decades) studies of fire management that provided data showing long-term persistence of the populations. We based our threats analysis and ranking of stressors as high, medium, and low based on the studies cited in our discussion of impacts from fire under the Summary of the Factors Affecting the Species section of this final rule, below. The possibility that we may have underestimated the stressors of fire management on the species further supports our determinations that fire can be a significant stressor to populations of Poweshiek skipperlings.

(148) Comment: A commenter stated that there are problems with some reports that use McCabe's 1981 management recommendations, because McCabe's paper reflects a point-in-time. Prairie ecology requires long-term observations and knowledge of how past and current management activities impact plant community dynamics. Further, prairie management conclusions based upon observations made in 1981 are no longer valid, due to changes in ecological drivers caused by broad-scale invasion of exotic cool-season grasses and forbs.

Our Response: McCabe's 1981 report is used as a reference to prairie conditions prior to much habitat degradation or exotic species invasions that are common in many locations today. We acknowledge that an understanding of prairie ecology requires long-term observations, as well as knowledge of how past and current management activities have impacted and continue to impact plant community dynamics.

(149) Comment: One commenter agreed that annual haying on or after August 1 presents little or no stress to Dakota skippers. However, the commenter went on to point out that Swengel (1998b) found that Poweshiek skipperling abundance was strongly correlated with increasing number of years since the last management action, of any management type, including haying. Thus, annual haying of the entire habitat patch should be considered a high stressor for the Poweshiek skipperling. The Service is correct that alternate-year haying is better than annual haying, but it's even better when the haying is done rotationally (half per year, instead of all every other year). Additionally, the moderate stressor category for haying is confusing. As it currently reads, a site could fall in the moderate category because you do not know the timing of the haying, but if you did know the timing, you would place it in the high category.

Our Response: We developed the stressor categories for the purposes of the threats analysis to inform our listing determinations; these categories are not intended to be prescriptive conservation measures or guidelines. We acknowledge that there is some uncertainty in the 'moderate' stressor category for haying, but we wanted to fairly capture sites where we were unsure of the timing of haying activities, but that showed signs indicative of reduced nectar sources. It is true that these sites could be moved into the low or high category if we received more specifics on the timing of haying in those locations, and those details will be more important during the recovery planning stages for these species.

Factor B

(150) Comment: A commenter noted that recent publications report that nonlethal sampling of genetic material adds an immeasurable or minor effect on survival or reproductive success of butterflies compared to handled individuals that were not also genetically sampled (Marschalek *et al.* 2013; Crawford *et al.* 2013). However, there is abundant literature on how handling has adverse effects on butterflies, documented for a wide range of species (*e.g.,* Benson and Emmel 1973; Singer and Wedlake 1981; Lederhouse 1982; Morton 1984). It is possible that some types of nonlethal sampling do not significantly increase the harm to the butterfly from capture and handling, but the handling for such sampling still causes harm compared to the butterfly not being handled. Thus, the benefits of such sampling should be weighed against the harm caused to individuals.

Our Response: As stated under *Factor B* of this final rule, handling stress during scientific study may affect individuals of both species. Adverse effects on butterflies have been documented for a wide range of species (*e.g.,* Benson and Emmel 1973, p. 329; Singer and Wedlake 1981, pp. 215–216; Lederhouse 1982, pp. 381–382; Morton 1984, pp. 56–57; Mallet *et al.* 1987, pp. 380–383). The Service will consider stress and other impacts to the butterflies from handling when issuing scientific permits for genetic sampling and other sampling efforts.

(151) Comment: A commenter noted that reliably effective captive propagation has not been demonstrated for either of these species. However, the Service should consider and assess the effect on wild populations of either species before attempting to develop captive propagation.

Our Response: The Service will consider incidental take for otherwise legal activities in our permitting (*e.g.,* section 10 recovery permits) process.

Factor D

(152) Comment: A commenter stated that as of August 2013, the Minnesota Department of Natural Resources listed both the Dakota skipper and the Poweshiek skipperling as endangered. The Dakota skipper is also an ''endangered'' species under Iowa law.

Our Response: We have updated the State-level protections for Dakota skipper and Poweshiek skipperling in *Factor D* of this final listing rule.

Factor E

(153) Comment: A commenter stated that herbicides applied in skipper habitat can negatively affect nectar resources for the species. However, herbicide use can have benefits if carefully targeted to treating brush and weeds, so long as bare ground does not subsequently result from the treatment, as bare ground greatly facilitates recruitment of new weed and brush growth.

Our Response: We acknowledge that carefully targeted herbicide treatments

may result in the beneficial control of nonnative or invasive plants and brush, and have clarified our statements in *Factor E* of this final listing rule, below.

(154) Comment: A commenter noted that results of a preliminary analysis of the genetic diversity of the Poweshiek skipperling show limited levels of genetic diversity in the Wisconsin, Michigan, and Manitoba populations. Demographic factors are of greater concern, specifically, small population sizes and numbers of populations are more likely to lead to extinction than loss of genetic diversity. The widespread and intensive survey effort showing continual extirpation of populations and reduced population sizes supports the listing of Poweshiek skipperling as endangered.

Our Response: We have incorporated information from the preliminary results of Saarinen (2013, pers. comm.) under *Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence,* in the discussion on Habitat Fragmentation and Population Isolation, below, and look forward to receiving final results from this research to inform future conservation efforts for this species.

(155) Comment: A commenter stated that weather and climate events, such as the persistent drought in the Midwest, and their effects on the Dakota skipper and Poweshiek skipperling require further study. Funding and staff are needed to accomplish these efforts.

Our Response: In this rule, we used the best available information on climate and climate change, however we agree that more study of weather and climate events will help us with recovery planning and implementation for these two species, and will consider new information when developing the recovery plan.

(156) Comment: A commenter stated that, in its assessment of impacts to the butterflies from climate change, the Service ignores model uncertainty that the Intergovernmental Panel on Climate Change (IPCC) acknowledges.

Our Response: We appreciate your comment and understand that there are uncertainties in the climate modeling. We consider climate change to be a potential threat to the species, while acknowledging uncertainty of how changes may specifically impact these species or their habitats.

(157) Comment: A commenter stated that, while it is possible that unknown threats to the species exist, it is inappropriate to focus too much effort on the search for unknown stressors. This distracts from addressing the challenges of dealing with the stressors that have been known for decades (isolated populations in fragmented habitats that are under pressure from habitat degradation and land management practices).

Our Response: We acknowledge that multiple stressors are acting on populations of both species, and have been so for many years. In our review, however, it appears that many sites with known populations of the Poweshiek skipperling appear to have simultaneously declined to undetectable levels. A similar, but perhaps delayed, decline is being observed in Dakota skipper populations. We did not want to rule out the possibility that this decline may be due to some unknown cause. However, we will focus on all potential factors affecting the species in recovery planning and implementation, not simply on any single factor.

Determinations

(158) Comment: A commenter stated that the Dakota skipper and Poweshiek skipperling are both threatened by loss of native prairie vegetation to agriculture, development, altered fire patterns, and groundwater depletion. The Dakota skipper and Poweshiek skipperling are also threatened by pesticides, drought, and climate change. In light of the population declines and ongoing threats, both butterflies should be protected as endangered rather than as threatened.

Our Response: The Dakota skipper is experiencing population declines and facing multiple threats. A few populations in the United States are doing relatively well, however, and are in habitats that have low or non-immediate threats. Furthermore, Canada has an estimated 15 populations on lands that are being utilized in a manner conducive to the conservation of Dakota skipper, and the threats at those sites are not imminent. Based on our review of the best available scientific and commercial information, we conclude that the Dakota skipper is likely to become in danger of extinction in the foreseeable future throughout all of its range and, therefore, meets the definition of a threatened species. For a detailed discussion, see the Determination section of this final rule, below.

(159) Comment: A commenter stated that the Service should list the Dakota skipper as endangered, as it is ''in danger of extinction throughout all or a significant portion of its range.'' The species is present at 91 sites, at least 83 ''are subject to one or more threats that have a moderate to high impact on those populations.'' The Service does not explain why 8 sites that are presumably secure outweigh 83 sites that are experiencing moderate to high threat levels, especially since ''Dakota skipper . . . habitat is highly fragmented and because the species are subject to local extinction . . . and approximately 84 percent of Dakota skipper sites with present or unknown status are effectively isolated.''

Our Response: We agree that the Dakota skipper is imperiled, which is why we determined that the species warrants listing under the Act. However, we believe that the Dakota skipper is not in immediate danger of going extinct at this point in time. Instead, we believe that, if trends continue as they currently are, the species is likely to get to that point in the foreseeable future. Because there are stable populations of the Dakota skipper that do not appear to be currently suffering from high-magnitude threats, and the declining trends are happening at a slower pace, we determined that threatened species status is appropriate for the Dakota skipper (see Determination, below, for a full discussion).

(160) Comment: A commenter stated that the Service determines that the Dakota skipper is a threatened species because ''Canada has a fair number of populations that are being managed in a manner conducive to the conservation of Dakota skipper, and the threats at those sites are not imminent.'' A ''fair number'' is not a biologically meaningful measure. The Service needs to explain this contention in a measurable manner.

Our Response: We are aware of 14 sites in Canada where the species is considered to be present and one site where the occupancy is unknown. Those sites are managed by late-season haying (after August 1) that is conducted at least every other year, and there is no indication that native plant diversity is declining due to timing or frequency of mowing.

(161) Comment: A commenter stated that the Canadian populations are functionally isolated from each other and from U.S. populations. The distance between all these metapopulations makes interaction or recolonization unlikely, as Dakota skippers may be incapable of moving greater than 1 km (0.6 mi) between patches of prairie habitat separated by structurally similar habitats. The Service did not conduct an adequate analysis of ''significant portion of range,'' to determine if the three metapopulations (U.S., Manitoba, and Saskatchewan) should each be considered ''significant,'' and if one is ''in danger of extinction,'' then the species as a whole should be listed as endangered. The Service must

separately analyze threats to each isolated metapopulation because population isolation and accompanying loss of genetic diversity are acknowledged to have significant impacts on the species.

Our Response: Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that the Dakota skipper is a threatened species throughout all of its range, no portion of its range can be ''significant'' for purposes of the definitions of ''endangered species'' and ''threatened species.'' See the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37577, July 1, 2014).

(162) Comment: A commenter stated that the Service has an obligation to make available the studies that form the basis of its action. The Service failed to provide any materials other than its own draft species assessment and textual descriptions of proposed critical habit for either the proposed listing or critical habitat designation in the regulations.gov docket or on its Web sites. The Service did provide a bibliography; however, many references cited were unpublished reports or internal documents.

Our Response: One element of the transparency and open government directive encourages executive departments and agencies to make information about operations and decisions readily available to the public. Supporting documentation used to prepare the proposed and final rules is available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Twin Cities Ecological Services Field Office, 4101 American Boulevard East, Bloomington, Minnesota 55425.

4(d) Rule

(163) Comment: One commenter said that the 4(d) rule proposed for the Dakota skipper should be extended to remove prohibitions for take incidental to lawfully conducted oil and gas operations and that this would not undermine the goal of promoting the healthy growth of these populations throughout their entire range. The commenter indicated that the activities that were addressed by the proposed 4(d) rule—a variety of routine livestock ranching activities and mowing of recreational trails—were far more widespread in the region and contribute more directly to the threats listed in the proposed rule than were oil and gas related activities.

Our Response: Although livestock ranching activities and mowing of recreational trails may be more widespread throughout the species range, livestock grazing also can be a key factor in the conservation of Dakota skipper habitat, by helping to ensure that the species' habitats are not subjected to activities that result in their permanent destruction. That is, lands are likely to remain unplowed as long as the landowner chooses to continue to use them for grazing. In addition, grazing may also be implemented in a manner that provides significant benefits to the species. In these ways oil and gas production and grazing are fundamentally different with respect to Dakota skipper conservation. Regardless, the Service recognizes that a variety of interests, including oil and gas activities, may hold the potential to contribute to Dakota skipper conservation.

(164) Comment: One commenter stated that the 4(d) rule would provide an important incentive to continue late-summer haying where that practice is currently being implemented.

Our Response: We agree that the 4(d) rule will provide this incentive, as intended. Late-summer haying is currently the primary management on numerous sites inhabited by Dakota skipper that are important for the species' conservation.

(165) Comment: One commenter requested that we also exempt take caused by ''construction with minimal disturbance, such as that for transmission lines, that occurs after July 15th'' in the 4(d) rule. The same commenter requested that the Service ''give consideration to exempting transmission line maintenance activities and existing right-of-way maintenance in the same way that section line maintenance is exempted in the proposed 4(d) rule.''

Our Response: It is unclear which populations could be affected by these activities, what the effects might be, and how the effects might be minimized. Therefore, we have not included these activities in the 4(d) rule.

(166) Comment: One commenter stated that ''the proposed 4(d) rule will undermine, not advance, conservation of the species'' and that the 4(d) rule was not needed to prevent habitat destruction because it would already be illegal under section 9 of the Act and uninhabited areas at risk for conversion would be protected by designating them as critical habitat.

Our Response: It is true that take of Dakota skippers that results from destruction of its habitat would be prohibited under section 9 of the Act, but there are other reasons to promulgate the 4(d) rule. As we stated in the proposed rule, the 4(d) rule will facilitate cooperation with private landowners that will be needed to recover the species. About 47 percent of the sites where the Dakota skipper has been recorded in the United States and that may still harbor the species are on private land. Almost all of these sites are working lands managed with grazing or haying. Conservation of the Dakota skipper on these sites, and in general, will require the Service and other conservation agencies and groups to develop and maintain cooperative partnerships with private landowners. Without that cooperation, we are unlikely to realize the substantial improvements in habitat conditions and public-private partnerships necessary to conserve the species.

(167) Comment: A commenter stated that the proposed 4(d) rule does not provide details as to how the Service intends to ensure that infrastructure, such as corrals, loading chutes, and other livestock working facilities, are carefully sited so that impacts to the species are minimized.

Our Response: These types of facilities are unlikely to have significant impacts to Dakota skipper populations, except where the species has been reduced to only very small areas. In grazed lands that are typically inhabited by Dakota skipper, these facilities affect only small proportions of the available habitat. Therefore, we do not think that the small degree of impact posed by placement of livestock working facilities would merit site-specific approval and review by the Service. Instead, by foregoing any requirement for landowners to seek Service approval for siting these facilities, we are likely to further facilitate continued development of positive working relationships that will be essential for recovering the species. In addition, we can work with landowners on voluntary methods to minimize any impacts that might result from installation of facilities associated with grazing.

(168) Comment: One commenter stated that the protections afforded the Dakota skipper through the 4(d) rule are not sufficient to reverse the trend toward extinction because they do not ensure that the grazing practices exempted under the rule will benefit the Dakota skipper.

Our Response: It may not be practicable to expect broad implementation of specific mandated grazing practices on private land to conserve the Dakota skipper without the

willingness of the landowner to implement those practices. Conservation of Dakota skippers on grazed lands will require several steps that include the development of site-specific grazing recommendations, monitoring the effects of the recommend practices on the Dakota skipper and its habitat, and science-based adaptive management. Each step will require access to private and other non-Federal lands by persons with expertise in identifying and describing the Dakota skipper and its key habitat components and, in at least some cases, by grazing experts and conservation partners. Landowners and land managers may be less likely to grant access for these activities if we broadly mandate specific grazing practices. Furthermore, although the incidental take permitting process would also provide an avenue by which to work with private landowners and is often the best available option for some species, there is no clear avenue that is immediately available by which to engage the large and geographically widespread group of landowners in such a process for Dakota skippers. A permitting process that would involve more than a few landowners is likely to take years and would have significant potential to become contentious and unwieldy.

(169) Comment: One commenter suggested that, instead of listing counties in which take caused by grazing would not be exempted under the 4(d) rule, the Service should base this on habitat.

Our Response: We decided that it is more appropriate to exempt take of Dakota skippers caused by grazing on all non-Federal lands in the United States, regardless of geographic area, and have made this change in the final 4(d) rule. We recommend, however, that lands where native prairie is currently maintained by haying continue to be hayed, and that any change to grazing on these lands only be done with the prior input from experts in Dakota skippers and range conservation. We suggest contacting the Service's Ecological Services Office in your State for more information.

(170) Comment: A commenter asked what areas can be treated for weeds or pests and still be exempted by the 4(d) rule.

Our Response: The 4(d) rule does not address control of animal pests; therefore, it does not exempt take that may result from treatments that are applied to control animal pests. The 4(d) rule also does not exempt take of Dakota skippers that would result from the broadcast application of herbicides—that is, application of herbicides evenly across all or a portion of an area. Take of Dakota skippers that is caused by applications of herbicide that do not meet this definition of broadcast spraying would be exempted by the 4(d) rule.

Take of Dakota skippers is unlikely if they do not inhabit an area where broadcast application of herbicides is proposed. If the presence of Dakota skippers is suspected in an area where broadcast application of herbicides is proposed, we recommend that the Service be contacted to determine whether the action may be likely to cause take of the species, and if reasonable measures may be adopted that would avoid take.

Summary of Changes From the Proposed Rule

Based on our review of the public comments, comments from other Federal and State agencies, peer review comments, issues addressed at the public hearing, and any new relevant information that may have become available since the publication of the proposal, we reevaluated our proposed rule and made changes as appropriate.

During the comment periods, the Service received additional survey information, minor clarifications, and additional information on the species biology. New survey information has changed the occupancy status at several sites, for example a site that we considered to be ''unknown'' in the proposed rule may now be considered ''extirpated'' due to three sequential years of negative survey data. Consequently, some sites were dropped from our analysis of factors affecting the species because we no longer consider the species to be present or possibly present (unknown) at a particular location. In addition, we included new information into our analysis of the factors affecting the species. Neither the new information nor the updated occupancy at some sites has significantly changed our analyses such that it changed our determinations of status under the Act for either species.

The 4(d) rule now exempts take of Dakota skippers caused by grazing on all non-federal lands in the United States; the proposed 4(d) rule did not apply to certain lands in Minnesota and North Dakota. The final 4(d) rule no longer exclude some counties from the part of the rule that exempts take caused by grazing. Other minor changes to the 4(d) rule include: Clarifying broadcast versus spot-spraying of herbicides; defining ''recreational trail''; and, that take of Dakota skipper caused by haying in transportation rights-of-ways and corridors after July 15 is exempt under the 4(d) rule, as long as it is associated with livestock ranching activities. The 4(d) rule exempts take of Dakota skippers caused by mowing recreational trails, a term that is defined in the rule, even when it is not associated with livestock grazing.

Summary of the Factors Affecting the Species

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Habitat quality is a powerful determinant of extinction probability in butterflies such as the Dakota skipper and Poweshiek skipperling (Thomas *et al.* 2001, p. 1795). Among butterfly species in the United Kingdom, for example, equilibrium density of butterflies at sites with optimum habitat are from 25 to more than 200 times greater than those for occupied sites with suboptimal, yet suitable, habitat (Thomas 1984, cited in Thomas *et al.* 2001, p. 1794). Consistently good habitat quality is especially important for Dakota skipper and Poweshiek skipperling isolated populations, which would not be naturally recolonized if they were extirpated. Protection or restoration of habitat quality at these isolated sites is critical to the survival of both species, although stochastic events still pose some risk, especially for smaller populations and at small sites.

The Poweshiek skipperling and Dakota skipper depend on a diversity of native plants endemic to tallgrass prairies and, for the Poweshiek skipperling in Michigan, prairie fens. When nonnative or woody plant species become dominant, Poweshiek skipperlings and Dakota skippers decline due to insufficient sources of larval food and nectar for adults. For example, at Wike Waterfowl Production Area in Roberts County, South Dakota, the extirpation of Poweshiek skipperling is attributed to the deterioration of native vegetation, in particular, the loss of nectar sources for adult butterflies due to invasive species encroachment (Skadsen 2009, p. 9).

Destruction of native tallgrass and mixed-grass prairie began in 1830 (Samson and Knopf 1994, pp. 418–419). Extant populations of Dakota skipper and Poweshiek skipperling are restricted to native-prairie remnants and prairie fens; native prairies have been reduced by 85 to 99.9 percent of their former area throughout the historical range of both species (Samson and Knopf 1994, pp. 418–419). Degradation and destruction of habitat occurs in many ways, including but not limited

to: Conversion of native prairie to cropland or development; ecological succession to woody vegetation; encroachment of invasive species; past and present fire, haying, or grazing management that degraded or destroyed the species' habitats; flooding; and groundwater depletion, alteration, and contamination, which are discussed in further detail below.

We evaluated the level of impact to the population at each site of several habitat-related stressors at 163 Dakota skipper sites where the occupancy status of the site is considered to be present or unknown, as defined in the Background section of this final rule (Table 3, above). These 163 sites are found across the current range of the species in Minnesota, North Dakota, and South Dakota. Eight sites with an unknown or present occupancy were not evaluated. To determine the levels of impact to the population at each site, we used the best available and most recent information for each site, including reports, discussions with site managers, information from natural heritage databases, etc. (Service 2012, unpubl. data; Service 2014, unpubl. geodatabase). We only evaluated a stressor to the population at any one site if we had sufficient information to determine if the level of impact was high, medium, or low as defined for each stressor below. Similarly, the level of impact to the population was evaluated at 60 Poweshiek skipperling sites with present or unknown status (Table 4). Although we did not evaluate Factor A stressors at all 87 Poweshiek skipperling sites with present or unknown occupancy, the 60 sites that were evaluated are representative of all the present or unknown Poweshiek skipperling sites in terms of geography (range of the species, *i.e.,* sites in Iowa, Michigan, Minnesota, North Dakota, South Dakota, and Wisconsin were evaluated), ownership, and management. Many sites for both species (58 sites for Dakota skipper and 26 sites for Poweshiek skipperling) experience at least two habitat-related stressors at a medium or high level of impact (Tables 3 and 4).

TABLE 3—NUMBER OF DAKOTA SKIPPER SITES WITH EACH LEVEL OF IMPACT AND THE TOTAL NUMBER OF SITES THAT WERE RATED FOR EACH TYPE OF STRESSOR. A TOTAL OF 163 DAKOTA SKIPPER SITES WITH EITHER PRESENT OR UNKNOWN STATUS WERE EXAMINED; ONLY SITES WITH SUFFICIENT DATA FOR A PARTICULAR STRESSOR WERE RATED AS HIGH, MEDIUM, OR LOW

[Service 2012 Unpubl. data; Service 2014, unpubl. geodatabase]

Stressor	High level of impact	Medium level of impact	Low level of impact	Total number of rated sites
Destruction & Conversion (Agricultural & Nonagricultural Development)	3	83	58	144
Wind Development	1	0	8	9
Flooding	2	6	6	14
Invasive Species	12	33	20	65
Fire	10	4	6	20
Grazing	9	29	14	52
Haying & Mowing	1	11	29	41
Lack of Management	9	5	3	17
Size/Isolation	50	50	63	163
Herbicide and/or Pesticide Use	5	2	8	15

TABLE 4—NUMBER OF POWESHIEK SKIPPERLING SITES WITH EACH LEVEL OF IMPACT AND THE TOTAL NUMBER OF SITES THAT WERE RATED FOR EACH TYPE OF STRESSOR. A TOTAL OF 60 POWESHIEK SKIPPERLING SITES WITH EITHER PRESENT OR UNKNOWN STATUS WERE EXAMINED; ONLY SITES WITH SUFFICIENT DATA FOR A PARTICULAR STRESSOR WERE RATED AS HIGH, MEDIUM, OR LOW

[Service 2012 unpubl.; Service 2014, unpubl. data]

Stressor	High level of impact	Medium level of impact	Low level of impact	Total number of rated sites
Destruction & Conversion (Agricultural & Nonagricultural Development)	2	11	28	41
Wind Development	0	0	5	5
Flooding/Hydrology	2	3	14	19
Invasive Species	6	29	11	46
Fire	4	2	10	16
Grazing	4	10	2	16
Haying & Mowing	0	3	3	6
Lack of Management	4	6	2	12
Size/Isolation	21	22	11	54
Herbicide and/or Pesticide Use	3	1	5	9

Destruction and Conversion of Prairies

Destruction and Conversion of Prairies to Agricultural Land

Conversion of prairie for agriculture may have been the most influential factor in the decline of the Poweshiek skipperling and Dakota skipper since Euro-American settlement, but the impacts of such conversion on extant populations is not well known. By 1994, tallgrass prairie had declined by 99.9 percent in Illinois, Iowa, Indiana, North Dakota, Wisconsin, and Manitoba; and by 99.6 percent in Minnesota; and 85 percent in South Dakota (Samson and Knof 1994, p. 419). Samson and Knof (1994, p. 419) did not provide a figure for the decline of tallgrass prairie in Saskatchewan, but mention an 81.3 percent decline in mixed grasses from historical levels. By 1994, mixed-grass prairie had declined from historical levels by 99.9 percent in Manitoba and

71.9 percent in North Dakota (Samson and Knof 1994, p. 419). Destruction of tallgrass and mixed-grass prairie began in 1830, but significant documentation of the ecosystem's butterfly fauna did not begin until about 1960. Therefore, most of the decline of the Dakota skipper and Poweshiek skipperling probably went unrecorded.

Since about 1980, observers have documented the extinction of several populations of the Dakota skipper and Poweshiek skipperling due to habitat conversion to agricultural use in the United States and Canada. For example, four Dakota skipper sites in North Dakota were converted to irrigated potato fields, and one in South Dakota was converted for crop production (Royer and Marrone 1992a, p. 17). The Fannystelle site in Manitoba, where the Dakota skipper was last recorded in 1991, was subsequently converted for row-crop agriculture (Webster 2003, p. 7). In North Dakota, further conversion is a stressor to Dakota skippers in the important Towner-Karlsruhe complex (Royer and Royer 1998, p. 22; Lenz 1999, p. 13), where the flat topography and high water table facilitate conversion to irrigated crop production. Populations of Dakota skipper in Manitoba typically occupy flat terrain that may be vulnerable to conversion to cropland, although soil conditions may be unsuitable for row crops at some of these sites (Webster 2003, p. 10). Similarly, conversion of native prairie to cropland continues to be a threat to Poweshiek skipperling habitat throughout its range (Royer and Marrone 1992b, p. 17).

The Dakota skipper, and until recently, the Poweshiek skipperling, have largely persisted in areas that are relatively unsuitable for row crop agriculture because of their steep terrain (*e.g.,* in the Prairie Coteau of South Dakota) or where soils are too wet or rocky for row-crop agriculture (McCabe 1981, pp. 189–190, Webster 2003, p. 10). Densely spaced, large glacial rocks, for example, may have deterred cultivation at the Chippewa Prairie in Minnesota and ''spared Chippewa Prairie in Minnesota from the plow'' (Dana 2012, pers. comm.). In areas where Poweshiek skipperling and Dakota skipper habitat persists but is adjacent to agriculture, added nutrients from agricultural runoff affects groundwater and additional nutrients in the system contribute to the dominance of invasive plants (Fiedler and Landis 2012, p. 51: Michigan Natural Features Inventory 2012, p. 4).

In summary, conversion for agriculture on lands suitable for such purposes is a current, ongoing stressor of high level of impact to the Poweshiek skipperling and Dakota skipper populations in areas where such lands still remain. Advances in technology may also increase the potential of conversions in areas that are currently unsuitable for agriculture.

We rated the level of impact to the populations of the stressor posed by habitat destruction or conversion for both agriculture and nonagricultural purposes (except for conversion for wind energy development, which was analyzed separately) at 144 Dakota skipper and 41 Poweshiek skipperling sites with present or unknown status (see Tables 3 and 4) where we had sufficient information to evaluate the stressor. In our evaluation of this stressor, we combined agricultural and nonagricultural impacts—our analyses are discussed below (see Destruction and Conversion of Prairies due to Nonagricultural Development).

Destruction and Conversion of Prairies to Nonagricultural Development

Conversion of prairie for nonagricultural land uses, such as energy development, gravel mining, transportation, and housing are stressors to both Poweshiek skipperling and Dakota skipper populations. For example, a site where the Dakota skipper and Poweshiek skipperling were recorded in 1997 (Skadsen 1997, pp. 15–16, B–1) in the Bitter Lake area of Day County, South Dakota, is now a gravel pit, and the species' habitat no longer exists there (Skadsen 2003, pp. 47–48).

Almost all prairie remnants with Poweshiek skipperling and Dakota skipper populations are associated with gravelly glacial till soils (Service 2014, unpubl. geodatabase); therefore, gravel mining is a potential stressor to populations at a large number of sites. Gravel mining is a stressor to Poweshiek skipperling and Dakota skipper populations at several sites in Minnesota (Dana 1997, p. 15). For example, gravel mining is a stressor in at least three of the five sites that comprise the Felton Prairie complex (Cochrane and Delphey 2002, pp. 16–17); however, the Clay County Stewardship Plan (Felton Prairie Stewardship Committee 2002) may have reduced the likelihood of the gravel mining stressor to populations at this complex. On at least seven sites in Minnesota, Dakota skippers inhabit northern dry prairie plant communities, which are generally impacted by gravel mining due to the predominance of gravel soils (Minnesota DNR 2006, p. 221). Gravel mining is a stressor to populations of Dakota skipper in central Manitoba (Rigney 2013a, p. 28). Gravel mines are considered a stressor with a high level of impact to populations of both species because, where it occurs, the habitat is completely destroyed.

Potash (salt that contains potassium) mining is a stressor to Dakota skipper populations in some Saskatchewan sites (Westwood 2013, pers. comm.), although the exact number of sites that are being considered for potash mining is unknown and were not included in our stressor evaluation.

Energy development (oil, gas, and wind) and associated roads and facilities result in the loss or fragmentation of suitable prairie habitat (Reuber 2011, pers. comm.). Major areas of recent oil and gas development, such as that occurring in the Bakken formation, overlaps with parts of the Dakota skipper's range in North Dakota. North Dakota, for example, is now one of the top two oil-producing states in the United States, and new development is occurring rapidly (MacPherson 2012, p. 1; North Dakota Petroleum Council 2012, p. 1). The number of drilling permits in North Dakota nearly doubled between 2007 and 2008, from 494 permits issued in 2007 to 946 in 2008 (North Dakota Petroleum Council 2009, p. 2). Permits dropped to 627 in 2009 (North Dakota Petroleum Council 2010, p. 2), but increased dramatically to 1,676 in 2010 (Ogden 2011, p. 1). While much of the oil activity is currently occurring in areas of native prairie overlaying the Bakken and Three Forks formations to the west of known locations for both species, mineral exploration has occurred in all but one county in North Dakota (North Dakota Petroleum Council 2012, p. 1). McKenzie County falls in the center of this development and McHenry County is also within these formations (Mueller 2013, pers. comm.). The oil development on the Bakken formation in North Dakota, for example, may be a future stressor to Dakota skipper populations in McKenzie County (Royer and Royer 2012b, p. 16). Oil production is anticipated to continue to expand at record levels (MacPherson 2012, p. 1; MacPherson 2010, entire).

Native-prairie habitat would be destroyed in the footprint of an oil and gas well pad, but the pads are relatively small. However, each oil and gas well pad requires new road construction, and evidence suggests that Poweshiek skipperlings may avoid crossing roads (Westwood *et al.* 2012, p. 18). Energy development can double the density of roads on range lands (*e.g.,* Naugle *et al.* 2011, pp. 493–494), increase pipelines, and increase the number of gravel pits to accommodate the increased road construction (Mueller 2013, pers.

comm.). Development for coal-bed natural gas (as described in Naugle 2011), for example, in areas with ranching, tillage agriculture, and oil and gas development, 70 percent of the developed land was within 100 m (109 yards (yd)), and 85 percent of the developed land was within 200 m (218 yd), of a human structure (Naugle *et al.* 2011, p. 493). Researchers estimated that, in those areas, every square km (0.39 square miles) of land may be both bounded by a road and bisected by a power line (Naugle *et al.* 2011, p. 493). These coal-bed natural gas developments can be densely located (*e.g.,* 8 wells per 640 acres) and are drilled vertically, whereas shale-oil wells in the Bakken formation are drilled horizontally and ''relatively far apart'' (Conoco Phillips 2013, in litt.). The habitat fragmentation associated with oil and gas development may amplify other stressors to both species, such as the effects of population isolation and the impacts of stochastic events.

Energy development has additional undesirable and potentially significant cumulative impacts on wildlife. Catastrophic events, such as oil and brine spills, could cause direct mortality of Dakota skipper or Poweshiek skipperling larvae that are in shelters at or below the soil surface. Such spills may also cause the loss of larval host and nectar plants in the spill path. Additional plants may be lost during spill response, particularly if the response involves burning. The likelihood, however, of spills occurring on the small fraction of land that remains native tallgrass prairie in North Dakota (less than one percent according to Samsom and Knoff 1994, p. 419) is low.

Wind energy turbines and associated infrastructure (*e.g.,* maintenance roads) are likely stressors to Dakota skipper and Poweshiek skipperling populations, particularly on private land in South Dakota (Skadsen 2002, p. 39; Skadsen 2003, p. 47; Skadsen 2012d, pers. comm.). Similar to oil and gas development, wind development would destroy native-prairie habitat in the footprint of the structure, add access roads and other infrastructure that may further fragment prairies, and could be catalysts for the spread of invasive species. Further, it is unknown if the noise and flicker effects associated with wind turbines may impact Dakota skipper or Poweshiek skipperling populations beyond direct impacts from the turbines and/or infrastructure. Other wildlife species, such as birds, have shown significant avoidance of grasslands where wind development has occurred (Pruett *et al.* 2009, p. 1256; Shaffer *et al.* 2012,unpaginated). Wind development was assessed at nine Dakota skipper sites and six Poweshiek skipperling sites where we had sufficient information. The level of threat was considered to be low at most sites because, although the site may be in an area with the potential for wind development, there are no specific plans or proposals to develop wind power on the site.

Wind development is considered a stressor of high level of impact to populations at sites where development is proposed and there are no actions or plans to mitigate impacts to the species. For example, a wind facility was recently proposed at a Dakota skipper site in South Dakota (Skadsen 2012d, pers. comm.), which poses a high-level threat for the species at that site because there are no plans to mitigate impacts of habitat destruction. Although wind power development currently poses a high level of impact to the population at only one site, the extent of this stressor will likely increase in the future, due to the high demand for wind energy and the number of Dakota skipper and Poweshiek skipperling sites that are conducive to wind development (*e.g.,* Skadsen 2003, pp. 47–48). Furthermore, power transmission lines may be developed in order to accommodate the added power of wind farms, for instance, a new power line is currently being planned in the Prairie Coteau in South Dakota for that purpose (Mueller 2013, pers. comm.).

Housing construction has likely contributed to the loss of at least two Poweshiek skipperling populations in Michigan, and the largest extant population in Michigan is located in an area under intense development pressure (Michigan Natural Features Inventory 2011, unpubl. data). Residential wells and drainage disrupt prairie fen hydrology by reducing water levels and, thus, facilitating rapid growth of woody vegetation. In addition, nutrients added to the groundwater from leaking septic tanks contribute to the dominance of invasive plants, such as narrow-leaved cattail (*Typha angustifolia*) and red canary grass (*Phalaris arundinacea*) (Michigan Natural Features Inventory 2012, p. 4).

Road construction impacts Poweshiek skipperling and Dakota skipper habitat because it increases the demand for gravel, and impacts also result from routine maintenance (*e.g.,* broadcast herbicide applications, early mowing, and cleaning out ditches), improvements (*e.g.,* widening roads or converting two-lane highways to four-lane highways), or new construction. Poweshiek skipperling habitat was destroyed or degraded on at least two private properties in Roberts County, South Dakota, for example, in association with the widening of U.S. Highway 12 (Skadsen 2003, p. 47). Roadside prairie remnants can help support populations of both species and serve as dispersal corridors between larger remnants; therefore, loss of these areas to road expansion or construction further reduces and fragments remaining habitat. In Michigan, at least one Poweshiek skipperling site and its habitat has been negatively affected by recreational 'mud bogging', which destroys vegetation and creates conditions conducive to invasive species (Hicks 2014, pers. comm.).

In summary, nonagricultural development, such as gravel mining, activities associated with energy development, or housing and road development, poses a current stressor of moderate to high impact to populations on those lands that are not protected from destruction or conversion through a conservation easement or fee title ownership by a conservation agency. This type of development may become more widespread as such practices increase in the future.

As discussed above in *Destruction and Conversion of Prairies to Agricultural Land,* we rated the level of impact to the populations of the stressor posed by habitat destruction or conversion for both agriculture and nonagricultural purposes combined (except for conversion for wind energy development, which was analyzed separately) at 144 Dakota skipper sites with present or unknown status (see Table 3) where we had sufficient information to evaluate the stressor. The level of impact of each stressor to the population at each site is high at three of those sites, due to ongoing destruction of the native prairie, or there was a high likelihood of conversion because it is located close to other converted areas and the land is conducive for agriculture. The level of threat is high at 3 sites, moderate at 83 sites, and 58 sites are protected from destruction or conversion through a conservation easement or fee title ownership by a conservation agency (Table 3). This stressor occurs across the range of the Dakota skipper; the stressor has a medium to high level of impact to Dakota skipper populations in Minnesota, North Dakota, South Dakota, Manitoba, and Saskatchewan. The level of impact was considered to be low if the site is protected from destruction or conversion by fee title ownership by a governmental conservation agency, nongovernmental conservation

organization (*e.g.,* The Nature Conservancy), or educational institution (*e.g.,* South Dakota State University). Similarly, 41 Poweshiek skipperling sites with present or unknown status were assessed that had sufficient information: The level of threat was high at 2 sites and moderate at 11 sites, and 28 sites are protected from destruction or conversion through a conservation easement or fee title ownership by a conservation agency (Table 4). At least 6 of the 12 sites where the Poweshiek skipperling is considered to still be present have a medium or high risk of conversion. This stressor occurs across most of the Poweshiek skipperling range; the stressor has a medium to high level of impact to Poweshiek skipperling populations in Iowa, Michigan, Minnesota, and South Dakota; the level of impact is low for the species at the Manitoba location.

Fluctuating Water Levels

Flooding is a stressor to Poweshiek skipperlings and Dakota skippers at sites where too much of the species' habitat is flooded or where patches are flooded too frequently. Poweshiek skipperlings and Dakota skippers must either survive flooding events in numbers sufficient to rebuild populations after the flood or recolonize the area from nearby areas that had not flooded. In addition, the return interval of floods must be infrequent enough to allow for recovery of the populations between floods. Changes in hydrology resulting from wetland draining and development may permanently alter the plant community and, therefore, pose a threat to Poweshiek skipperling and Dakota skipper due to loss of larval food and nectar sources.

The Dakota skipper and Poweshiek skipperling are presumed extirpated from several sites due to flooding or draining. For example, one Dakota skipper site was lost to flooding due to rising water levels at Bitter Lake, South Dakota (Skadsen 1997, p. 15). At Whalen Lake Fen in Michigan, dredging and channelization disrupted the hydrology of the site and the fen has since been invaded by glossy buckthorn and narrow leaf cattail; Poweshiek skipperlings are presumed to be extirpated from the site (Michigan Natural Features Inventory 2011, unpubl. data). The loss of a large area of habitat at two sites in Manitoba, which were previously suitable for Dakota skipper, was caused by prolonged inundation of water that likely caused larval mortality and mortality of suitable nectar and larval food plants (Rigney 2013a, pp. 28, 153). In addition, flood protection activities and associated alteration of the landscape (*e.g.,* road work that causes changes to overland drainage) is a stressor to the species at some sites in Manitoba (Rigney 2013a, p. 28).

Fluctuating water levels are a current stressor to populations across both species' ranges. Loss of habitat or direct mortality due to fluctuating water levels, such as permanent flooding or wetland draining, is a current stressor to populations in at least 14 Dakota skipper sites with present or unknown status and 19 Poweshiek skipperling sites with present or unknown status. For example, one of the three sites with present or unknown status of Poweshiek skipperling in Wisconsin, Puchyan Prairie, is subject to flooding—the entire prairie portion of the site was submerged in 1993 (Hoffman 2011, pers. comm.; Wisconsin DNR 2012, in litt). The number of Poweshiek skipperling observed at that site is consistently low. Flooding is a likely factor that has contributed to the low numbers observed in at least part of this site (Borkin 2012c, pers. comm.).

Conversely, groundwater disruption and draining is a stressor at all 9 of the Michigan prairie fen Poweshiek skipperling sites where the species is present and high at one site with unknown occupancy. Interrupted groundwater flow-through fens can reduce water levels and facilitate woody vegetation establishment and growth (Michigan Natural Features Inventory 2012, p. 4). Agricultural and residential drains and wells can lower the groundwater table, thereby reducing the supply of calcareous seepage, which is an essential underlying component of prairie fen hydrology (Michigan Natural Features Inventory 2012, p. 4). Furthermore, nutrient additions associated with drain fields can contribute to invasive species encroachment. For instance, if groundwater flow to prairie wetlands is severed, fen habitats may convert from native grasses and flowering forbs to habitats dominated by invasive species or woody vegetation (Fiedler and Landis 2012, p. 51, Michigan Natural Features Inventory 2012, p. 4). The site with the highest number of Poweshiek skipperlings in Michigan, for instance, is partially bordered by residential areas and is under intense development pressure (Michigan Natural Features Inventory2011, unpubl. data). At least 8 of the 11 fen sites with present or unknown status are at least partially unprotected from development, and at least 7 of those are closely bordered by roads, agriculture, or residential developments (Michigan Natural Features Inventory 2011, unpubl. data; Service 2014, unpubl. geodatabase). The status of Poweshiek skipperling is unknown at one fen site where the hydrology was likely disrupted by roads and extensive residential development in close proximity to the fen (Michigan Natural Features Inventory 2011, unpubl. data).

The level of impact to populations due to flooding was assessed at 12 Dakota skipper sites with present or unknown status that had sufficient information to evaluate the stressor (Table 3); this evaluation only included sites in North and South Dakota. Flooding is a stressor of moderate-level impact to populations at 6 of the sites, where there is evidence of recent or pending decrease in the quality or extent of suitable habitat at the site due to a change in wetland vegetation, wetland hydrology, or flooding—all of these sites occur in North Dakota (Service 2012 unpubl. data; Service 2014, unpubl. data). Similarly, we assessed 19 Poweshiek skipperling sites with present or unknown occupancy for the level of impact to populations due to water fluctuations (*e.g.,* flooding or draining) where we had sufficient information to evaluate the stressor (Table 4). Water fluctuations is a stressor with moderate impact to the populations at 3 Poweshiek skipperling sites (including a site in Wisconsin—one of the 12 Poweshiek skipperling sites with a present status), and changes to hydrology is a stressor of moderate- to high-level impact to populations at all 11 Michigan sites (including 9 of 12 Poweshiek skipperling sites that have a present status) and 1 site in North Dakota (Service 2012 unpubl. data; Service 2014, unpubl. geodatabase).

In summary, fluctuating water levels is a current and ongoing stressor of moderate level of impact to populations where the habitat may be temporarily lost due to intermittent flooding and is a stressor of high severity where a change in hydrology may completely degrade the habitat quality of a site, particularly prairie fens.

Invasive Species and Secondary Succession

Poweshiek skipperlings and Dakota skippers typically occur at sites embedded in agricultural or developed landscapes, which make them more susceptible to nonnative or woody plant invasion. Nonnative species including leafy spurge, Kentucky bluegrass, alfalfa, glossy buckthorn, smooth brome, purple loosestrife (*Lythrum salicaria*), Canada thistle (*Cirsium arvense*), reed canary grass, and others, have invaded Poweshiek skipperling and Dakota skipper habitat throughout their ranges

(Orwig 1997, pp. 4, 8; Michigan Natural Features Inventory 2011, unpubl. data; Skadsen 2002, p. 52; Royer and Royer 2012b, pp. 15–16, 22–23). Kentucky bluegrass and leafy spurge (and the persistent efforts for chemical control of leafy spurge) have been cited as one of the major stressors to native-prairie habitat at several public and privately owned Dakota skipper sites in North Dakota (Royer and Royer 2012b, pp. 15–16, 22–23; Royer 2012, pers. comm.; Royer 2013, pers. comm.). Once these plants invade a site, they replace or reduce the coverage of native forbs and grasses used by adults and larvae of both butterflies. Leafy spurge displaces native plant species, and its invasion is facilitated by actions that remove native plant cover and expose mineral soil (Belcher and Wilson 1989, p. 172). The seasonal senescence patterns (timing of growth) of grass species as they relate to the larval period of Dakota skippers determine which grass species are suitable larval host plants. Exotic cool-season grasses, such as Kentucky bluegrass and smooth brome, are available when Dakota skipper and Poweshiek skipperling larvae begin feeding; however, the morphology and growth habit of these grasses are likely major determinants of their unsuitability to support Dakota skippers (Dana 1991, pp. 46–47). Thus, a prevalence of these grasses reduces food availability for the larvae.

The stressor from nonnative invasive herbaceous species is compounded by the encroachment of woody species into native-prairie habitat. Glossy buckthorn and gray dogwood encroachment, for example, is a major stressor to Poweshiek skipperling populations at the Brandt Road Fen in Michigan, which supports the second largest population of Poweshiek skipperlings in the State (Michigan Natural Features Inventory 2011, unpubl. data). Invasion of tallgrass prairie and prairie fens by woody vegetation such as glossy buckthorn reduces light availability, total plant cover, and the coverage of grasses and sedges (Fiedler and Landis 2012, pp. 44, 50–51). This in turn reduces the availability of both nectar and larval host plants for Poweshiek skipperlings and Dakota skippers. If groundwater flow to prairie wetlands is disrupted (*e.g.,* by development) or intercepted (*e.g.,* digging a pond in adjacent uplands or installing wells for irrigation or drinking water), it can quickly convert to shrubs or other invasive species (Fiedler and Landis 2012, p. 51; Michigan Natural Features Inventory 2012, p. 4). For example, roads and residential development likely disrupted the hydrology of a prairie fen where the Poweshiek skipperling was last observed in 2007 and where 2008 and 2009 surveys for Poweshiek skipperlings were negative (Michigan Natural Features Inventory 2011, unpubl. data). Furthermore, on some sites, land managers intentionally facilitated succession of native-prairie communities to woody vegetation or trees, such as Ponderosa pine (*Pinus ponderosa*) or spruce (*e.g.,* Dana 1997, p. 5). This converts prairie to shrubland, forest, or semi-forested habitat types and facilitates invasion of adjacent native prairie by exotic, cool-season grasses, such as smooth brome. Moreover, the trees and shrubs provide perches for birds that may prey on the butterflies (Royer and Marrone 1992b, p. 15; 1992a, p. 25).

We rated the level of impact to populations of invasive species at 65 Dakota skipper sites and 46 Poweshiek skipperling sites that had sufficient information to evaluate the stressor (Table 3 and Table 4; Service 2012 unpubl. data; Service 2014, unpubl. data). This stressor is considered to have a low level of impact to the populations if there was either no information to indicate a stressor or management was ongoing to control invasive species using methods that are unlikely to cause adverse effects to Dakota skippers or Poweshiek skipperlings (*e.g.,* spot-spraying or hand-pulling). Sites were assigned a moderate level of impact to populations if invasive species are typically a primary driver of management actions and make it difficult for managers to specifically tailor management to conserve Dakota skipper or Poweshiek skipperling habitat. The site was assigned a high level of impact to populations if one or more nonnative invasive plant species are abundant or increasing and management activities are not being implemented to control their expansion; or if necessary management actions cannot be implemented without themselves causing an additional stressor to the Dakota skipper or Poweshiek skipperling populations at the site.

Invasive species are a current and ongoing stressor with high levels of impact to Dakota skipper and Poweshiek skipperling populations on sites where land management is conducive to their invasion or expansion or where they have become so pervasive that even favorable management may not be quickly effective. Succession is a current and ongoing stressor of moderate-level impact to populations at sites where management is insufficient. The stressor of invasive species to populations on small and isolated sites (*e.g.,* Big Stone NWR) is a current and ongoing stressor of high level of impact to populations, because Dakota skipper and Poweshiek skipperling populations have little resilience to the resulting habitat degradation and to the often aggressive management needed to control the invasive plants. Loss of habitat or degradation of the native plant community due to encroachment of invasive species or woody vegetation is considered a high level of impact to populations at 12 of the 65 assessed Dakota skipper sites, a moderate level of impact to populations at 33 sites, and low impact to populations at 20 sites. Sites with high and moderate level of impact occur throughout the species range in Minnesota, and North and South Dakota (Service 2012 unpubl. data; Service 2014, unpubl. data). Similarly, invasive species are a stressor of high level of impact to populations at 6 of the 46 evaluated Poweshiek skipperling sites, moderate level of impact to populations at 29 sites, and low level of impact to populations at 11 sites—sites with high and moderate levels of impact are throughout the range of the species in Iowa, Minnesota, Michigan, North Dakota, South Dakota, Wisconsin, and Manitoba and include at least 9 of the 12 sites where the species is still present (Service 2014, unpubl. data).

Fire

Dakota skipper and Poweshiek skipperling populations existed historically in a vast ecosystem maintained in part by fire. Due to the great extent of tallgrass prairie in the past, fire and other intense disturbances (*e.g.,* locally intensive bison grazing) likely affected only a small proportion of the habitat each year, allowing for recolonization from unaffected areas during the subsequent flight period (Swengel 1998, p. 83). Fire can improve Poweshiek skipperling (Cuthrell 2009, pers. comm.) and Dakota skipper habitat (*e.g.,* by helping to control woody vegetation encroachment), but it may also kill most or all of the individuals in the burned units and alter entire remnant prairie patches, if not properly managed (*e.g.,* depends on the timing, intensity, etc.). Accidental wildfires also may burn entire prairie tracts (Dana 1997, p. 15) and may hamper plans to carefully manage Dakota skipper and Poweshiek skipperling habitat. A human-set wildfire in late fall 2009 and another extensive fire in 2011, for example, burned considerable amounts of good prairie habitat in The Nature Conservancy of Canada's Tall Grass

Prairie Preserve in Manitoba (Hamel *et al.* 2013, p. 1; Westwood 2010, pers. comm.), which is the only location in Canada where Poweshiek skipperlings are present; Dakota skippers are extirpated from the site. The fires at The Nature Conservancy of Canada's Tall Grass Prairie Preserve may have killed overwintering larvae, and the population of Poweshiek skipperling in Canada ''may have been greatly reduced as a result of these fires'' (Hamel *et al.* 2013, p. 1).

Intentional fires, without careful planning, may also have significant adverse effects on populations of Dakota skippers and Poweshiek skipperlings, especially after repeated events (McCabe 1981, pp. 190–191; Dana 1991, pp. 41–45, 54–55; Swengel 1998, p. 83; Orwig and Schlicht 1999, pp. 6, 8). In systematic surveys of Minnesota tallgrass prairies, for example, Dakota skippers were less abundant on sites that had been burned, compared with otherwise similar hayed sites (Swengel 1998, p. 80; Swengel and Swengel 1999, pp. 278–279). Similarly, Schlicht (1997b, p. 5) counted fewer Dakota skippers per hour in burned than on grazed sites in Minnesota. Orwig and Schlicht (1999, p. 8) speculated that inappropriate use of prescribed burning eliminated Dakota skippers from the last known occupied site in Iowa, a 65-ha (160-ac) preserve. The effects of fire on prairie butterfly populations are difficult to ascertain (Dana 2008, p. 18), but the apparent hypersensitivity of Poweshiek skipperlings and Dakota skippers indicates that it is a stressor to both species in habitats burned too frequently or too broadly. The Poweshiek skipperling and Dakota skipper are not known to disperse widely (Swengel 1996, p. 81; Burke *et al.* 2011, p. 2279); therefore, in order to reap the benefits of fire to habitat quality, Poweshiek skipperlings and Dakota skippers must either survive in numbers sufficient to rebuild populations after the fire or recolonize the area from a nearby unburned area. In addition, the return interval of fires needs to be infrequent enough to allow for recovery of the populations between burns. Therefore, fire is a stressor to Poweshiek skipperlings and Dakota skippers at any site where too little of the species' habitat is left unburned or where patches are burned too frequently.

Panzer (2002, p. 1306) identified four life-history traits of duff-dwelling insects (such as the Dakota skipper and Poweshiek skipperling) that were good predictors of a negative response to fire: (1) Remnant dependence (occurring as small, isolated populations); (2) upland inhabitance (dry uplands burn more thoroughly than wetter habitats); (3) nonvagility (low recolonization rate); and (4) univoltine (slower recovery rates for species with only one generation per year). Species exhibiting all four traits should be considered ''hypersensitive'' to fire (Panzer 2002, p. 1306). While not specifically included in his study, the Poweshiek skipperling and Dakota skipper meet all of Panzer's criteria for hypersensitivity (Panzer 2002, p. 1306) and have additional life-history traits that further suggest hypersensitivity to fire. Panzer (2002) observed mean declines of 67 percent among fire-negative species, although actual mortality was likely higher due to some immigration into experimental areas after the burn. When all or large portions of prairie remnants are burned, many or all prairie butterflies may be eliminated at once. Complete extirpation of a population, however, may not occur after a single burn event (Panzer 2002, p. 1306), and the extent of effects would vary depending on time of year and fuel load.

Poweshiek skipperlings lay their eggs near the tips of leaf blades, and they overwinter as larvae on the host plants (Borkin 2000, p. 2), where they are exposed to fires during their larval stages. Poweshiek skipperlings have also been documented laying eggs on the entire length of grass leaf blades and on low-growing deciduous foliage (Dupont 2013, p. 133). If larvae are on prairie dropseed or little bluestem, which occur in dry prairie, rather than spike-rush or sedges, which typically occur in wet prairie, then the larvae are even more vulnerable to fire (Selby 2005, p. 36). Unlike Dakota skippers, Poweshiek skipperlings do not burrow into the soil surface (McAlpine 1972, pp. 88–92; Borkin 1995, p. 9), which makes them more vulnerable to fire (and likely more vulnerable to chemicals such as herbicides and pesticides) throughout their larval stages. Species whose larvae spend more time above ground, such as Poweshiek skipperlings, are likely more vulnerable to fire than species that form underground shelters. As the spring progresses, however, the vulnerability of Dakota skippers to fire increases as larvae shift from buried shelters to horizontal shelters at the soil surface (Dana 1991, p. 16).

Studies of all life-stages may be necessary to fully evaluate these species' response to fire. Early spring burns may be less likely to harm Dakota skipper populations than late spring burns, due to larval phenology and differences in subsurface soil temperatures during the fire; however, studies have not conclusively linked the relationship of mortality risk to the timing of spring burns. Experiments to evaluate the effects of early spring versus late spring fires and of different fuel levels on Dakota skipper mortality found that, despite higher ambient temperatures during the early spring burn, temperatures at the average depth of buried Dakota skipper shelters (Dana 1991, p. 11) were 10 °C (50 °F) higher during the late-spring burn (Dana 1991, p. 41). Fuel load was positively related to subsurface soil temperature (Dana 1991, pp. 41–43). Fuel loads that were clearly associated with lethal subsoil temperatures, however, were more typical of mesic tallgrass prairie, which had about twice the fuel loads of the dry-mesic habitats inhabited by Dakota skippers on the site (Dana 1991, pp. 41, 54). Although Dana's study was inconclusive in quantifying the risk of mortality in relation to the timing of spring burns, he was able to conclude that a late-spring burn in ''moderate'' fuels (430–440 g/m^2) would have a devastating effect on Dakota skipper populations, and that early spring burning would afford some amelioration (Dana 1991, p. 55).

Rotational burning may benefit prairie butterflies by increasing nectar plant density and by positively affecting soil temperature and near-surface humidity levels due to reductions in litter (Dana 1991, pp. 53–55; Murphy *et al.* 2005, p. 208; Dana 2008, p. 20). Purple coneflower and little bluestem, for example, occurred more frequently on burned areas than on unburned areas in mixed-grass prairie at Lostwood National Wildlife Refuge in northwestern North Dakota (Murphy *et al.* 2005, pp. 208–209). An increase in purple coneflower, an important nectar source for Dakota skippers and Poweshiek skipperlings, may last for 1–2 years after early spring fires, and females may preferentially oviposit near concentrations of this nectar source (Dana 2008, p. 20).

Although fire tends to increase native plant diversity in prairies (Murphy *et al.* 2005, pp. 208–209), several years may be necessary for Dakota skipper and Poweshiek skipperling populations to recover after a burn. Few studies have documented recovery times for prairie butterflies after a burn, and even fewer have measured the relationships between species abundance in tallgrass prairies and time since burn. One such study, however, found lower relative abundances of Dakota skippers and Poweshiek skipperlings in burned units than in otherwise similar hayed units even 4 years after burns (Swengel 1996, p. 83). Poweshiek skipperling had the most negative initial response to fire

among six species of prairie-obligate butterfly species (Swengel 1996, p. 83). Numbers were still lower than expected 1 year post-fire, exceeded expectations after 2 years, and declined slightly after 3 years (Swengel 1996, p. 83). In habitats that had not been burned for 4 or more years, Poweshiek skipperling abundance was about as low as in habitats sampled less than 1 year after being burned (Swengel 1996, p. 83). The 2012 spring burn that comprised approximately 25–30 percent of the breeding habitat at Scuppernong SNA may have contributed to the apparent absence of the species in 2013—the relatively small population that was also affected by the 2012 summer drought and the cold wet spring of 2013 (Borkin 2014, pers. comm.)

Poweshiek skipperling numbers decline in burned areas for at least 1–2 years after the burn, and may take several years to rebound, but may decline again if management does not maintain the habitat (Skadsen 2001, p. 37; Webster 2003, p. 12). In general, rebound times of 1–5 years postburn have been predicted (Panzer 2002, pp. 1302–1303); however, Vogel *et. al* (2010, p. 671) found that habitat-specialist butterfly abundance rebound time was approximately 50 months after prescribed fires. Swengel (1996, pp. 73, 78–79) describes that the negative effects of fire persist for prairie specialists for 3 to 5 plus years, and these species were collectively the most abundant after 5 or more years since the last fire. In Manitoba, Poweshiek skipperling populations were most numerous in sites burned 5–8 years previously—the species was absent in sites that were burned the previous year, in small numbers in areas that were burned 2–4 years prior, and absent from areas that were burned 10 or more years previous to the survey (Dupont 2013, pp. 4, 86–87). Recent survey results in some areas, most notably, Iowa and Minnesota, indicate that other factors are acting independently (Dana 2008, p. 18) or in concert with fire to forestall post-fire rebound.

We assessed the stressor posed by fire at 20 Dakota skipper sites with present or unknown status and 16 Poweshiek skipperling sites with present or unknown status where we had sufficient information to evaluate the stressor (Tables 3 and 4; Service 2012, unpubl. data; Service 2014, unpubl. data). We considered fire a stressor of high level of impact to populations at 10 of the 20 evaluated Dakota skipper sites and 4 of the 16 Poweshiek skipperling sites. Sites that face a high level of impact to populations were primarily those with a high proportion of Dakota skipper or Poweshiek skipperling habitat that may be burned in a single year or where all of the species' habitat is burned with no likely source of immigrants to sustain the population. This type of fire management is a documented cause of extirpation (Selby 2000, p. 19). Sites with a moderate level of impact to populations from fire management were those where the habitat is divided into at least three burn units and no unit is burned more frequently than once every 3 years; or, habitat is divided into two or more burn units, each unit is burned no more frequently than once every 3 years, but the entirety of the species' habitat is never burned in the same year and the species is present at another site that is less than 1 km (1.6 mi) away.

Fire is considered to be a stressor of moderate severity at 4 of the 20 evaluated Dakota skipper sites and 2 of the 16 Poweshiek skipperling sites. Fire presents a low level of impact to populations at sites where the species' habitat is divided into at least four burn units and no unit is burned more frequently than once every 4 years; or, the species' habitat is divided into three or more burn units, at least three units are burned no more frequently than once every 4 years, and the site contains more than 140 ha (346 ac) of native prairie or where the site is separated from another occupied site by less than 1 km (1.6 mi). Fire is considered to be a stressor with a low level of impact to populations at 6 of the 20 evaluated Dakota skipper sites and 10 of the 16 Poweshiek skipperling sites.

In summary, fire may be an important management tool for these butterflies, if carried out appropriately. However, where managers burn without ensuring a sufficient amount of contiguous or nearby habitat from which immigrants can re-inhabit burned areas or if not conducted with conservation of prairie invertebrates as a primary objective, fire is a current stressor that can have moderate impacts on populations. Uncontrolled wildfires may also have high or moderate levels of impacts to populations, and would also depend on the timing, intensity, and extent of the burn. Poweshiek skipperlings may be among the most sensitive of prairie butterflies to fire, and thus, coordination between habitat managers and butterfly experts is necessary to ensure that it is not implemented in a manner that degrades population viability. Fire is a current and ongoing stressor of high level of impact where burns occur without ensuring there is a sufficient amount of contiguous or nearby habitat from which immigrants can re-inhabit burned areas. Fire is an ongoing stressor rangewide for both species and has been documented at a high or moderate level of impact to populations at several sites in North Dakota, South Dakota, Minnesota, Wisconsin, and the Tallgrass Prairie Preserve in Manitoba.

Grazing

As with fire management, grazing may maintain habitat for the Poweshiek skipperling and Dakota skipper, but as with any management practice, appropriate timing, frequency, and intensity are important. The level of impact of grazing on Dakota skipper and Poweshiek skipperling populations also depends on the type of habitat that is being grazed. In contrast to the permanent habitat destruction and larval mortality caused by plowing or mining, for example, some habitats can remain suitable for the Dakota skipper and Poweshiek skipperling when grazed (Dana 1991, p. 54, Schlicht 1997, p. 5, Skadsen 1997, pp. 24–29), and native plant diversity in tallgrass prairie may recover from overgrazing if it has not been too severe or prolonged. In addition, grazing may be a valuable tool for controlling smooth brome invasion and maintaining native diversity in prairies, especially where circumstances make the use of fire difficult or undesirable (Service 2006, p. 2; Smart *et al.* 2013, pp. 685–686). Conversely, grazing may stimulate brome growth and reduce native plant diversity.

Grazing may benefit the Dakota skipper and Poweshiek skipperling under some management scenarios (*e.g.,* adaptive management to adjust grazing prescriptions according to their effects on essential features of the prairie ecosystem). In some habitats, Dakota skippers benefit from light grazing that minimizes the area dominated by tall grasses (*e.g.,* big bluestem and indiangrass) (Dana 1991, p. 54). Dakota skippers were relatively abundant on prairies subjected to light grazing regimes, but absent on nearby idle prairies that were no longer used for grazing; moreover, more Dakota skippers were observed per hour on the lightly grazed prairies than on nearby habitat managed with fire (Schlicht 1997b, p. 5). Similarly, in eastern South Dakota, Dakota skipper populations were deemed secure at some sites managed with rotational grazing light enough to maintain plant species diversity (Skadsen 1997, pp. 24–29), but the species was since extirpated at one site where a change in ownership resulted in significant overgrazing (Skadsen 2006b, p. 5). The economic benefit of grazing to ranchers may also benefit the species at some sites by deterring conversion of remnant prairies to row crop agriculture; however, recent

evidence indicates that conversion is more economically viable (Dowd 2013, pers. comm.).

Bison (*Bison bison*) grazed at least some Dakota skipper and Poweshiek skipperling habitats historically (McCabe 1981, p. 190; Bragg 1995, p. 68; Schlicht and Orwig 1998, pp. 4, 8; Trager *et al.* 2004, pp. 237–238), but cattle (*Bos taurus*) are now the principal grazing ungulate in both species' ranges. Bison and cattle both feed primarily on grass, but have some dissimilar effects on prairie habitats (Damhoureyeh and Hartnett 1997, pp. 1721–1725; Matlack *et al.* 2001, pp. 366–367). Cattle consume proportionally more grass and grasslike plants than bison, whereas bison consume more browse and forbs (flowering herbaceous plants) (Damhoureyeh and Hartnett 1997, p. 1719). Grasslands grazed by bison may also have greater plant species richness and spatial heterogeneity than those grazed by cattle (Towne *et al.* 2005, pp. 1553–1555). Both species remove forage for larvae (palatable grass tissue) and adults (nectar-bearing plant parts), change vegetation structure, trample larvae, and alter larval microhabitats. Livestock grazing was identified as a stressor to populations on most of the privately owned sites and some public sites on which Dakota skippers occurred in 2002 (Cochrane and Delphey 2002, pp. 62–69). Swengel and Swengel (1999, p. 286), for example, noted that at the Sheyenne National Grassland in North Dakota, grazing appeared to be unfavorable for the Poweshiek skipperling and Dakota skipper.

Reduced availability of nectar resources and larval food plants is likely the primary factor leading to declines in Poweshiek skipperling and Dakota skipper populations on heavily grazed sites. In South Dakota, for example, Higgins (1999, p. 15) found lower plant diversity on privately owned prairies, which were mostly grazed, than on publicly owned prairies, which were almost all idle (no grazing or fire management). McCabe (1981, p. 189) observed that grazing eliminated Dakota skippers on North Dakota wet-mesic prairies; nectar plants such as yellow sundrops and bluebell bellflower rapidly diminished with light grazing, and heavy grazing eliminated upright prairie coneflower and purple coneflower. In Manitoba, *certain* levels of grazing are likely to adversely affect Dakota skipper populations in proportion to its intensity because it removes nectar sources (*e.g.,* Rigney 2013a, pp. 143 and 153).

The intensity at which grazing occurs may dictate the level of impact to the Dakota skipper and Poweshiek skipperling, and grazing may have a larger impact on the Poweshiek skipperling than the Dakota skipper (Westwood 2013, pers. comm.). Grazing reduces Dakota skipper numbers in direct proportion to its intensity, due to the reduction in flowers that provide nectar and perhaps by influencing adult behavior (Dana 1997, p. 4). Dana (1997, p. 5) predicted that privately owned pastures in Minnesota's Hole-in-the-Mountain complex, for example, will likely only support low densities of skippers if they continued to be heavily grazed and sprayed with herbicides. Surveys at this habitat complex in 2007, 2008, and 2012 failed to record any Poweshiek skipperlings (Dana 2008, p. 8; Selby 2009a, pp. xxxi–xxxii; Runquist 2012a, pers. comm.; Runquist 2012, pp. 13–14, 18–20), and Dakota skippers were not detected in 2012 surveys (Runquist 2012, pp. 13–14, 18–20; Runquist 2012a, pers. comm.).

While most references to grazing impacts on prairie butterflies are based on ancillary observations made during research focused on other management impacts, one Minnesota study (Selby 2006b) focused on the effects of grazing on all life stages of the Dakota skipper, and also included data for the adult stage of the Poweshiek skipperling. Both species were too scarce to collect data adequate to test the hypotheses (Selby 2006b, p. 2), but observations based on 2 years (2003 and 2004) of surveys suggested that numbers in the lightly to moderately grazed pasture were similar to those in the best portions of nearby ungrazed habitats (Selby 2006b, p. 30). Poweshiek skipperlings were almost absent from the study sites (Selby 2006b, pp. iii–xxiii). Within the grazed study area, the number of Dakota skippers declined with increasing grazing intensity; Dakota skippers were absent from the most heavily grazed areas (Selby 2006b, p. 16). Skadsen (2001, p. 55) found that native forb diversity was poor on the grazed lands and predicted the extirpation of both species unless management practices were changed. The Dakota skipper is now extirpated at one of these sites, and its status is unknown at the other; Poweshiek skipperling status is unknown at both sites (Service 2014, unpubl. geodatabase). Spomer (2004, p. 4) found that larval host plants and nectar sources were missing from heavily grazed pastures at Sheyenne National Grassland, North Dakota.

Grazing intensity combined with varying habitat type may also affect the level of grazing impacts. On wet-mesic habitat in North Dakota, for example, Dakota skippers and Poweshiek skipperlings tolerate little to no grazing (McCabe and Post 1977, pp. 36–38; Royer and Marrone 1992a, pp. 10, 17, 28; Royer and Marrone 1992b, pp. 17–18; Royer and Royer 1998, p. 22). Webster (2003, pp. 7–8) described very similar Dakota skipper habitats in Manitoba and, although grazing generally does not occur in these habitats that are occupied by Dakota skipper, they may be as sensitive to grazing as similar habitats in North Dakota; in a later report, he described the conversion of lands from haying to grazing as a major stressor to Dakota skipper in the wet-mesic habitats of Manitoba (Webster 2007, pp. i–ii, 6). More recently, it is thought that the effects of grazing in Manitoba and Saskatchewan, as stated in Webster (2007, entire), may not be applicable under current population sizes, and that even light grazing may be detrimental on dry short grass prairie sites prior to and during the Dakota skipper flight period (Westwood 2013, pers. comm.).

In the drier and hillier habitats that the species inhabits, grazing may benefit Dakota skipper depending on its intensity. For example, in eastern South Dakota, Dakota skipper populations were deemed secure at some sites managed with rotational grazing that was sufficiently light to maintain native plant species diversity (Skadsen 1997, pp. 24–29), and grazing may also benefit Dakota skippers by reducing the area dominated by tall native grasses, such as big bluestem and Indiangrass (Dana 1991). Proximity of nearby populations or contiguous habitat may alleviate some of the negative impacts of grazing. Royer and Marrone (1992b, p. 29; 1992a, p. 18) stated that heavy grazing was a stressor to Dakota skippers and Poweshiek skipperlings, but that occasional light grazing is not a long-term stressor in some habitats as long as there are areas of contiguous habitat that remain ungrazed. At Chekapa Creek Ridge and Knapp Pasture in South Dakota, heavy grazing apparently extirpated both the Poweshiek skipperling and Dakota skipper (Skadsen 2002, p. 38; 2004, p. 7; 2006a, p. 11). Due to its proximity to other Poweshiek skipperling populations and a return to fall haying in 2005, the Poweshiek skipperling recolonized Chekapa Creek Ridge in 2006 (Skadsen 2006a, p. 12), but more recent surveys indicate that the Poweshiek skipperling has again been extirpated from this site due to habitat degradation because of a change from haying to grazing (Skadsen 2012a, pers. comm., Skadsen 2012c, pers. comm.).

As with fire, Dakota skipper and Poweshiek skipperling populations may persist through intense grazing episodes

or be restored afterwards, if sufficient numbers survive and reproduce in lightly grazed patches or if nearby habitats provide sufficient numbers of immigrants to reestablish the population after habitat quality is restored. Years of grazing without rest, however, may preclude recovery from the effects of intense grazing, although the capacity for restoration of suitable plant community and other habitat features may be highly variable among sites. On some sites, plant diversity may not be restored when grazing pressure declines (Dana 1997, p. 30; Jackson 1999, pp. 134–135; Spomer 2004, p. 4). Grazing intensely (where a high proportion of plant biomass is removed) or for long duration leads to native plants being replaced with exotic, cool-season European forage grasses and legumes that are tolerant of continuous grazing (Jackson 1999, p. 128, Minnesota DNR 2006, p. 232). In overgrazed native prairie in Minnesota, for example, the prairie is dominated by exotic grasses with a low native forb species diversity and abundance, and foliage height is less than 10 cm (4 in) (Dana 1997, p. 3); these prairies lack the native plants necessary to sustain adult and larval prairie butterflies. In comparison, sites less disturbed by grazing have a high native forb (nectar) species diversity and abundance foliage height is generally more conducive to perching and reproductive activities (between 25 and 40 cm (10 and 16 in)) (Dana 1997, p. 2).

Land managers also frequently use herbicides, often through broadcast application, to control weeds and brush on grazed remnant prairies, which further reduces native forb diversity and abundance (Dana 1997, p. 3; Stark *et al.* 2012, pp. 25, 27) necessary for adult nectar sources. Skadsen (2006, p. 11), for example, documented the likely extirpation of Dakota skippers at Knapp Ranch in South Dakota after a July 2006 application of broadleaf herbicide in concert with heavy grazing. Herbicide and pesticide use is discussed further under *Factor E* of this final rule.

While reduced availability of nectar resources and larval food plants may be the primary factors leading to declines in Poweshiek skipperling and Dakota skipper populations on heavily grazed sites, changes in vegetation structure may also be important. For example, grazing prairie each year during mid-summer eliminates nectar plants, such as purple coneflower, and native warm-season grasses that function as larval host plants (Skadsen 2007, pers. comm.). In South Dakota, vegetation height and litter depth were lower on prairie remnants that were mostly grazed (Higgins 1999, pp. 27–29). Grazing also causes direct mortality of larvae due to trampling and altering larval microhabitats (Royer *et al.* 2008, pp. 10–15). In North Dakota, grazing can compact soils in wet-mesic prairie inhabited by Dakota skippers and Poweshiek skipperlings, altering vertical water movement in the soil, which may lead to larval desiccation (Royer *et al.* 2008, p. 16) and may inhibit subsurface shelter construction, potentially increasing larval vulnerability to predators, parasites, and other environmental stressors (Dana 2013, pers. comm.). Cattle may also kill larvae by trampling them, particularly in wet-mesic prairies (McCabe 1981, p. 189).

Livestock grazing is the predominant use of privately owned tallgrass prairie remnants in South Dakota (Higgins 1999, p. 15) and was identified by the Service as a stressor on most of the privately owned sites on which Dakota skipper occurred when the species was identified as a candidate species in 2002 (Cochrane and Delphey 2002, pp. 62–69). The presence and density of purple coneflower may serve as an indicator of grazing impacts to Dakota skippers and Poweshiek skipperlings where the species occur in dry-mesic prairie (Skadsen 2006a, p. 2); grazing from mid-June through July may reduce purple coneflower abundance (Skadsen 2007, pers. comm.)—as discussed in the Background section of this rule, purple coneflower has been identified as a primary source of nectar for both species, particularly in dry prairie habitats.

Britten and Glasford (2002, p. 373) recommended minimizing disturbance of Dakota skipper habitat during the flight period (late June to early July) to maximize genetically effective population sizes (the number of adults reproducing) to offset the effects of genetic drift of small populations (change in gene frequency over time due to random sampling or chance, rather than natural selection). Therefore, a large portion of the habitat of any Dakota skipper population should remain ungrazed or only lightly grazed during the flight period, and similar precautions should be taken for the Poweshiek skipperling.

We assessed the level of impact to populations from grazing at 52 Dakota skipper sites and 16 sites currently occupied by Poweshiek skipperling with present or unknown status that had sufficient information to evaluate the stressor (Tables 3 and 4; Service 2012 unpubl. data; Service 2014, unpubl. data). This analysis was conducted differently for different habitat types. For Type A habitat (Royer *et al.* 2008, pp. 14–16) where stocking rates (number of cattle or bison over a given area) have little or no evidence of grazing effects on Dakota skipper or Poweshiek skipper habitat quality, we found the level of impact to populations of grazing to be low. For Type B habitat (Royer *et al.* 2008, p. 14), we assumed that the level of impact of grazing to populations would be low if the dry-mesic slopes were grazed only before June 1 with at least one year of rest between rotations and if the pasture were only spot-sprayed with herbicides when and where necessary, or, the best available information does not indicate that grazing practices are degrading habitat quality for the species (*i.e.,* no apparent diminishment of nectar plant density and diversity and habitat is good or excellent for Dakota skipper).

At grazed sites where extirpation of the local population is not imminent, but habitat quality is fair to poor and the relative abundance of Dakota skippers or Poweshiek skipperlings is often low, we found the level of impact of grazing to populations to be moderate. Sites with a moderate level of impact to populations due to grazing may be lightly grazed for less than 4 months or less than 25 percent of the above-ground biomass of native grasses and forbs is consumed (Smart *et al.* 2011, pp. 182–183), are grazed after June 1, or are not given a year of rest between grazed years. At sites where grazing is conducted season-long, or for more than 4 months during the year, or more than 50 percent of the above-ground biomass of native grasses and forbs is consumed and herbicide use is frequent, we found the level of impact of grazing to populations to be high. At sites where grazing is a high-level stressor, extirpation of the population is likely imminent and habitat quality is poor. On public lands inhabited by the species, grazing is typically used to control nonnative cool-season grasses and invasive species. Cattle are often removed by July 1 to minimize adverse impacts to warm-season grasses, but this type of management minimizes the density of nectar species that are important to the Dakota skipper and Poweshiek skipperling. Invasive species are often present at grazed sites, which often leads to further management actions (see Invasive Species and Secondary Succession).

Of the 52 Dakota skipper sites assessed, we found the level of impact to Dakota skipper populations from grazing to be high at 9 sites, moderate at 29 sites, and low at 14 sites (Service 2012 unpubl. data; Service 2014, unpubl. data). Moderate- to high-level impacts to populations were primarily at South Dakota sites (N=27)—other

sites with moderate- to high-level impacts were in Minnesota (N=7), North Dakota (N=3), and Manitoba (N=1). As described above as part of our assessment of grazing, we examined the habitat quality ratings that were primarily assigned by researchers during surveys for the species, during separate habitat assessments, or that were available from State heritage databases or other sources of scientific data. The habitat quality was rated as poor at 7 of the 9 sites where grazing poses a high level of impact to Dakota skipper populations. At each of the 14 sites where grazing pressure is low, habitat quality was good or excellent, with two exceptions where habitat was rated as fair to good. Among the 29 sites where grazing is a moderate level of impact to Dakota skipper populations, 6 had habitat rated good or excellent.

Of the 16 Poweshiek skipperling sites for which we had sufficient information to assess grazing, the level of impact to populations from grazing is high at 4 sites, moderate at 10 sites, and low at 2 sites—all but 2 of these sites were in South Dakota. No sites in Wisconsin or Michigan were assessed for grazing impacts to populations, where the grazing does not occur. Among the 10 sites where grazing is a moderate level of impact to Poweshiek skipperling populations, 8 have habitat rated as fair to excellent. The habitat quality was rated as poor at 2 of the 4 sites where grazing is having a high level of impact to Poweshiek skipperling populations.

In summary, grazing may benefit Dakota skippers and Poweshiek skipperlings in native tallgrass prairie by increasing native plant diversity and patchiness of fires (Minnesota DNR 2006, p. 232). The economic benefit of grazing to ranchers may also be a benefit to the species by deterring conversion of remnant prairies to row crop agriculture. Grazing is a stressor to these species, however, if it is not managed with the goal of conserving native-prairie vegetation that comprises suitable habitat for Dakota skipper and Poweshiek skipperling. Dakota skippers and Poweshiek skipperlings may benefit when prairie habitat is rested from grazing for at least a part of each growing season, if livestock are precluded from removing too much plant material (*e.g.,* are moved when stubble heights are 6–8 in (15–20 cm) (Skadsen 2007, pers. comm.), and if the timing of grazing for each field varies from year to year (Skadsen 2007, pers. comm.). Grazing management recommendations may not be universally applicable to all locations, and may depend on the habitat type and other ecological and physical conditions of the site. For instance, stubble heights of 6–8 inches may be difficult to attain in certain dry-mesic sites (ND NRCS 2013, pers. comm.).

Conversely, Dakota skipper and Poweshiek skipperling populations may be reduced or extirpated when too much plant material is removed, when fields are not rested for some portion of the growing season, or fields are grazed during the same period each year. Grazing poses a current and ongoing stressor of moderate to high level of impact to populations where its intensity is such that Dakota skippers and Poweshiek skipperlings are unlikely to thrive or even persist. Grazing poses a likely future stressor where current management is conducive to Dakota skipper or Poweshiek skipperling conservation, but where landowners may allow excessive grazing in the future, for example, where management may change as a result of the changing market prices of agricultural products. Unsuitable grazing is an ongoing stressor throughout much of the range of the Dakota skipper and Poweshiek skipperling (primarily in flat wet prairies of Minnesota, North Dakota, and South Dakota); grazing is not a documented stressor at the Poweshiek skipperling sites with present or unknown status in Wisconsin, Michigan, and Iowa or at most Dakota skipper sites in Canada.

Haying

As with grazing and fire, haying (mowing grasslands and removing the cuttings) may maintain habitat for the Poweshiek skipperling and Dakota skipper, but as with any management practice, appropriate timing, frequency, and intensity are important. Poweshiek skipperling habitat at Scuppernong Prairie in Wisconsin, for example, would have succeeded to shrubby or forested habitat if it had not been hayed each fall (Borkin 2011, in litt.)—it is now one of the few sites in Wisconsin that is occupied by the Poweshiek skipperling. Nearly all of the Dakota skipper sites in Canada where the species is present are privately owned, fall-hayed prairies (Westwood 2013, pers. comm.).

Haying generally maintains prairie vegetation structure, but it may favor expansion of invasive species such as Kentucky bluegrass. If done during the adult flight period, haying may kill the adult butterflies or cause them to emigrate, and if done before or during the adult flight period, it may reduce nectar availability (McCabe 1979, pp. 19–20; McCabe 1981, p. 190; Dana 1983, p. 33; Royer and Marrone 1992a, p. 28; Royer and Marrone 1992b. p. 14; Swengel 1996, p. 79; Webster 2003, p. 10). Royer and Marrone (1992b, p. 14), for example, ascribed the loss of a North Dakota Poweshiek skipperling population to June and July haying. Several years of July haying may have led to the Poweshiek skipperling's extirpation at Wakidmanwin Prairie in South Dakota (Skadsen 2006b, p. 13). The Dakota skipper was observed at the Wakidmanwin Prairie in 2010 (Skadsen 2010, p. 6); however, it is not clear if the management has changed since the observation. Early June haying may have eliminated Dakota skippers from at least one site in North Dakota (Royer and Royer 2012a, p. 72).

Hayed prairies are important reservoirs of native-prairie plant diversity; however, long-term annual haying negatively impacts prairie plant diversity (Jog *et al.* 2006, pp. 164–165). Jog *et al.* (2006, pp. 164–165) recommended diversifying management to include, for example, periodic fire and to forego annual haying to increase plant species diversity. In a long-term study of a prairie in southeastern Wisconsin, a switch from late-season haying to fire management led to increased native plant diversity and coverage of warm-season grasses, although woody plant species also increased (Rooney and Leach 2010, p, 319)—this increased plant diversity was likely an expression of plants that were already at that location.

Late-season haying may benefit Dakota skipper populations (McCabe 1981, p. 190), and Dakota skipper populations might be more common on hayed prairies than on idle (not hayed) prairies (Webster 2003, p. 10). Swengel and Swengel (1999, p. 279) observed significantly greater relative abundance of Dakota skippers on hayed tracts compared with either idle or burned tracts in Minnesota, and Skadsen (2004, p. 7) documented the extirpation of Dakota skippers from a site after its management switched from haying to intensive grazing. Some remnant Dakota skipper populations in the eastern Dakotas are found on fall-hayed prairies (Skadsen 1997, pp. 10–23; Royer and Royer 2012b) as are many of the sites in Manitoba (Webster 2003, p. 10). Webster (2003, p. 8) found ''healthy populations'' of Dakota skippers in Manitoba on sites used as hay fields, as described by the absence of standing dead grass, low numbers of shrubs, shorter bluestem grasses, and abundant and readily observable nectar flowers, as compared to un-hayed sites. Scarlet Fawn Prairie in South Dakota, which is hayed in the fall, is considered one of the highest quality prairies in that State (Skadsen 2012, pers. comm.). In the

Dakotas, late-season (mid-August to October) haying appears to minimize impacts to the prairie butterflies, although annual haying may diminish the vigor of native, warm-season grasses and reduce forb density in north-central North Dakota (wet-mesic) habitats (Lenz 1999, p. 14; Skadsen 2009, p. 8). Consistent late-season haying of Poweshiek skipperling habitat in South Dakota, appears to have facilitated the expansion of green needlegrass (*Stipa viridula*), a cool-season grass, and prevented seed development in warm-season plants (Skadsen 2009, p. 8).

We assessed the level of impact of haying to populations at 41 Dakota skipper sites and 6 Poweshiek skipperling sites with present or unknown status where we had sufficient information to assess the stressor (Tables 3 and 4; Service 2012 unpubl. data; Service 2014, unpubl. data). Haying was considered to be a stressor with a low or no negative impact on populations where it is implemented after the flight period (after approximately August 1) and when there is no reduction in the availability of native plant species. Haying was considered to be a stressor with a moderate level of impact on populations, where the exact timing or extent of haying was unknown, but there are: (1) One or more indications that haying is resulting in a reduction in nectar or larval food sources important to the species due to timing or frequency of mowing; (2) part of the Dakota skipper or Poweshiek skipperling habitat on the site is hayed before August 1, but a substantial proportion of habitat is not hayed and not clearly subject to other stressors, such as frequent fire or grazing (*e.g.,* Smokey Lake site, North Dakota); or (3) where haying occurs before or after August 1, but the site is hayed no more frequently than once every 3 years (*e.g.,* Roy West Game Production Area, South Dakota).

We considered haying to be a stressor with a high level of impact on populations where the site was hayed prior to August 1 (*e.g.,* Oaks Prairie, North Dakota). At 29 of the 41 evaluated Dakota skipper sites, current haying practices are conducive (beneficial) to Dakota skipper conservation, because it is conducted after August 1 and is not reducing native plant species diversity. One or more indications that current haying practices are slowly degrading habitat quality for Dakota skippers has been documented at 11 of the 41 sites. At several sites in North Dakota, for example, Royer and Royer (2012b, pp. 15, 21, 24, 45) noted a decrease in the diversity and density of forbs at sites hayed annually. Haying is a stressor with a high level of impact on populations at 1 of the 41 Dakota skipper sites assessed and a stressor of moderate-level impacts to the populations at 11 of the 41 Dakota skipper sites assessed. Of the 6 Poweshiek skipperling sites evaluated, haying was a stressor with moderate-level impacts on populations at 3 sites and was not considered to have high-level impacts to the populations at any of the 6 sites.

In summary, haying is a current and ongoing stressor of moderate to high level of impacts to Dakota skippers and Poweshiek skipperlings at the few sites where the site is normally hayed before August and where annual haying is reducing availability of larval food and adult nectar plants. However, fall haying is beneficial to both species, specifically if it is conducted after the flight period (after August 1), no more than every other year, and there is no indication that native plant species diversity is declining due to timing or frequency of haying. Haying is a current stressor at a small number of sites for both species; these sites occur primarily in North Dakota and South Dakota.

Lack of Disturbance

While inappropriate or excessive grazing, haying, and burning are stressors to some Poweshiek skipperling and Dakota skipper populations and have led to the extirpation of others, both species are also subject to the stress of no management practices being implemented. Prairies that lack periodic disturbance become unsuitable for Poweshiek skipperlings and Dakota skippers due to expansion of woody plant species (secondary succession), litter accumulation, reduced densities of adult nectar and larval food plants, or invasion by nonnative plant species (*e.g.,* smooth brome) (McCabe 1981, p. 191; Dana 1983, p. 33; Dana 1997, p. 5; Higgins *et al.* 2000, p. 21; Skadsen 2003, p. 52). For example, Dakota skipper numbers were reduced at Felton Prairie, Minnesota, in tracts that had not been hayed or burned for several years (Braker 1985, p. 47). Another study also observed significantly lower Dakota skipper abundance on unmanaged or idle sites, compared with hayed sites; however, Poweshiek skipperlings were significantly denser with idling (Swengel and Swengel 1999, p. 285). Skadsen (1997, pp. 10–23; 2003, pp. 8, 35, 42) reported deterioration of several unburned and unhayed South Dakota prairies in just a few years due to encroachment of woody plants and invasive species and found lower species richness of prairie-dependent butterflies and lower floristic quality at sites with no disturbance versus sites managed by grazing or fall haying (Skadsen 2006a, p. 3). For example, Dakota skippers returned to an idle site, Pickerel Lake State Park, after a burn conducted in 2007 resulted in a significant increase in forbs, particularly purple coneflower (Skadsen 2008, p. 2). In a separate study, Higgins *et al.* (2000, p. 24) found that prairie habitats left idle had lower plant diversity and quality than prairies managed with fire.

Populations of Dakota skippers and Poweshiek skipperlings may also be at risk at sites where a private landowner is not aware of the presence or potential presence of the species, but would conserve the land if they were made aware. The land use in some areas in Canada, for example, are currently inadvertently used in ways that are favorable to the species (for example, fall haying), but the land use may change in the future (Westwood 2014, pers. comm.). In the United States, the Service has notified private landowners of the presence or potential presence of one or both species on their land at most sites with present or unknown occupancy and many sites that are considered extirpated or possibly extirpated but still may have suitable habitat.

We assessed the stressor posed by lack of management for populations at 17 Dakota skipper sites and 12 Poweshiek skipperling sites with present or unknown status where we had sufficient information to evaluate the stressor (Tables 3 and 4; Service 2012 unpubl. data; Service 2014, unpubl. data). Lack of management was considered to be a stressor of moderate-level impacts to the population where the species' habitat is degraded or likely to become degraded due to secondary succession, invasive species, or both, but actions to restore habitat quality are planned or ongoing, or where the site is idle with no evident plans to initiate management (*e.g.,* fire, grazing, haying), and there are signs of ongoing or imminent secondary succession. Lack of management was considered to be a stressor with a high level of impact to the population where the habitat quality at a site is degraded or likely to become degraded due to secondary succession or invasive species, and there are no ongoing or planned actions to maintain or restore habitat quality. Lack of management was considered to be a stressor of low-level impacts to Dakota skipper or Poweshiek skipper populations at sites that are managed by grazing, haying/mowing, or fire that precludes loss of Dakota skipper or Poweshiek skipperling habitat to

secondary succession and invasive species (*e.g.,* smooth brome).

Nine of the 17 Dakota skipper sites assessed are under high level of impact to population due to lack of management and 5 sites are under moderate level of impact to the population. Four of the 12 Poweshiek skipperling sites assessed are under high level of impact to the population due to lack of management, and 6 sites are under moderate level of impact to the population. The Dakota skipper and Poweshiek skipperling are unlikely to persist at those sites where the level of impact to the population due to lack of management is high. Sites currently under stress by lack of management occur throughout the range of both species; however, most of the present or unknown sites that lack appropriate management are in North Dakota, South Dakota, Minnesota, and Michigan. In summary, lack of disturbance is a current and ongoing stressor to Dakota skipper and Poweshiek skipperling populations where woody vegetation or invasive species expansion will reduce native-prairie grasses and flowering forbs.

Summary of Factor A

We identified a number of stressors to the habitat of the Dakota skipper and Poweshiek skipperling that operated in the past, are impacting both species now, and will continue to impact the species in the future. The decline of both species is the result of the long-lasting effects of habitat loss, fragmentation, degradation, and modification from agriculture, development, invasive species, secondary succession, grazing, and haying. Although efforts have been made to effectively manage habitat in some areas, the long-term effects of large-scale and wide-ranging habitat modification, destruction, and curtailment will last into the future. Invasion of the species' habitat by exotic species and woody vegetation, overgrazing, long-lasting or permanent alterations in water levels or hydrology, and too frequent or improperly timed haying remove or significantly reduce the availability of plants that provide nectar for adults and food for larvae. Fire and flooding cause direct mortality or destroy nectar and food plants if the intensity, extent, or timing is not conducive to the species' biology.

Of the 160 Dakota skipper sites we evaluated for one or more habitat stressors, at least 131 sites have at least one documented stressor with moderate to high levels of impact to populations—these sites are found across the current range of the species in Minnesota, North Dakota, South Dakota, Manitoba, and Saskatchewan (Service 2012 unpubl. data; Service 2014, unpubl. data). Fifty-eight sites have 2 or more documented stressors of moderate to high levels of impact to populations, and 24 sites have 3 or more documented stressors of moderate to high level of impact to populations. Sites with three or more stressors are found across most of the current range of the species; these sites occur in Minnesota, North Dakota, South Dakota, and Manitoba (Service 2012 unpubl. data; Service 2014, unpubl. data). Furthermore, concurrently acting stressors may have more intense effects than any one stressor acting independently. Therefore, based on our analysis of the best available information, present and future loss and modification of Dakota skipper habitat is a stressor that has significant impacts on populations of the species throughout all of its range. Habitat-related stressors occur at sites with Dakota skipper populations within every State and province of occurrence.

Similarly, of the 60 Poweshiek skipperling sites with present or unknown status that we analyzed for one or more habitat stressors, 46 of them have at least one stressor at moderate to high levels of impact to the population. These sites are found across the current range of the species and occur in Iowa, Michigan, Minnesota, North Dakota, South Dakota, Wisconsin, and Manitoba (Service 2014, unpubl. data). Twenty-five sites have 2 or more documented stressors that have moderate to high levels of impact to the population. These sites are found across the current range of the species and occur in Iowa, Michigan, Minnesota, North Dakota, South Dakota, Wisconsin, and Manitoba (Service 2014, unpubl. data). Eleven of them have at least three documented stressors that have moderate to high levels of impact to the population. These sites are found across the current range of the species and occur in Iowa, Michigan, Minnesota, South Dakota, and Manitoba (Service 2014, unpubl. data). Furthermore, concurrently acting stressors may have more intense effects than any one stressor acting independently. Therefore, based on our analysis of the best available information, present and future loss and modification of Poweshiek skipperling habitat is a stressor that has significant impacts on the species throughout its range.

Conservation Efforts To Reduce Habitat Destruction, Modification, or Curtailment of Its Range

In the past, funding for conservation of rare species was primarily directed toward federally listed or candidate species, so while the Poweshiek skipperling may have benefited indirectly from conservation activities focused on species such as the Dakota skipper and Mitchell's satyr (*Neonympha mitchellii mitchelli*), it has not generally been the primary focus of those activities. As a result, survey data and incidental life-history observations have been accumulated as a part of projects focused on other species, but surveys were not necessarily focused on Poweshiek skipperling sites and detailed life-history, population, and demographic data have generally not been collected for the species. Various conservation activities directed at the Dakota skipper also indirectly benefit the Poweshiek skipperling; these activities are summarized below.

Conservation agencies have recognized the need to address the status of prairie butterflies for more than 30 years beginning with a 1980 workshop held to initiate studies of Dakota skippers and other prairie butterflies. In June 1995, the U.S. Fish and Wildlife Service convened Dakota skipper experts to outline tasks needed to preserve enough viable populations to ensure long-term security for the species. The group outlined a plan for surveying populations and characterizing sites and habitats at priority areas, identifying and recommending management needs, monitoring, and outreach and education; however, this plan was not drafted or finalized. In 1999, a Dakota skipper recovery strategy meeting was held in South Dakota with State, Federal, and nongovernmental biologists attending (Skadsen 1999b, entire). In 2011, researchers in Canada organized a Poweshiek Skipperling Workshop and followup conference call that brought together researchers and managers from across the range of the Poweshiek skipperling to provide updates on survey data, discuss ongoing activities, and plan future work. The workshop resulted in specific conservation action plans for the species. The Minnesota Zoo organized a followup conference during March 2013 to assess progress of the 2011 Poweshiek Skipperling Workshop Action Plans, facilitate discussion on the potential effects of management activities on prairie butterflies, identify needed information and data gaps, establish new priorities for research and a draft

action plan for 2013, and facilitate networking and collaborations focused on the conservation of the Dakota skipper and Poweshiek skipperling, as well as other tallgrass prairie butterflies in the Midwest—the Northern Tallgrass Prairie Lepidoptera Conservation Conference Working Group Report Synthesis is posted at *http://www.mnzoo.org/PrairieLepidopteraConference/Northern%20Tallgrass%20Prairie%20Lepidoptera%20Conservation%20Conference%20Working%20Group%20Reports%20-%20Synthesis.pdf.*

Research and survey work has occurred throughout the range of both species to document populations, to study the life history of both species, and to examine the effects of various management practices, such as fire and grazing, on the species and their habitat. For example, research and survey work on Dakota skippers began with Dana's (1991, entire) doctoral study on fire effects at Hole-in-the-Mountain, Minnesota, beginning in 1978 and McCabe's (1981, entire) 1979 surveys for the Garrison Diversion project in North Dakota. Additional work has been completed on characterizing habitat at important Dakota skipper sites in Minnesota (Dana 1997, entire) and North Dakota (Lenz 1999, entire, Royer and Royer 1998, entire, Royer and Royer 2012a, entire). Royer (2008, entire) assessed abiotic habitat parameters of soil in relation to management and conservation of Dakota skippers to complement prior floristic characterization of these habitats. The Minnesota DNR and the Service planned to cooperatively study the effects of grazing on the Dakota skipper and Poweshiek skipperling (Selby 2003, entire; Selby 2006b, entire); however, skipper numbers were too low to collect sufficient data to test hypotheses (Selby 2006b, p. 30).

In the past, the Service funded some management activities intended to benefit the Dakota skipper, including habitat management at Big Stone National Wildlife Refuge, Minnesota (Olson 2000, entire), landowner contacts and education on conservation practices in South Dakota (Skadsen 1999b, entire), and prairie vegetation restoration at Chippewa Prairie in 2000 and at Twin Valley Prairie SNA, Minnesota, in 2001. The results of these efforts are varied; for instance, the prairie habitat at Twin Valley Prairie SNA was recently rated as excellent quality (Service 2014, unpubl. geodatabase), but the status of both species at that site is unknown; the last positive observation of Dakota skippers and Poweshiek skipperlings was 1993 and 1994, respectively. The Dakota skipper is extirpated from Chippewa Prairie, and the status of the Poweshiek skipperling is unknown at the site; the last positive observations of the species were in 1995 and 1994, respectively (Service 2014, unpubl. geodatabase).

The Service purchases easements to prevent prairie conversion for agriculture and provide cost-share to support rotational grazing and other practices that may benefit Dakota skippers and Poweshiek skipperlings. For example, in 12 counties in South Dakota within the range of the species, the Service's grassland easement program has protected 365,193 ac (147,788 ha) of grassland that are primarily native prairie (Larson 2013, pers. comm.; HAPET 2012, unpubl. data), although it is not clear whether these lands are suitable habitat for either species. Other Service fee title lands, State lands, and Natural Resources Conservation Service (NRCS) easement lands may also protect areas from conversion, depending on the protections in those areas (Larson 2013, pers. comm.). If easements are near prairie butterfly habitat they can minimize the impacts of conversion and may provide dispersal corridors or buffer sites from external stressors (*e.g.,* pesticide drift).

Prairie easements generally prevent grasslands from being plowed or destroyed and prevent haying before July 16, but may not restrict grazing, pesticide use, or other practices that can degrade the status of Dakota skipper or Poweshiek skipperling populations. For example, one property with a Service easement was recently overgrazed to the extent that Dakota skipper was extirpated from the site (Skadsen 2006b, p. 5). Cost-share partnerships on easements and other areas, however, may further enable landowners to manage grasslands to benefit Dakota skippers and other prairie endemic species. The Service may implement such actions through the Partners for Fish and Wildlife program or in collaboration with NRCS or other agencies. Since 1990, the Service has purchased easements to prevent grassland conversion on millions of acres in Minnesota, North Dakota, and South Dakota (HAPET 2012, unpubl. data). Only some of these areas include Dakota skipper or Poweshiek skipperling sites, are within the range of either species, or include suitable habitat for either species.

Conservation-interested agencies, individuals, and Tribes in South Dakota have made concerted efforts for decades to conserve native prairie within the Dakota skipper range. For example, there are approximately 54,000 ac (21,853 ha) of fee title lands in grassland that are managed by the Service in 12 of the counties within the historical or current range of the Dakota skipper and 365,000 ac (147,710 ha) protected by the Services' grassland easement program (HAPET 2012, unpubl. data; Larson 2013, pers. comm.). These acreages do not include an additional 4,000 ac (1,619 ha) of grass protected by acquisitions that have occurred in 2012 (HAPET 2012, unpubl. data; Larson 2013, pers. comm.). Not all of these lands, however, may be managed in such a manner that is conducive to Dakota skipper populations.

About one-half of the present or unknown Dakota skipper sites (total number of present/unknown sites is 171) in the United States are privately owned (excluding populations on land owned by The Nature Conservancy). Twelve of these populations are on private land on which the Service has purchased conservation easements that preclude plowing and haying before July 16. Manitoba Habitat Heritage Corporation has an easement that overlaps with one Dakota skipper site in Canada (Friesen 2013, pers. comm.). Similarly, of the 70 privately owned sites where Poweshiek skipperling has been recorded since 1985, 8 sites (all in Minnesota) have conservation easements. These easements do not prescribe grazing practices but are intended to prevent grassland conversion to cropland, which is detrimental to Dakota skippers or Poweshiek skipperlings. Additional measures on some easement properties could ensure grazing practices do not inadvertently impact either species.

The Nature Conservancy's Minnesota and Dakotas offices initiated a Prairie Coteau Coordinated Conservation Planning Effort and Plan in 1998 to facilitate conservation actions by various landowners, including private, county, state, tribal and Federal, on high biodiversity prairie sites (Skadsen 1999b, entire). Additional partners include conservation organizations, local conservation districts, and universities. The Nature Conservancy acquired a reserve in the Sheyenne Grassland area, Brown Ranch, which is a Dakota skipper site with an unknown status, and manages some of the most significant habitats for the two species in Minnesota, including the Hole-in-the-Mountain Prairie preserve. Based on intensive surveys in 2007, Dana (2008, p. 19) found ''considerable reassurance'' that the rotational burning approach used at Prairie Coteau SNA and Hole-in-the-Mountain Preserve is compatible with long-term persistence of the Dakota

skipper, for example, by controlling woody vegetation encroachment. The Minnesota DNR also manages the Prairie Coteau SNA with rotational burning (Dana 2008, p. 19), which may control woody vegetation encroachment. The Clay County Stewardship Plan (Felton Prairie Stewardship Committee 2002) may have reduced the likelihood and severity of gravel mining within the Felton Prairie complex in Minnesota.

Many of the best sites for Dakota skipper and Poweshiek skipperling in South Dakota are on tribal lands managed by the Sisseton-Wahpeton Sioux Tribe (*e.g.,* Scarlet Fawn and Oak Island Prairies) (Skadsen 1997, Skadsen 2012b, p. 3), with late-season haying. According to Skadsen (2012, p. 3) ''. . . as in prior years, the fall hayed prairies held in trust by the Sisseton Wahpeton Oyate had the most diverse native flora and thus the largest numbers of Dakota skippers.'' Although these lands generally contain high-quality habitat for prairie butterflies in eastern South Dakota (Skadsen 2012b, p. 3), a change to alternate year haying—instead of annual haying—may further improve habitat quality by ensuring that plants that flower during the Dakota skipper and Poweshiek skipperling flight periods are able to produce seed (Royer and Royer 2012b, p. 15).

The Day County Conservation District, South Dakota, places a high priority on implementing prescribed grazing on rangelands known to support Dakota skippers and bordering sites in the Upper Waubay Basin Watershed (Skadsen 1999b, p. 3). Their efforts include soliciting grants and providing education on grazing management, controlled burning, and integrated pest management to control leafy spurge, through workshops and a demonstration site. There are five Poweshiek skipperling sites in Day County with unknown occupancy and no sites where the species is considered to be present. There are a total of 24 Dakota skipper sites in Day County: 3 sites where the species is considered to be present, 11 sites that have an unknown occupancy, and the remaining are extirpated or possibly extirpated. It is not known how many of these sites are benefiting from these efforts and to what degree.

In South Dakota, completed management plans guide habitat restoration at Hartford Beach State Park and Pickerel Lake State Recreation Area (Skadsen 2008, pp. 4–7; Skadsen 2011, pp. 1–4). At each site, the lack of haying, grazing, or fire had allowed plant succession to degrade and reduce the extent of Dakota skipper habitat. Dakota skipper habitat at these sites is divided into 3–4 management units. A controlled burn was conducted in one unit at Hartford Beach State Park in 2008, and shrubs were removed from two of the units (Skadsen 2008, p. 4). At Pickerel Lake State Recreation Area, a controlled burn was conducted in 2007, and in 2008 the site was hayed and shrubs were removed. The Dakota skipper was present in the burned unit for the first time since 2002 after ''a dramatic increase in forbs, especially purple coneflower, occurred after the burn'' and ''apparently attracted Dakota skippers from a nearby site'' (Skadsen 2008, p. 2). The Poweshiek skipperling is extirpated from both sites, but the reasons for its disappearance are not known (Service 2012, unpubl. data). At each site, prescribed fire and brush control are implemented on a rotational basis (Skadsen 2011, pp. 1–4); at Pickerel Lake State Recreation Area, forbs were planted in 2011 to diversify nectar resources for prairie butterflies (Skadsen 2011, pp. 2–4).

A privately owned ranch with Dakota skippers in Day County, South Dakota, is managed with a patch-burn grazing system in which each grazing unit is rested for a full year (Skadsen 2008, p. 10), which may be beneficial to the species. The effects of patch-burn grazing at this site are being studied jointly by The Nature Conservancy and South Dakota State University (Skadsen 2008, p. 10).

In 2005, the Service's National Wildlife Refuge System in North Dakota and South Dakota adopted the Conservation Strategy and Guidelines for Dakota Skippers on Service Lands in the Dakotas, which are based on the Service's Dakota Skipper Conservation Strategy and Guidelines and on versions of the Service's conservation guidelines for Dakota skipper. The guidelines were revised in March 2013 (*http://www.fws.gov/midwest/endangered/insects/dask/DASKconservation guidelines2013.html*). In the Dakotas, the Service plans to implement the conservation guidelines on all of its lands where the Dakota skipper is known to occur—the Service owns 12 Dakota skipper sites in the Dakotas where the species is considered present or has unknown occupancy. The guidelines also suggest that the Service examine other lands under its ownership to determine whether unrecorded populations of Dakota skippers may be present and to conduct surveys in those areas or manage the site in accordance with the Dakota Skipper Conservation Strategy and Guidelines. These guidelines will be reviewed and updated to reflect new information as it is developed.

In Manitoba, August 1st is the recommended earliest haying and grazing date at Dakota skipper sites. The recommended intensity of grazing is to be as low as economically feasible to prevent permanent damage to sites (*e.g.,* destruction of nectar plants). In Manitoba, it is recommended that sites that have burned or have been impacted by other factors such as extensive flooding, should not be grazed for at least one year following these events.

Poweshiek Skipperling

Most of the conservation initiatives discussed above were put in place to benefit the Dakota skipper, but may also benefit the Poweshiek skipperling. Conservation initiatives are also in place at several Poweshiek skipperling sites in Wisconsin and one or two sites in Michigan.

At least two sites occupied by Poweshiek skipperling in Michigan are at least partially owned and managed by the Michigan Nature Association (MNA); however, the MNA does not specifically manage for Poweshiek skipperling conservation. The State of Michigan owns part or all of four occupied Poweshiek skipperling sites; however, most of those lands are managed as State recreational areas, not for prairie butterfly conservation. Landowners at one fen site are participating in a Michigan DNR Land Incentive Program, and a portion of another occupied site is part of the Burr Memorial Prairie Plant Preserve (Michigan Natural Features Inventory 2011, unpubl. data). The Poweshiek skipperling may benefit from conservation activities in place for the federally endangered Mitchell's satyr at one Michigan site.

Poweshiek skipperling sites in Wisconsin are owned and managed by the Wisconsin DNR, who manage the land to maintain and improve prairie habitat. The Wisconsin DNR recently received a Sustain Our Great Lakes (SOGL) grant to conduct invasive species management on several SNAs, including Puchyan Prairie (Wisconsin DNR 2012, in litt.). The Scuppernong Prairie SNA, Wilton Road, and Kettle Moraine Low Prairie SNA are managed primarily through fire and invasive species control.

Furthermore, the Minnesota Zoo recently initiated a propagation research program for the Poweshiek skipperling and Dakota skipper to develop methods to propagate these and other species in the future. If this program is successful, a conservation benefit could be possible if the program could facilitate reintroduction and augmentation efforts into areas where the species has

declined or disappeared. Furthermore, this propagation effort may lead to increased knowledge of basic biology and life history of both species.

To summarize, the conservation initiatives discussed above may ameliorate one or more stressors on populations of Dakota skipper and Poweshiek skipperling at a relatively small number of sites. Approximately 12 Dakota skipper sites and 8 Poweshiek skipperling sites benefit from conservation easements; an additional 12 Dakota skipper sites are owned by the Service and may benefit from implementation of Dakota skipper conservation guidelines; 2 sites in State parks are undergoing prairie restoration and management; approximately 5 additional Dakota skipper sites and 4 Poweshiek skipperling sites are managed to benefit prairie butterflies, such as rotational fire management. Since numerous sites have two or more stressors of moderate to high-level impacts to one or both species, all stressors are likely not completely ameliorated at many sites. Initiatives such as captive propagation and studies of the effects of various management techniques may be applied broadly and may be beneficial to each species as a whole—the timeframe for these benefits to be realized, however, will not be immediate.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Although its biology could make the Dakota skipper sensitive to collection at some locations, the present level of scientific collection is minimal and recreational collecting is unlikely (Royer and Marrone 1992a, p. 27). Collection is not known to be a stressor for the Poweshiek skipperling (Royer and Marrone 1992b, p. 16). Collection is not currently a stressor to either species in Canada (COSEWIC 2003, p. 18). Scientific Collectors Permits are required in states where both species have legal protection, and permission is often required to collect specimens on protected areas. Furthermore, these species are not collected for commercial purposes; the drab coloration likely makes both species less desirable for collectors and the remoteness of occupied habitat and limited flight period would make recreational collections difficult (Borkin 2012, pers. comm.). Therefore, overutilization for commercial, recreational, scientific, or educational purposes is not currently a threat to Dakota skipper and Poweshiek skipperling.

Handling stress during scientific study may be stressors to individuals of both species. Adverse effects on butterflies have been documented for a wide range of species (*e.g.,* Benson and Emmel 1973, p. 329; Singer and Wedlake 1981, pp. 215–216; Lederhouse 1982, pp. 381–382; Morton 1984, pp. 56–57; Mallet *et al.* 1987, pp. 380–383).

Although recreational collection is not a threat to these species at this time, due to the few populations, small population size, and restricted range, if any recreational collecting did occur in the future, even limited collection from the remaining small and isolated populations could have deleterious effects on these species' reproductive and genetic viability.

Factor C. Disease or Predation

Diseases or parasites that are specific to the Dakota skipper or Poweshiek skipperling are not known, but some parasitism or predation likely occurs during each of the life stages. Disease and predation are part of the natural population dynamics of any insect, including the Dakota skipper and Poweshiek skipperling—without high rates of mortality before reproduction, populations would increase exponentially. The small amount of observations of predation and parasitism makes documenting those phenomenons difficult (Dana 2013, pers. comm.). Only a few studies have attempted to document parasitism and predation. For example, 10 of 130 eggs tagged for field observation in a 1994 study of a Wisconsin Poweshiek skipperling population appeared to have suffered from predation or parasitism (Borkin 1995, p. 5); some were punctured and had the contents extracted, and others turned black and dried up. Dana (1991, pp. 19–21) documented some parasitism of Dakota skipper and Ottoe skipper (*Hesperia ottoe*) eggs and larvae by various wasp species and predation by various insects, such as ants, but escaping his observation would have been predation by birds and small mammals on these immature stages (Dana 2013, pers. comm.).

Wolbachia, ubiquitous intercellular bacteria estimated to affect 20–70 percent of all insect species, including many butterfly species, affects the reproductive ecology of its host (Kodandaramaiah 2011, pp. 343–350). It is uncertain if Wolbachia are affecting the Dakota skipper or Poweshiek skipperling. An infection of Wolbachia may reduce already small population sizes and increase the probability of extirpation (Nice *et al.* 2009, pp. 3137–3138), particularly if the population is infected with a novel strain (Runquist 2013, pers. comm.). The Minnesota Zoo plans to conduct Wolbachia screening and strain identification of genomic DNA samples that the University of Michigan (at Dearborn) extracted from both species. The effects of predation by birds or insects on Dakota skipper or Poweshiek skipperling population dynamics are not known and may impact the species.

McCabe (1981, p. 187), noted three kinds of predators to Dakota skippers, including Ambush bugs (Hemiptera: *Phymata* sp.), flower spiders (Aranaea: *Misumena* spp.), and orb weavers (various Araneldae). Flower spiders and ambush bugs are effective predators of nectar-feeding insects (McCabe 1981, pp. 187–188) and may cause mortality to some individuals, but it is difficult to quantify the population-level impacts of predators to either the Dakota skipper or Poweshiek skipperling. Dana documented predation on adult skippers by robber flies (Asilidae), which are common in upland prairie habitats, and noted the incidence of wing damage indicative of an unsuccessful attack by a bird or similar predator (Dana 1991, pp. 26–27; Dana 2013, pers. comm.). Several incidences of predation by crab spiders and robber flies on both the Dakota skipper and Poweshiek skipperling have been documented in Canada, although it is not thought to be a common occurrence (Westwood 2013, pers. comm.). McCabe (1981) failed to observe bird or dragonfly predation; however these events are difficult to observe (Dana 2013, pers. comm.). Orb weaver spiders appear to be successful predators of ''old, worn individuals'' (McCabe 1981, p. 188), but bird and other animal predation on young and old adults likely occurs when the butterflies are roosting or torpid and unable to escape (Dana 1991, p. 27).

Disease, parasitism, and predation are important parts of population dynamics of normal populations of insects, but may have an amplified effect on small populations. Furthermore, as we discuss in the possibility of unknown factors that may be affecting the species (in *Factor E* of this final rule), it is possible that a new virulent pathogen or parasitoid may have increased mortality above normal levels and may be causing the rapid decline in the Poweshiek skipperling and possibly also the Dakota skipper (Dana 2013, pers. comm.).

Disease and parasitism are a serious hypothesis that may explain the rapid decline of the Poweshiek skipperling, and perhaps the Dakota skipper, and these factors, along with predation, are extremely difficult to observe. Therefore, we are unsure if either disease, parasitism, or predation are

significant stressors to the Dakota skipper or Poweshiek skipperling populations at this time, and we are not certain if these stressors will contribute to significant population-level impacts in the future. However, in the future, disease, parasitism, and predation may have an amplified effect on these small and isolated populations.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Existing regulatory mechanisms vary by location, but generally do not mitigate for the numerous stressors that the Dakota skipper and Poweshiek skipperling face.

State Regulations

The Dakota skipper is listed as endangered under Minnesota's endangered species statute. Under the Minnesota statute, a person may not take, import, transport, or sell any portion of an endangered species of wild animal or plant, or sell or possess with intent to sell an article made with any part of . . . an endangered species of wild animal or plant'' except as permitted by the Minnesota DNR (Minnesota Statutes 2012, 84.0895). The Poweshiek skipperling was listed as State-endangered in Minnesota, and the status of Dakota skipper was changed from threatened to endangered on August 19, 2013 (Minnesota DNR 2013). The Poweshiek skipperling is listed as threatened under State endangered species statutes in Iowa and Michigan and as endangered in Wisconsin. The Dakota skipper is listed as endangered under State endangered species statutes in Iowa. South Dakota has an endangered species act, but no invertebrates are currently listed. South Dakota put forth a proposal to add the Dakota skipper to the State endangered species act list, but it was not finalized. Although the Dakota skipper is not listed as threatened or endangered under South Dakota's endangered species statute, the State natural heritage program considers the species to be imperiled because of rarity due to very restricted range and very few populations. North Dakota does not have a mechanism for conferring protection to threatened or endangered species at the State level.

State endangered species statutes provide State natural resource or conservation agencies with the authority to regulate collection of individuals and related activities (for Poweshiek skipperling in Iowa, Michigan, and Wisconsin and Dakota skipper in Minnesota and Iowa), but we have no information to suggest that collection is a stressor that impacts populations of the species. With the exception of the regulation of some incidental take in Wisconsin and Minnesota, the statutory protections afforded by these State statutes may do little to protect or mitigate Poweshiek skipperling or Dakota skipper from non-collection threats. While some stressors may result in direct mortality of both species, such as ill-timed fires, most stressors to the species are indirect and State laws that regulate direct harm to the species do not address these factors. In Iowa, for example, Poweshiek skipperling populations are likely now extirpated due to habitat destruction and conversion and other undetermined stressors, despite the species' presence on the State's list of threatened species since 1994. In Wisconsin, where stressors from actions that may incidentally take Poweshiek skipperlings may be addressed in conservation plans, State endangered species protections do not protect the species from stochastic events and habitat fragmentation that are stressors to the State's small and isolated populations.

In North Dakota, the fundamental purpose of the North Dakota Trustlands (*e.g.,* State school lands) management is to obtain a ''fair market'' return from the lands while maintaining or improving their condition and value (ND Department of Trustlands Web site *http://www.land.nd.gov/surface/About.aspx*). Consequently, if such land does not produce income for the State, it may be subjected to deliberate change in management strategy or ownership (*e.g.,* sale at auction). The major source of income on the North Dakota Trustlands is from grazing and agricultural leases, with additional revenue generated from rights-of-way, salt water disposal, and gravel and scoria mining (ND Department of Trustlands Web site *http://www.land.nd.gov/surface/About.aspx*). At least two Dakota skipper sites are under North Dakota State School management and are managed as hay lands.

Federal Regulations

The U.S. Forest Service (Forest Service or USFS) has designated the Poweshiek skipperling and the Dakota skipper as sensitive species (a species identified by a Regional Forester for which population viability is a concern) in North Dakota (Forest Service 2011). The Forest Service's objectives for sensitive species benefit Dakota skipper and Poweshiek skipperling where they occur (or could occur) on USFS lands; however, the majority of populations of both species do not occur within USFS lands. The Poweshiek skipperling has been documented at two sites on the Sheyenne National Grasslands; however, it has not been observed since 2001 at one site and 1996 at the other. Therefore, these Forest Service objectives, although promising, have little ability to affect the rangewide status of the species. If Forest Service lands were to be occupied by either species in the future, these objectives may benefit the species at a local scale.

Canadian Regulations

Dakota skipper and Poweshiek skipperling are listed as threatened under Canada's Species at Risk Act (SARA) (Environment Canada 2012. Species at Risk Act Public Registry. <*http://www.registrelep-sararegistry.gc.ca/sar/index/default_e.cfm*>. Accessed September 19, 2014). Under SARA, take of both species is prohibited on Canadian Federal lands, but the Poweshiek skipperling occurs only on non-Federal lands in Canada, and only four or five Dakota skipper sites are on Federal lands (Coalfields Community Pasture) in Canada. The Federal Cabinet may create an order extending SARA's powers (*e.g.,* to private lands) if a species is insufficiently protected by provincial laws; however, such action has not been taken for either of these species. In May 2014, the COSEWIC status designation of Dakota skipper was changed from threatened to endangered (*http://www.cosewic.gc.ca/rpts/detailed_species_assessments_e.html* accessed September 19, 2014). The Dakota skipper is listed as threatened under the Manitoba Endangered Species Act, and it is, therefore, unlawful to kill, injure, possess, disturb, or interfere with the Dakota skipper; destroy, disturb, or interfere with its habitat; or damage, destroy, obstruct, or remove a natural resource on which the species depends for its life and propagation (Manitoba Endangered Species Act *http://www.gov.mb.ca/conservation/wildlife/legislation/endang_act.html,* accessed February 7, 2012). The Poweshiek skipperling was recently listed as endangered in Manitoba (*http://www.gov.mb.ca/conservation/wildlife/sar/sarlist.html,* accessed December 28, 2012). There is no legal basis for protecting threatened or endangered invertebrates in Saskatchewan, but since both species are listed under SARA, the national government could step in to protect the species in the province if the province does not act to protect the species (Environment Canada. 2012. Species at Risk Act: A Guide. *http://www.sararegistry.gc.ca/approach/act/*

Guide_e.cfm, accessed February 7, 2012).

To summarize, some of the regulatory mechanisms discussed above are beneficial to populations of Dakota skipper and Poweshiek skipperling at a local scale; however, most do not ameliorate stressors except for harm to individuals in certain States. With the exception of the regulation of some incidental take in Wisconsin, Minnesota, and Canada, the statutory protections afforded by these statutes may do little to protect Poweshiek skipperling or Dakota skipper from non-collection stressors.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Habitat Fragmentation and Population Isolation

As habitat specialists, habitat fragmentation has a strong negative effect on the distribution and abundance of the Dakota skipper and Poweshiek skipperling because both are dependent on remnant native tallgrass prairie or native mixed-grass prairie, and, in Michigan, Poweshiek skipperling depends on native prairie fens. Habitat fragmentation reduced once-extensive areas of these habitats to a collection of patches of varying quality and isolation. The probability of extinction within patches can be determined primarily by degradation of habitat quality, management techniques (*e.g.,* haying, prescribed burns), and likelihood of stochastic events, such as wildfire or floods.

Fragmentation of tallgrass prairie has degraded the genetic diversity of remaining Dakota skipper populations (Britten and Glasford 2002, pp. 371–372). What may have once been a single population of Dakota skippers spread across formerly extensive tallgrass and mixed-grass prairie (McCabe 1981, p. 184) is now fragmented into about 171 separate sites where the species is known to be or may still be present (sites with present (83) or unknown (88) status). The small genetic differences among seven Dakota skipper populations in the southern portion of the species' range suggest that they were formerly connected (Britten and Glasford 2002, pp. 371–372). Each Dakota skipper population is now subject to genetic drift that may erode its genetic variability over time and possesses genetic qualities indicative of inbreeding (Britten and Glasford 2002, pp. 371–372). Inbreeding lowers the capacity of local populations to adapt to environmental changes and may magnify the effect of deleterious alleles (genes with undesirable effects on individuals or populations) (Nieminen *et al.* 2001, pp. 242–243).

Preliminary results of genetic studies on the Poweshiek skipperling show that there appears to be limited levels of genetic diversity in the 32 tissue samples that were collected from the Scuppernong Prairie site in Wisconsin, 7 samples from Manitoba, and 93 from 6 Michigan populations in 2012 (Saarinen 2013, pers. comm.). Of greater concern than loss of genetic diversity, however, may be demographics, specifically the limited number of populations and population sizes that may be too small to persist (Saarinen 2013, pers. comm.) compounded by other stressors.

Poweshiek skipperlings are not wide dispersers (Burke *et al.* 2011, p. 2279; Fitzsimmons 2012, pers. comm.); species experts have estimated maximum dispersal distance to be less than 1.6 km (1.0 mi) (Westwood 2012b, pers. comm; Dana 2012b, pers. comm.). Its mobility, however, has been ranked as less than that of Dakota skipper (Burke *et al.* 2011, p. 2279; Fitzsimmons 2012, pers. comm.); therefore, a more conservative maximum dispersal distance may be more similar to that of the Dakota skipper (less than 1 km (0.6 mi)). Most individuals may remain within a single habitat patch during their 5–7 day adult life span; therefore, local extinctions of the Poweshiek skipperling on isolated habitat fragments are likely permanent unless one or more populations located within 1.0–1.6 km (0.6–1.0 mi) are large enough to produce immigrants to reestablish populations. Furthermore, fragmentation of tallgrass prairie began in about 1830, and at least 85 to 99 percent of the original prairie is now gone across the species' ranges (Samson and Knopf 1994, p. 419). As a result, Poweshiek skipperling and Dakota skipper populations are now scattered in fragments of this once-vast ecosystem. The Poweshiek skipperling may not move across barriers; for instance, in Manitoba, Poweshiek skipperlings have been observed avoiding dispersal over short distances, even to suitable habitat, if a barrier such as a road exists between suitable prairie habitat or nectar sources (Westwood *et al.* 2012, p.18). Repopulation of Poweshiek skipperling sites after extirpation has been observed (*e.g.,* after a flood) (Saunders 1995, p. 15), but source populations need to be adjacent or very close.

Similarly, adult Dakota skippers have a short (5- to 7-day) life span (Dana 1991, p. 32) and an estimated maximum dispersal distance to be no greater than 1 km (0.6 mi) between patches of prairie habitat separated by structurally similar habitats (Cochrane and Delphey 2002, pp. 6, 32). Therefore, Dakota skipper and Poweshiek skipperling habitat patches separated by more than 1 km (0.6 mi) are effectively isolated from one another (McCabe 1981, p. 190; Swengel 1998). Extirpation of small, isolated populations may occur over many years in some cases, but may be inevitable where immigration from nearby populations is not possible (Hanski *et al.* 1996, p. 535).

Because Dakota skipper and Poweshiek skipperling habitat is highly fragmented and because the species are subject to local extinction, their ability to disperse to reoccupy vacant habitat patches may be crucial for their long-term persistence. Patch isolation and decreased permeability of surrounding habitat acts as a dispersal barrier between patches, ultimately decreasing genetic diversity within the patch through genetic drift and inbreeding. If we assume isolation occurs when a patch is more than 1.6 km (1.0 mi) from another patch, then about 45 percent of Poweshiek skipperling locations with present or unknown status are effectively isolated, and would not be recolonized if extirpated (Service 2012 unpubl. data; Service 2014, unpubl. data). Using a more conservative maximum dispersal of 1.0 km (0.6 mi), approximately 55 percent of Poweshiek skipperling locations with present or unknown status are effectively isolated. Isolation was a factor in loss of a site at Hartford Beach State Park, South Dakota, where the Poweshiek skipperling was extirpated due to habitat succession and exotic plant invasion (Skadsen 2009, p. 4; Skadsen 2010, pers. comm.), but was located too far from a source population for natural recolonization to occur. Improved prairie management has since markedly improved habitat quality, but the species has not been detected since 2006 at Hartford Beach State Park (Skadsen 2009, p. 4; Skadsen 2012, p. 4; Service 2014, unpubl. geodatabase). For Dakota skipper, if we use a maximum dispersal distance of 1 km (0.6 miles), approximately 63 percent of Dakota skipper sites with present or unknown status are effectively isolated (Service 2014, unpubl. geodatabase).

This simple analysis, however, probably underestimates the impacts of habitat fragmentation on the species. Populations of both species may only be near others that are too small to produce sufficient numbers of immigrants. This is true for the Poweshiek skipperling in Scuppernong Prairie in Wisconsin, for example, which is about 0.3 km (0.2 mi)

from the Wilton Road population; fewer than 100 individuals have been counted at this site each year, and the species was not observed in 2013 (See *Population Distribution and Status*). Numbers at Wilton Road are currently too small (fewer than 12 individuals counted each year) to produce sufficient numbers of emigrants to Scuppernong Prairie to reestablish a viable population in the event of the latter's extirpation. There is no population of Poweshiek skipperlings near the Puchyan Prairie site (which is about 115 km (71 mi) from the nearest site in Wisconsin); additionally, only a few individuals have been observed at this site each year. In North Dakota, Orwig (1997, p. 3) found that a 6-ha (15-ac) patch of Poweshiek skipperling habitat at Hartleben Prairie was connected by grassland to another Poweshiek skipperling population, but neither was considered a robust population at the time and the species was not observed at either location in 2013. Only 2 of the 9 Poweshiek skipperling sites with present status in Michigan are located within 1.6 km (1 mi) of another site; the rest are completely isolated from other populations. Furthermore, most of these populations consist of few individuals (see *Population Distribution and Status*). Poweshiek skipperlings at Little Goose Lake Fen, for example, are separated from other populations by at least 8 km (5 mi)—too far for immigrants to repopulate the site. Furthermore, Little Goose Lake Fen may contain too few Poweshiek skipperlings (Michigan Natural Features Inventory 2011, unpubl. data; Cuthrell 2013, pers. comm.) to generate sufficient numbers of immigrants. In addition, poor habitat quality negatively influences the number and quality of emigrants (Thomas *et al.* 2001, p. 1795; Matter *et al.* 2009, p. 1467). Isolation is not likely alleviated by connections to low-quality habitats that are not capable of producing emigrants at the numbers or frequency sufficient to reliably repopulate nearby patches.

Even with proper prairie management at individual sites, extreme weather patterns or severe weather events may significantly impact Poweshiek skipperling and Dakota skipper populations, because they can occur across a large geographic area. These events include extremely harsh winters, late hard frosts following a spring thaw, severe storms, flooding, fire, or cool damp conditions. Habitats isolated as a result of fragmentation will not be recolonized naturally after local extirpations, as described above. Dakota skipper and Poweshiek skipperling numbers may decline due to the extirpation of isolated local populations where recolonization is no longer possible, even without further habitat destruction (Schweitzer 1989, unpaginated). The likelihood of population extirpation may be directly related to the size of habitat fragments. For example, in systematic surveys on Minnesota prairies, Swengel and Swengel (1997, pp. 134–137; 1999, p. 284) found no Dakota skippers on the smallest remnants (less than 20 ha (49 ac)), and significantly lower abundance on intermediate size (30–130 ha (74–321 ac)) than on larger tracts (greater than 140 ha (346 ac)). These differences were unrelated to vegetation characteristics; habitat area did not correlate significantly with vegetation type, quality, or topographic diversity (Swengel and Swengel 1999, p. 284).

We assessed the stressor of small size and isolation of habitat for 163 Dakota skipper sites and 54 Poweshiek skipperling sites with present or unknown status (Service 2012 unpubl. data; Service 2014, unpubl. data). We considered small size and isolation of habitat to be a stressor with a low-level impact on populations at sites that contain more than 140 ha (346 ac) of native prairie or the species' habitat onsite is located less than 1 km (0.6 mi) from habitat occupied by the species on another site. If the sum of native prairie on the site under review plus that on the nearby site(s) is less than 140 ha (346 ac), then this stressor was considered to have a moderate or high impact on populations. We considered small size and isolation of habitat to be a stressor with moderate impacts on populations at sites where the species' habitat is greater than 1 km (0.6 mi) from any other area where the species is present, but contains more than 30 ha (74 ac) of habitat for the species; or where the species' habitat is less than 1 km (0.6 mi) from occupied Dakota skipper and Poweshiek skipperling habitat on another site, but the sum of native prairie on the site under review plus that on the nearby site(s) is less than 140 ha (346 ac) and greater than 30 ha (74 ac). Sites that contain a small area of Dakota skipper and Poweshiek skipperling habitat—no more than 30 ha (74 ac)—and that are not within the 1-km (0.6-mi) estimated maximum dispersal distance of occupied Dakota skipper habitat are considered to have a stressor of high magnitude to those populations due to a combination of their small size and isolation.

Although we were unsure of the size of many sites in Canada, most sites were separated by more than 1 km (0.6 mi). Dakota skipper sites in central Manitoba are generally greater than 158 ac (64 ha), but all of the sites are separated by more than 1 km (0.6 mi), and many sites are separated by many kilometers (Westwood 2013 pers. comm.). Therefore, about 25 of the sites evaluated in Canada were thought to have at least a moderate level of stressor from size and isolation. The Canada sites where Dakota skippers are considered to be present are approximately 200 km (125 mi) from the nearest North Dakota site, and the Manitoba site is 166 km (103 mi) from the nearest Poweshiek skipperling site in Minnesota.

Dakota skipper populations on about 31 percent of the evaluated sites (50 of 163 sites) face a high level of impact due to a combination of size and isolation (Service 2012 unpubl. data, 2014 unpubl. data). Approximately 31 percent of evaluated sites (50 sites) face a moderate level of impact to populations due to small size and isolation. About 39 percent of Dakota skipper sites (63 of the 163 evaluated sites) in the United States are either sufficiently large (greater than 130 ha (346 ac)) or are close enough to other Dakota skipper populations that small size and isolation is not a stressor. Similarly, the stressor of small size and isolation has a high level of impact on Poweshiek skipperling populations on about 39 percent of rated sites (25 of 54 sites), on 22 sites (41 percent) the stressor is considered to have a moderate level of impact to populations, and on 20 percent (11 of the 54 evaluated sites) of the sites, we do not consider a small size and isolation to be a stressor. In a separate analysis strictly looking at distances between Poweshiek skipperling sites where the species is present, we found that only 4 sites are within 1 km (0.6 mi) of another site where the species is present (Service 2014, unpubl geodatabase).

In summary, small, isolated populations face a current and ongoing stressor of moderate to high severity to both the Dakota skipper and Poweshiek skipperling. The stressor has a high impact to populations when isolation is combined with small habitat fragments or small populations; for example, where the population is too small to supplement nearby populations without adverse genetic consequences to the source population. Isolated populations occur throughout both species' entire ranges; only 4 of the 12 Poweshiek sites with present status are within the estimated maximum dispersal distance from one another as are about 40 percent (64–69 of 171 sites) of Dakota skipper sites with present or unknown occupancy. The small populations are

subject to erosion of genetic variability leading to inbreeding, which lowers the ability of the species to adapt to environmental change. Small populations occur rangewide for both species; for example, surveyors have counted fewer than 100 individuals in all but 4 Poweshiek skipperling sites in 2011, all but one site surveyed in 2012, and all sites surveyed in 2013.

Climate Change

Our analyses under the Act include consideration of the likely effects 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 2013, p. 1450). 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 2013, p. 1450). 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). We use our expert judgment and appropriate analytical approaches to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change.

As is the case with all stressors that we assess, even if we conclude that a species is currently affected or is likely to be affected in a negative way by one or more climate-related impacts, it does not necessarily follow that the species meets the definition of an ''endangered species'' or a ''threatened species'' under the Act. If a species is listed as endangered or threatened, knowledge regarding the vulnerability of the species to, and known or anticipated impacts from, climate-associated changes in environmental conditions can be used to help devise appropriate strategies for its recovery.

Global climate change, with projections of increased variability in weather patterns and greater frequency of severe weather events, as well as warmer average temperatures, would affect remnant prairie habitats and prairie fen habitats and may be a stressor that has significant impacts on prairie butterflies such as Dakota skippers and Poweshiek skipperling (Royer and Marrone 1992b, p. 12; Royer and Marrone 1992a, pp. 22–23; Swengel *et al.* 2011, p. 336; Landis *et al.* 2012, p. 140). For example, climatic factors, particularly precipitation and evaporation, play an important role in defining suitable Dakota skipper habitat (McCabe 1981, pp. 189–192). Larval Dakota skipper have ''hydrofuge glands'' that suggest an historical or present need of the species for protection from flooding (McCabe 1981, p. 181). Royer *et al.* (2008, p. 2) hypothesize that temperature and relative humidity at or near the soil surface may be important factors dictating larval survival, particularly since early stages live in a silken nest within a few centimeters (2–3) (0.8–1.2 in) of the soil surface during most of the summer (McCabe 1981, pp. 180–181, 189; Dana 1991, p. 16). Furthermore, both species and their habitats may experience the effects of gradual shifts in plant communities and an increase in catastrophic events (such as severe storms, flooding, and fire) due to climate change, which are exacerbated by habitat fragmentation. Isolated populations, specifically, Dakota skipper populations and Poweshiek skipperling populations that are separated by more than about 1 km (0.6 miles), are unlikely to recover from local catastrophes unless sufficient numbers are successfully reintroduced, for instance, through artificial propagation efforts.

Documentation of climate-related changes that have already occurred throughout the range of the Dakota skipper and Poweshiek skipperling (Johnson *et al.* 2005, pp. 863–871) and predictions of changes in annual temperature and precipitation in the Midwest region of the United States, such as Minnesota prairies (Galatowitsch *et al.* 2009, pp. 2017), Michigan fens (Landis *et al.* 2012, p. 140), South Dakota (Cochrane and Moran 2011, entire), and throughout North America (IPCC 2007, p. 9) indicate that increased severity and frequency of droughts, floods, fires, and other climate-related changes will continue in the future. Recent studies have linked climate change to observed or predicted changes in distribution or population size of insects, particularly Lepidoptera (Wilson and Maclean 2011, p. 262). Native remnant prairies have been reduced by 85 to 99.9 percent across the range of both species (Samson and Knof 1994, p. 419)—this fact, coupled with the low dispersal ability of both species, makes it unlikely that populations may expand to new areas, for example, in a northward direction, to adapt to changing climate. Climate change is a stressor that has the potential to have severe impacts on the species; however, at this time our knowledge of how these impacts may play out is limited. All of the sites within the range of both species are in an area that will experience the effects of climate change, but how those effects will be manifested is uncertain.

Prairie Plant Harvesting

A potential, future stressor to the Dakota skipper and Poweshiek skipperling is collection of purple coneflower (also known as black samson echinacea), a predominate nectar source for both species, for the commercial herbal remedy market (Skadsen 1997, p. 30). Biologists surveying skipper habitats have not reported signs of plant collecting, but illegal or unregulated harvest could become a problem in Dakota skipper and Poweshiek skipperling habitats due to economic demand (Skadsen 1997, p. 30). Currently, prairie plant harvesting is not considered a threat that impacts the species; however, this situation may change if the demand for echinacea increases.

Management for Invasive Species and Succession

Native prairie and native prairie fens must be managed to prevent the indirect effects of invasive species and succession (processes of change in species structure to an ecological community over time; secondary succession is a disruption to succession that occurs due to an event such as fire) to Dakota skippers and Poweshiek skipperlings. If succession progresses too far, established shrubs or trees must be removed in a way that avoids or minimizes damage to the native prairie. When succession is well advanced, managers must use intensive methods, such as fire management, to restore prairie plant communities. If not done carefully, these actions may themselves harm local populations of the butterflies (for example, see *Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range*). For example, once smooth brome has invaded Poweshiek skipperling or Dakota skipper habitat, it is challenging to eradicate it while minimizing harm to the butterflies. Willson and Stubbendiecks (2000, p. 36) recommended burning prairie habitats, annually in some cases, to control smooth brome at the stage when the lateral shoots are elongating.

In southwestern Minnesota and in other parts of Dakota skipper's range, the optimum time to burn to control smooth brome may occur during the time that the adult butterflies are active. Cutting or grazing to remove smooth brome may have less intensive effects on Poweshiek skipperling and Dakota skipper larvae and could be used as an alternative to fire, although these techniques also pose a risk to both species if carried out annually at isolated sites. Puchyan Prairie is another example of a small and isolated population that is susceptible to invasive species control efforts, if they are not conducted properly (Swengel and Swengel 2012, p. 6), although the Wisconsin DNR proposed control efforts that may improve habitat by removing reed canary grass, Canada thistle, and glossy buckthorn (Wisconsin DNR 2012 in litt.; Carnes 2012, in litt.).

If not appropriately managed with fire, grazing, or haying, Poweshiek skipperling and Dakota skipper habitat is degraded due to reduced diversity of native-prairie plants and eventually succeeds to shrubby or forested habitats that are not suitable for either species. At Hartford Beach State Park in South Dakota, for example, the Poweshiek skipperling was extirpated (Skadsen 2009, p. 4) after lack of management led to invasion by smooth sumac (*Rhus glabra*) and quaking aspen (*Populus tremuloides*) (Skadsen 2006a, p. 5). Lack of management may also increase the likelihood of invasion of exotic cool-season grasses, such as Kentucky bluegrass and smooth brome (Mueller 2013, pers. comm.), which do not grow when Dakota skipper and Poweshiek skipperling larvae are feeding; thus a prevalence of these grasses reduces food availability for the larvae.

As with invasive species, actions intended to reverse secondary succession may be intensive and can themselves affect Poweshiek skipperling and Dakota skipper populations. For example, Poweshiek skipperling populations failed to recover after prescribed burns were carried out at Kettle Moraine Low Prairie SNA after it had become overgrown (Borkin 2011, in litt.).

Although carefully targeted herbicide treatments result in beneficial control of undesired plants, broadcast chemical control of exotic plants such as aerial spraying of leafy spurge and application of broad-spectrum herbicides to control weeds in pastures also eliminates native forbs that are important nectar sources for both species (Royer and Marrone 1992a, pp. 10, 16, 28, 29, 33, 1992b, p. 17, Orwig 1997, p. 7). For example, invasion of native prairie by exotic species, primarily leafy spurge and Kentucky bluegrass, as well as chemical control of exotic species, are documented stressors to Dakota skippers at about 12 sites in North Dakota (Royer and Royer 2012b, pp. 15–16, 22–23). In repeated surveys, Royer and Marrone (1992a, p. 33) observed a correlation between the disappearance of the Dakota skipper and the advent of chemical weed control methods in North Dakota, including the Sheyenne National Grasslands. Royer and Marrone (1992b, p. 17) cited the combination of drought and grasshopper control programs along the Red River Valley as having serious impacts on the Poweshiek skipperling. Dana (1997, p. 5) concluded that herbicide use for weed and brush control on private lands is the principal stressor to the Hole-in-the-Mountain complex in Minnesota, where both butterfly species have been documented.

Furthermore, herbicide or pesticide use in concert with other management types may amplify other stressors to the butterflies. Skadsen (2006b, p. 11), for example, documented the likely extirpation of the Poweshiek skipperling at Knapp Ranch in South Dakota after a July 2006 application of broadleaf herbicide associated with heavy grazing. The degree and immediacy of the impact posed by broadcast application of herbicides or pesticides is not precisely understood, but may be mostly tied to the use of herbicides to control invasive species on rangelands. If broad applications of herbicides are used in ways that remove plants from rangelands that are important for Poweshiek skipperling or Dakota skipper, then this is a potential stressor on all privately owned sites where broadcast applications may occur.

Indiscriminant use of insecticides for pest control on rangeland, adjacent cropland, or forests is a stressor to populations of Poweshiek skipperling and Dakota skipper. Insecticides used in agriculture, urban gardens, and forests are a suspected cause of Colony Collapse Disorder in bees by reducing resistance to parasites and pathogens and may have similar effects on other insects (Beyers 2012, p. 1). Neonicotinyl pesticides, such as the imidacloprid compound, for example, are a commonly used seed dressing that spreads to nectar and pollen of flowering crops (Whitehorn 2012, p. 1). The use of neonicotinoids on agricultural crops has dramatically increased in the last ten years and they are now the most widely used group of insecticides in the world (Jeschke *et al.* 2011, pp. 2897–2898; Main *et al.* 2014, p. 2; Goulson 2013, pp. 1–2). Neonicotinoids persist in the environment (Goulson 2013, p. 1) and are thought to accumulate in the soil from repeated applications over time (Hopwood *et al.* 2013, p. 4). Insects can be exposed through multiple routes—neonicotinoids are used in seed dressings, foliar spray, soil irrigation water, soil drench, granular in pastures, tree injections, and topical applications to pets.

In the United States, six neonicotinoids are approved for use—imidacloprid, thiamethoxam, clothianidin, dinotefuran, thiacloprid, and acetamiprid (EPA 2014 Web site)—and it is estimated that more than 3.5 million pounds (56 million ounces) of neonicotinoids were applied to nearly 127 million acres (51 million hectares) of agricultural crops each year from 2009 to 2011. The presence and concentrations of neonicotinoids at Dakota skipper and Poweshiek skipperling sites or nearby agricultural fields that use neonicotinoid seed treatments or other such treatments has not been assessed, however, in general, nearly 100 percent of corn is known to be treated, and about 75 percent of soybean seeds are known to be treated with neonicotinoids, for example. Similarly, soybean aphid spraying occurs during the adult flight period, is widespread, and applied aerially—this spray can drift to nearby Dakota skipper or Poweshiek skipperling habitat. The presence and concentrations of insecticides at Dakota skipper and Poweshiek skipperling sites or nearby agricultural fields that utilize soybean aphid spraying has not been assessed. The Minnesota Zoo has proposed a study to investigate the levels of neonicotinoids, aphid pesticides, and other insecticides that may be present at several skipper sites in Minnesota and South Dakota.

The spread of nonnative gypsy moths (*Lymantria dispar dispar*) has increased efforts to control this damaging species and may also be a stressor, especially in the range of Poweshiek skipperling. Insecticides used in the gypsy moth suppression programs typically include Foray, a formulation of the bacterial insecticide *Bacillus thuringiensis kurstakii* (Btk), or Gypchek, a viral insecticide specific to gypsy moth caterpillars. Btk is known to be lethal to butterfly larvae (*e.g.,* Karner blue butterfly) (Carnes 2011, p. 1). In Wisconsin, the gypsy moth suppression program is managed under State Statute 26.30 and Natural Resources Board Rule number 47, and Gypchek is used when endangered or threatened moths or butterflies are present (Wisconsin DNR, *http://dnr.wi.gov/topic/ForestHealth/*

GypsyMothPesticides.html, accessed May 24, 2012).

Herbicide and pesticide use was assessed at 15 present and unknown Dakota skipper sites and 9 Poweshiek skipperling sites occupied with present or unknown occupancy where we had sufficient information to evaluate the stressor (Service 2012 unpubl.; 2014, unpubl. data). We considered the level of impact to populations posed by herbicide and pesticide use to be low if the site is only spot sprayed with herbicides or pesticides when and where necessary (Smart *et al.* 2011, p. 182) and their use is not expected to change in the future. The level of stressor was considered to be moderate if the use of herbicides is likely to increase at a site (*e.g.,* in response to new or expanding invasive species), but Dakota skipper and Poweshiek skipperling habitat is unlikely to be exposed to broadcast applications. The level of impact to populations posed by herbicide and pesticide use was considered to be high at sites where herbicides are likely to be broadcast over the entire site at least once every 4 years, or herbicide use has significantly reduced forb or nectar plant density and diversity or is likely to in the future. The level of impact to populations posed by herbicide and pesticide use was high at 5 of the 16 assessed Dakota skipper sites (2 in North Dakota and 3 in South Dakota) and moderate at 2 sites—1 in North Dakota and 1 in South Dakota. The level of impact to populations posed by herbicide and pesticide use was considered to be high at 3 of the 9 assessed Poweshiek skipperling sites (all 3 in South Dakota), and 1 site in North Dakota had a moderate level of impact to populations.

In summary, some efforts to manage woody encroachment and invasive species, such as herbicide use, can be a stressor to both Dakota skipper and Poweshiek skipperling populations. Invasive species management is a current and ongoing stressor of low to high impact to populations, depending on the intensity and extent of the use, types of techniques, and the compounding effects that may occur from varying management. Medium- to high-level impacts of herbicide or pesticide use to Dakota skipper and Poweshiek skipperling populations have been documented in North and South Dakota. This stressor has a high impact to populations when it is combined with other stressors, such as management, that reduces or eliminates nectar food sources, or small habitat fragments that are isolated from other source populations that may replenish individuals killed by pesticides. Herbicide and pesticide use may have direct or indirect effects on Dakota skipper and Poweshiek skipperling. Although such activities occur, there is no evidence that these activities alone have significant impacts on either species, since their effects are often localized. However, these factors may have a cumulative effect on the Dakota skipper and Poweshiek skipperling when added to habitat curtailment and destruction because dramatic population declines have occurred in both species (discussed in *Factor A*). Invasive species and woody vegetation management helps to maintain prairie habitats and can also be beneficial to populations of both species, for example, when concentrated on affected areas through spot spraying.

Pharmaceuticals

The effect of pharmaceutical residues in the environment on nontarget animals is an emerging concern (Lange *et al.* 2009). Ivermectin, a widely used and persistent veterinary pharmaceutical used to treat cattle, is a chemical of emerging concern to the Dakota skipper and Poweshiek skipperling. Ivermectin is an anthelmintic (drugs that are used to treat infections with parasitic worms) that is spread to prairie environments via the dung of grazing cattle (Lange *et al.* 2009, p. 2238). Lange *et al.* (2009, pp. 2234, 2238) found that skipper butterflies are particularly vulnerable to ivermectin, due to their low dispersive capacities and habitat preferences for soil. The extirpation of the Dakota skipper in at least one South Dakota site (Sica Hollow West) is possibly due to ivermectin that has leached into the environment (Skadsen 2010, pers. comm.).

Pharmaceutical use is a stressor that has the potential to have high-level impacts on populations of the Dakota skipper and Poweshiek skipperling; however, at this time our knowledge of these impacts is limited. Sites within the range of both species could experience the effects of pharmaceuticals. Sites that experience grazing, however, are particularly vulnerable to ivermectin use; these sites are primarily in South Dakota, North Dakota, and Minnesota. The use of pharmaceuticals such as ivermectin may have a cumulative effect on the Dakota skipper and Poweshiek skipperling when added to habitat curtailment or destruction, because habitat destruction leads to population declines in populations of both species (discussed in *Factor A*).

Unknown Stressors Causing Population Declines

The sharp and broad declines of Poweshiek skipperling documented in Iowa, Minnesota, North Dakota, and South Dakota are indicative of a response to one or more stressors that have yet to be ascertained. These unknown factors may consist of a combination of one or more of the stressors described throughout Factors A, C, and E of this final rule, or may be something that has not yet been identified. These declines are reminiscent of the widely publicized decline of honey bees (*Apis mellifera*) in that they seem sudden and mysterious (Spivak *et al.* 2011, p. 34). One hypothesis to explain the rapid decline of the Poweshiek skipperling, and possibly the Dakota skipper, is that a newly virulent pathogen or a new parasitoid has increased mortality above normal levels (Dana 2013, pers. comm.).

One or more unidentified stressors have strongly impacted Poweshiek skipperling populations in the western portion of its range, which contains more than 80 percent of the species' site records. Unknown stressors may be the current factor with the most significant impacts to Poweshiek skipperling in Minnesota, North Dakota, and South Dakota, where populations experienced a sudden decline to undetectable numbers after about 2003. Until about 2003, Poweshiek skipperling was regarded as the most frequently and reliably encountered prairie-obligate skipper in Minnesota, which contains nearly 50 percent of all known Poweshiek skipperling locations. Numbers and distribution dropped dramatically in subsequent years, however, and the species has not been seen in Minnesota since 2007, with the exception of 2 individuals observed at one location in 2013 (Weber 2014, in litt.; Dana 2014, pers. comm.). Similar recent dramatic declines were observed in North Dakota, South Dakota, and Iowa (See Background of this rule).

Recent declines of Dakota skippers indicate that this species may also be impacted by unknown stressors. The Dakota skipper was last detected at one site in Iowa in 1992. Only one individual was detected in Minnesota during 2012 surveys, which included 18 sites with previous records; surveys for undiscovered populations were also carried out on 23 prairie remnants without previous records for the species. Only six individual Dakota skippers were detected at one site in Minnesota during 2013 surveys, which included 15 sites with previous records and 12 prairie remnants without

previous records for the species (Service 2014, unpubl. geodatabase.). Based on similar conditions in other parts of the species' range, similar trends are anticipated outside of Minnesota.

Indications of recent declining trends have been observed in South Dakota and North Dakota. In South Dakota, for example, the proportion of positive surveys at known sites has fluctuated over time; however, the 2012 and 2013 surveys had the lowest positive detection rate (38 percent and 32 percent, respectively) for the last 15 years (since 1996)—much less than comparable survey years in South Dakota (for years with more than 20 surveys). The Dakota skipper was detected at 12 of the 23 sites surveyed during 2012 in North Dakota (and 2 additional sites with no previous Dakota skipper records); average encounter frequencies observed across the State in 2012 (9.4 encounters per hour), however, were about half of those observed during the 1996–1997 State-wide surveys (ND State average = 17.4 encounters per hour). The Dakota skipper was not detected at the three sites that were surveyed in 2013 in North Dakota with previous records of the species. Recent survey results and similar life histories suggest that the Dakota skipper can be reasonably compared to the Poweshiek skipperling in their potential rate of decline—that is, it is reasonable to assume that Dakota skipper may be vulnerable to the same unidentified factors that have caused dramatic declines in the Poweshiek skipperling, with a slight delay in timing.

In summary, the results of extensive surveys in the western portion of the Poweshiek skipperling's range have documented the species' response to unknown factors and indicate that they are a current stressor of high severity. Although to date the Dakota skipper has not experienced such dramatic declines as the Poweshiek skipperling, similar unknown stressors on Dakota skipper populations likely have affected the species in Minnesota and Iowa, where recent surveys indicate that the species may be largely absent or at undetectable levels.

Summary of Factor E

Based on our analysis of the best available information, we have identified several natural and manmade factors affecting the continued existence of the Dakota skipper and Poweshiek skipperling. Effects of small population size, population isolation, and loss of genetic diversity are likely stressors that have significant impacts on both species. Environmental effects resulting from climatic change, including increased flooding and drought, are expected to become severe in the future and result in additional habitat losses; however, we have limited information on how this stressor may affect either species. Possibly the stressor with the most significant impacts to the Poweshiek skipperling are one or more unknown factors that have led to widespread and sharp population declines in the western portion of the species' range. These unknown stressors may also be the cause of the recent declines observed in Dakota skipper populations over much of its range. Anthropogenic factors such as insecticide, herbicide, and pesticide use are also stressors to both species, and unregulated prairie plant harvest has the potential to become a stressor in the future (See *Factor E*). Collectively, these stressors have operated in the past, are impacting both species now, and will continue to impact the Dakota skipper and Poweshiek skipperling in the future.

Conservation Efforts To Reduce Other Natural or Manmade Factors Affecting Its Continued Existence

Several of the conservation activities discussed under *Factor A.* in this rule may address some factors discussed under *Factor E,* for example, life-history studies of both species, studies to examine the effects of various management strategies on the species and its habitat, and habitat restoration techniques such as controlled burns on sites divided into several management units.

The Minnesota Zoo has initiated a new program to research Poweshiek skipperling and Dakota skipper propagation. If this program is successful, it could facilitate reintroduction and augmentation into areas where the species has declined or disappeared, to bolster the small genetic pool and small numbers. In 2012, researchers at the Minnesota Zoo and the University of Michigan initiated a genetics study of Dakota skipper and Poweshiek skipperling using specimens at some of the few sites where either species was observed in 2012, specifically a few sites in Michigan, Wisconsin, and Manitoba for the Poweshiek skipperling and sites in North Dakota, South Dakota, and Manitoba for Dakota skipper. Too few (one adult male) Dakota skipper were observed in Minnesota to obtain samples from that State in 2012. Similarly, only six individuals were observed at one Minnesota site in 2013. The genetics studies will help inform captive propagation and reintroduction efforts, which may help alleviate stressors associated with small and isolated populations.

In 2011, researchers collected 32 adult Dakota skippers from a combination of 4 sites in South Dakota and translocated them to Pickerel Lake State Park, where the species was last detected in 2008 (Skadsen 2011, pp. 7–9). The phenology of the adult flight period and purple coneflower blooms did not coincide, and no Dakota skippers were observed at the release site during subsequent visits in 2011 or 2012 (Skadsen 2011, pp. 8–9, Skadsen 2012, p. 4). Researchers and managers continue to develop prairie restoration and management goals for this and the Hartford Beach State Park site in South Dakota (Skadsen 2011, p. 9; Skadsen 2012b, p. 7).

The Minnesota Zoo has also begun a study to investigate the levels of neonicotinoids, aphid pesticides, and other insecticides present at several skipper sites in Minnesota and at least one site in South Dakota.

We are unaware of any conservation efforts that directly address the impacts of climate change to Dakota skippers or Poweshiek skipperlings. We are unaware of any conservation efforts that address the possible effects of pharmaceuticals on the Poweshiek skipperling and Dakota skipper.

Cumulative Effects From Factors A Through E

Many of the stressors described in this final rule may cumulatively or synergistically impact the Dakota skipper and Poweshiek skipperling beyond the scope of each individual stressor. For example, improper grazing management alone may only affect portions of Dakota skipper or Poweshiek skipperling habitat; however, improper grazing combined with invasive plants, herbicide use, and drought may collectively result in substantial habitat loss, degradation, or fragmentation across large portions of the species' ranges. In turn, climate change may exacerbate those effects, further diminishing habitat and increasing the isolation of already declining and isolated populations, making them more susceptible to genetic drift or catastrophic events such as fire, flooding, and drought. Further, nonagricultural development such as gravel mining or housing development not only can directly destroy habitat, but also can increase fragmentation of habitat by increasing associated road development. Additionally, draining prairie fens will increase invasive plant and woody vegetation encroachment. Numerous stressors are likely acting

cumulatively to further increase impacts on the already vulnerable, small, and isolated populations of Poweshiek skipperling and Dakota skipper.

Determination

Dakota Skipper

We carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Dakota skipper. Dakota skippers are obligate residents of undisturbed (remnant, untilled) high-quality prairie, ranging from wet-mesic tallgrass prairie to dry-mesic mixed-grass prairie. Native tallgrass prairies have been reduced by 85 to 99.9 percent of their former area, and native mixed-grass prairies have been reduced by 71.9 to 99 percent of their former area in North Dakota, Manitoba, and Saskatchewan. The Dakota skipper was once a common prairie butterfly widely dispersed in five States, extending from Illinois to North Dakota, and portions of two Canadian provinces. However, its range is now substantially reduced such that the Dakota skipper is restricted to small patches of fragmented native-prairie remnants in portions of three States and two Canadian provinces. Recent survey data indicate that the Dakota skipper has declined to zero or to undetectable levels in approximately 77 percent of sites where it had been recorded rangewide. It is presumed extirpated from Illinois and Iowa and no longer occurs in eastern Minnesota.

Much of the rangewide decline in the species has been observed in the last few years. Since 1988, researchers have surveyed 10 or more sites in 25 years; the average positive detection rate for those years is 63 percent rangewide. Since 2009, the percent of surveyed sites with positive detections of the species has dropped from 63 percent in 2009, to 41 percent in 2010, 36 percent in 2011, 37 percent in 2012, and 22 percent in 2013. While these types of lows in detections have been observed in past years, for example, in the early 1990s, the numbers of individuals observed in 2013 were the lowest ever recorded, despite extensive survey effort. Dakota skippers currently occupy sites in northeastern South Dakota, North Dakota, western Minnesota, southern Manitoba, and southeastern Saskatchewan.

Of the 264 historical locations, the species is presumed extirpated or possibly extirpated from at least 93 (35 percent) of those sites, and the occupancy of the species is unknown at approximately 88 (33 percent) sites. Of the 88 sites where the occupancy is unknown, at least 78 sites are subject to one or more stressors that have a moderate to high impact on those populations—these sites are distributed across Minnesota, North Dakota, and South Dakota. Three sites with unknown occupancy were not evaluated for stressors, due to lack of information. The 7 sites with unknown occupancy without moderate- to high-level stressors are scattered in various counties in Minnesota and South Dakota, and the skipper is thought to still be present at approximately 83 (31 percent) of the 264 historical locations, although 22 of these sites have not been surveyed since 2002. Of those 83 sites, at least 73 sites are subject to one or more stressors that have a moderate to high impact on those populations, such as conversion to agriculture, lack of management, and small size and isolation. Four sites were not evaluated due to lack of information, and the remaining six sites that do not have stressors with moderate- to high-level impacts to populations occur in scattered counties in Minnesota and South Dakota.

Approximately half (40 of 83) of the locations where the species is considered to be present are primarily located on privately owned fall-hayed prairies in Canada, mostly within 2 isolated complexes, and have not been surveyed since 2007. All 40 of those Canadian sites have one or more stressors of moderate to high level of impact to populations. Approximately 15 populations in Canada are on lands that are being used in ways that are favorable to the Dakota skipper (*i.e.,* late-season haying conducted at least every other year and there is no indication that native plant species diversity is declining due to timing or frequency of mowing), and the stressors at those sites are not immediate. However, we are aware of only one of these Canadian populations that is protected (on Federal land). The remaining sites where the species is considered to be present are about equally distributed among Minnesota (11 sites), North Dakota (16 sites), and South Dakota (14 sites). Sites with stressors with moderate to high level of impacts to populations occur in all three States.

Many factors likely contributed to the Dakota skipper's decline, and numerous factors, acting individually or synergistically, continue today (see Summary of Factors Affecting the Species). We identified many stressors to the species, some of which rise to the level of threats that contribute to the listing status for each species. Habitat loss and degradation have impacted the Dakota skipper, curtailing the ranges of the species (see *Factor A*). Extensive historical conversion of prairie and associated habitats, nearly complete in some areas, has isolated many Dakota skipper populations. These small and isolated populations are subject to loss of genetic diversity through genetic drift (see *Factor E*) and are susceptible to a variety of stochastic (*e.g.,* wildfires, droughts, and floods) and deterministic (*e.g.,* overgrazing, invasive species) factors (see *Factor A*) that may kill all or a substantial proportion of a population.

Although much of the habitat conversion occurred in the past, the effects of the dramatic reduction and fragmentation of habitat have persistent and ongoing effects on the viability of populations; furthermore, conversion of native prairies to agriculture or other uses is still occurring today. The life history of the species exacerbates the threats caused by the fragmentation and degradation of the species' habitat (see Factors A and E) as the Dakota skipper is not likely to recolonize distant sites due to its short adult life span, single annual flight, and limited dispersal ability. Therefore, the species' extirpation from a site is likely permanent unless it is near another site from which it can emigrate. Furthermore, because the larvae are located at or near the soil surface, they are more vulnerable to fire (*Factor A*); herbicides, pesticides, and other chemicals (see Factor E); desiccation due to changing climate (see *Factor E*); or flooding (see *Factor A*).

Within the remaining native-prairie patches, degradation of habitat quality is now the primary threat to the Dakota skipper (see *Factor A*). Of the various threats to Dakota skipper habitat, conversion, invasive species, secondary succession, and reduction in the diversity of native-prairie plant communities have moderate- to high-level impacts to populations throughout the range of the Dakota skipper. An array of other factors including nonagricultural development, chemical contaminants, pesticides, and intensive grazing are also current and ongoing threats to the Dakota skipper and its habitat (see Factors A and E). Current and ongoing prairie management practices, such as indiscriminate use of herbicides or intensive grazing that reduces or eliminates food sources, contribute to the species' imperilment at sites throughout the range of the species (see Factors A and E).

Unknown factors may be the current threat that has the most significant impacts to the Dakota skipper in Iowa and Minnesota, where populations experienced a sudden decline to

undetectable numbers in the most recent years (see *Factor E*). Based on recent data, similar conditions in other parts of the Dakota skipper's range, and the similarities in life histories between Poweshiek skipperling and Dakota skipper, similar declining trends are anticipated in other parts of the Dakota skipper's range due to unknown factors, and may only be a few years behind those declines experienced by other species, such as the Poweshiek skipperling (see *Factor E*). Existing regulatory mechanisms vary across the species' ranges, and although mechanisms do exist that protect the species from direct take in Iowa and Minnesota, these mechanisms do not sufficiently mitigate threats to the species (see *Factor D*). Climate change may affect Dakota skipper, especially increased frequency of extreme climatic conditions such as flooding and drought, but there is limited information on the exact nature of impacts that these species may experience. Recent temperature and precipitation trends indicate that certain aspects of climate change may be occurring in Dakota skipper range now (see *Factor E*).

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We find that the Dakota skipper is likely to become endangered throughout all of its range within the foreseeable future, based on the immediacy, severity, and scope of the threats described above. These threats are exacerbated by small population sizes, the loss of redundancy and resiliency of these species, and the continued inadequacy of existing protective regulations. A few scattered populations of Dakota skipper are doing relatively well, however, and are in habitats that have low or non-immediate threats.

Canada has approximately 15 populations on lands that are being utilized in a manner conducive to the conservation of Dakota skipper, and the threats at those sites are not imminent. However, few of these populations are protected, many are vulnerable to changes in land use, landowners may not be aware of the species presence and may change land use, and the sites have not been surveyed in the last 5 years. While a few new locations of Dakota skipper populations continue to be discovered in North and South Dakota, the numbers of individuals observed at those sites is generally low, and extirpation at previously known sites seems to be occurring at a faster rate than new discoveries. The decreasing numbers of sites with positive detections and the decreasing numbers of individuals observed at each site throughout its range, including known sites in Minnesota, North Dakota, and South Dakota, is likely to continue. Therefore, on the basis of the best available scientific and commercial information, we are listing the Dakota skipper as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

We find that an endangered species status is not appropriate for the Dakota skipper because some Dakota skipper populations still appear to be doing relatively well (populations detected during the last survey year, numbers appear stable, lower levels of threats and stressors)—primarily in North Dakota, South Dakota, Manitoba, and Saskatchewan. About 14 to 15 sites in Manitoba are used in a manner conducive to the conservation of Dakota skipper (haying after the adult flight period), and the threats at those sites are not imminent. Furthermore, we believe the species to be present in at least 6 sites that do not have documented stressors of a moderate- to high-level impact to populations, primarily in scattered counties in Minnesota and South Dakota. Additionally, a few new Dakota skipper sites continue to be discovered in suitable prairie habitat in North Dakota and South Dakota.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that the Dakota skipper is a threatened species throughout all of its range, no portion of its range can be ''significant'' for purposes of the definitions of ''endangered species'' and ''threatened species.'' See the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37577).

Poweshiek Skipperling

We carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Poweshiek skipperling. Poweshiek skipperling are obligate residents of undisturbed (remnant, untilled) high-quality prairie, ranging from wet-mesic tallgrass prairie to dry-mesic mixed-grass prairie. Native tallgrass prairies have been reduced by 85 to 99.9 percent of their former area, and native mixed-grass prairies have been reduced by 72 to 99 percent of their former area in North Dakota, Manitoba, and Saskatchewan. The Poweshiek skipperling was once a common prairie butterfly widely dispersed in eight States, extended from Michigan to North Dakota, and portions of Manitoba, Canada. However, its range is now substantially reduced such that the Poweshiek skipperling is restricted to small patches of fragmented native-prairie remnants in portions of two States and one Canadian province. The species is presumed extirpated from Illinois and Indiana, and the status of the species is unknown in four of the six States with relatively recent records (within the last 20 years). Recent survey data indicate that the Poweshiek skipperling has declined to zero or to undetectable levels in approximately 96 percent of sites where it has ever been recorded.

A drastic decline in this species has been observed rangewide very recently. Between 1985 and 2003, researchers surveyed 10 or more sites in 7 different years (excluding new sites in the first year); the average positive detection rate for those years is 71 percent rangewide. Since 2003, the percent of surveyed sites with positive detections of the species has dropped to an average of 31 percent each year (2004–2013), with a low of 12 percent at sites surveyed in 2012 and 2013. Despite recent substantial survey efforts in those States, the Poweshiek skipperling has not been recorded in Iowa since 2007, when it was observed at 1 site; in North Dakota since 2001, when it was observed at 1 site, nor in South Dakota since 2008, when it was observed at 3 sites. The species was not observed in North Dakota, South Dakota, or Minnesota during 2012 surveys, for example. The Poweshiek skipperling was observed at one site in Minnesota in 2007 and there was a sighting of a Poweshiek skipperling at one site in 2013, although no photographs or specimens were taken to confirm the sighting. Iowa sites were not surveyed in 2012, and the species was not detected in 2013. Poweshiek skipperling have historically been documented at approximately 296 sites; now we consider the species to be present at only 12 of those sites—one of these is considered a sub-site of a larger site.

The only confirmed extant (present) populations of Poweshiek skipperling are currently restricted to 1 small and isolated native-prairie remnant in Wisconsin, 9 small and isolated prairie fen remnants in Michigan, and a prairie complex in Manitoba. The species may also be present at one site in Minnesota. These sites represent less than 5 percent of the total number of sites ever

documented for the species. The numbers observed at these sites are relatively small (fewer than 100 individuals at all sites surveyed in 2013), and all of these sites have at least one documented threat that has moderate to high impacts on those populations. The strongest population in the United States, a prairie fen in Michigan with relatively high and fairly consistent numbers observed each year (numbers observed per minute ranged from 0.2 to 2.2 during the last 6 survey years), for instance, is under threat from intense development pressure. The Tallgrass Prairie Preserve site in Manitoba also has relatively high numbers observed each year; however, this site is impacted by several immediate, moderate- to high-level threats, including the encroachment of invasive plants and woody vegetation, flooding, and isolation from the nearest site by hundreds of kilometers. In addition, recent unplanned fires in 2009 and 2011 affected large portions of the site. Poweshiek skipperling is considered to have unknown occupancy at 75 sites—throughout the range of the species (Iowa, Michigan, Minnesota, North Dakota, and South Dakota), 49 of these sites were included in the threats assessment. Of the 49 sites where the occupancy is unknown that had sufficient information to assess, at least 42 sites are subject to one or more threats that have a moderate to high impact on those populations. These sites are throughout the range of the species in Iowa, Michigan, Minnesota, North Dakota, and South Dakota.

Many factors likely contributed to the Poweshiek skipperling's decline, and numerous major threats, acting individually or synergistically, continue today (see Summary of Factors Affecting the Species). Habitat loss and degradation have impacted the Poweshiek skipperling, curtailing the ranges of both species (see *Factor A*). Extensive historical conversion of prairie and associated habitats, nearly complete in some areas, has isolated many Poweshiek skipperling populations. These small and isolated populations are subject to loss of genetic diversity through genetic drift (see *Factor E*) and are susceptible to a variety of stochastic (*e.g.,* wildfires, droughts, and floods) and deterministic (*e.g.,* overgrazing, invasive species) factors (see *Factor A*) that may kill all or a substantial proportion of a population. Although much of the habitat conversion occurred in the past, the effects of the dramatic reduction and fragmentation of habitat have persistent and ongoing effects on the viability of populations; furthermore, conversion of native prairies to agriculture or other uses is still occurring today. The life history of the species exacerbates the threats caused by the fragmentation and degradation of its habitat (see Factors A and E) as Poweshiek skipperlings are not likely to recolonize distant sites due to their short adult life span, single annual flight, and limited dispersal ability. Therefore, the Poweshiek skipperling's extirpation from a site is likely permanent unless it is near another site from which it can emigrate. Furthermore, because the larvae are located at or near the soil surface, they are more vulnerable to fire (*Factor A*), herbicides, pesticides, and other chemicals (see *Factor E*); desiccation due to changing climate (see *Factor E*); or changes in hydrology (see *Factor A*).

Within the remaining native-prairie patches, degradation of habitat quality is now the primary threat to the Poweshiek skipperling (see *Factor A*). Of the various threats to Poweshiek skipperling habitat, conversion, invasive species, secondary succession, and reduction in the diversity of native-prairie plant communities have moderate- to high-level impacts to populations throughout the range of the Poweshiek skipperling. An array of other factors including nonagricultural development, chemical contaminants, pesticides, and intensive grazing are also current and ongoing threats to the Poweshiek skipperling and its habitat (see Factors A and E). Current and ongoing prairie management practices, such as indiscriminate use of herbicides or intensive grazing that reduces or eliminates food sources, contribute to the species' imperilment, particularly in North Dakota, South Dakota, and Minnesota (see Factors A and E). Unknown factors may be the current threat that has the most significant impacts to the Poweshiek skipperling species in Iowa, Minnesota, North Dakota, and South Dakota, where populations experienced a sudden decline to undetectable numbers in the most recent years (see *Factor E*). Existing regulatory mechanisms vary across the species' ranges, and although mechanisms do exist in Iowa, Michigan, Minnesota, and Wisconsin that protect the species from direct take, these mechanisms do not sufficiently mitigate threats to the Poweshiek skipperling (see *Factor D*). Climate change may affect the Poweshiek skipperling, especially increased frequency of extreme climatic conditions such as flooding and drought, but there is limited information on the exact nature of impacts that the species may experience. Recent temperature and precipitation trends indicate that certain aspects of climate change may be occurring in Poweshiek skipperling range now (see *Factor E*).

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We find that the Poweshiek skipperling is presently in danger of extinction throughout its entire range, based on the immediacy, severity, and scope of the threats described above. These threats are exacerbated by small population sizes, the loss of redundancy and resiliency of these species, and the continued inadequacy of existing protective regulations. There are only 12 locations where we believe the species to be present, and all of those sites are subject to at least one or more ongoing and immediate threats that have moderate- to high-level effects on those populations. Therefore, on the basis of the best available scientific and commercial information, we are listing the Poweshiek skipperling as endangered in accordance with sections 3(6) and 4(a)(1) of the Act.

We find that a threatened species status is not appropriate for the Poweshiek skipperling because the unknown factors have significant impacts to the species throughout most of its range and have occurred in a short timeframe. Sharp population declines have not been detected at the few remaining sites where the species is still present, but all of these sites are currently experiencing one or more threats that have moderate- to high-level impacts to populations. Based on recent data and similar conditions in other parts of Poweshiek skipperling range, similar declining trends are anticipated in other parts of the range of the species, and may only be a few years behind those declines experienced by the species in Iowa, Minnesota, North Dakota, and South Dakota (see *Factor E*). The impacts of the unknown factors on populations are exacerbated by habitat curtailment and destruction and other factors such as the effects of small and isolated populations due to habitat fragmentation.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that the Poweshiek skipperling is an endangered species throughout all of its range, no portion of its range can be

''significant'' for purposes of the definitions of ''endangered species'' and ''threatened species.'' See the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37577).

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed, preparation of a draft and final recovery plan, and revisions to the plan as significant new information becomes available. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. The recovery plan identifies site-specific management actions that will achieve recovery of the species, measurable criteria that determine when a species may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (comprising species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outlines, draft recovery plans, and the final recovery plans will be available on our Web site (*http://www.fws.gov/endangered*), or from our Twin Cities Ecological Services Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

When species are listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Iowa, Michigan, Minnesota, North Dakota, South Dakota, and Wisconsin would be eligible for Federal funds to implement management actions that promote the protection and recovery of the Poweshiek skipperling and Dakota skipper. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for the Dakota skipper or Poweshiek skipperling. Additionally, we invite you to submit any new information on these species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal agency actions within the species habitat that may require conference or consultation or both as described in the preceding paragraph include, but are not limited to, management and any other landscape-altering activities on Federal lands such as actions within the jurisdiction of the NRCS; land management by the U.S. Forest Service; issuance of section 404 Clean Water Act permits by the U.S. Army Corps of Engineers; land management by the U.S. Fish and Wildlife Service; construction and management of gas pipeline, wind facilities and associated infrastructure, and power line rights-of-way by the Federal Energy Regulatory Commission; construction and maintenance of roads or highways by the Federal Highway Administration; and land management within branches of the Department of Defense (DOD). Examples of these types of actions include activities funded or authorized under the Farm Bill Program, Environmental Quality Incentives Program, Clean Water Act (33 U.S.C. 1251 *et seq.*), Partners for Fish and Wildlife Program, and DOD construction activities related to training or other military missions.

Poweshiek Skipperling

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. The prohibitions of section 9(a)(2) of the Act, codified at 50 CFR 17.21 for endangered wildlife, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import, export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. Under the Lacey Act (18 U.S.C. 42–43; 16 U.S.C. 3371–3378), it is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Dakota Skipper

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened wildlife. We may also prohibit by regulation with respect to threatened wildlife any act prohibited by section 9(a)(1) of the Act for endangered wildlife. Exercising this discretion, the Service has developed a 4(d) rule containing all the general prohibitions and exceptions to those prohibitions; these are found at 50 CFR 17.31 and 50 CFR 17.32. For the Dakota skipper, the Service has developed a 4(d) rule that is tailored to the specific threats and conservation needs of this species. As a means to promote conservation efforts on behalf of the Dakota skipper, we are finalizing a 4(d) rule for this species that modifies the standard protections for threatened wildlife found at 50 CFR 17.31. In the case of a 4(d) rule, the general regulations (50 CFR 17.31 and 17.71) applying most prohibitions under section 9 of the Act to threatened species do not apply to that species, and the 4(d) rule contains the prohibitions necessary and advisable to conserve that species.

As discussed above, the primary factors supporting the determination of threatened species status for the Dakota skipper are habitat loss and degradation of native prairies, including conversion of native prairie for agriculture or other development; ecological succession and encroachment of invasive species and woody vegetation; certain fire, haying, and grazing management that reduces the availability of certain native-prairie grasses and flowering herbaceous plants to the Dakota skipper; some fire management; flooding; existing regulatory mechanisms that are inadequate to mitigate threats to the species; loss of genetic diversity; small size and isolation of remnant patches of native prairie; indiscriminate use of herbicides that reduces or eliminates nectar sources; climate conditions such as drought; and other unknown factors.

The Act does not specify particular prohibitions, or exceptions to those prohibitions, for threatened species. Instead, under section 4(d) of the Act, the Secretary of the Interior has the discretion to issue such regulations as she deems necessary and advisable to provide for the conservation of such species. The Secretary also has the discretion to prohibit by regulation with respect to any threatened species, any act prohibited under section 9(a)(1) of the Act. Exercising this discretion, the Service has developed general prohibitions (50 CFR 17.31) and exceptions to those prohibitions (50 CFR 17.32) under the Act that apply to most threatened species. Alternately, for other threatened species, the Service develops specific prohibitions and exceptions that are tailored to the specific conservation needs of the species. In such cases, some of the prohibitions and authorizations under 50 CFR 17.31 and 17.32 may be appropriate for the species and incorporated into a rule under section 4(d) of the Act, but the section 4(d) rule will also include provisions that are tailored to the specific conservation needs of the threatened species and may be more or less restrictive than the general provisions at 50 CFR 17.31.

In recognition of efforts that provide for conservation and management of the Dakota skipper and its habitat in a manner consistent with the purposes of the Act, this 4(d) rule outlines the prohibitions, and exceptions to those prohibitions, necessary and advisable for the conservation of the Dakota skipper.

Conversion of grasslands for the production of agricultural crops poses a threat to the Dakota skipper because it may directly destroy the species' habitat, increase isolation of populations by impeding dispersal, and increase the risk posed by drift of herbicides and pesticides. A wide variety of peer-reviewed publications and government reports have documented recent conversion of native grassland. In addition, economic and policy incentives are likely to continue to place pressure on landowners to convert native grassland from ranching to agricultural cropland (Doherty *et al.* 2013, p. 14); Sylvester *et al.* 2013, p. 13; Rashford *et al.* 2011, p. 282; Stephens *et al.* 2008, p. 6; (Congressional Research Service (CRS) 2007, p. 5, United States Government Accountability Office (USGAO) 2007, p. 15, Stephens *et al.* 2008, p. 6, Rashford *et al.* 2011, p. 282, Sylvester *et al.* 2013, p. 13). Grassland loss in the western corn belt may be occurring at the fastest rate observed since the 1920s and 1930s and at a rate comparable to that of deforestation in Brazil, Malaysia, and Indonesia (Wright and Wimberly 2013, p. 5). Between 2006 and 2011, destruction of native grassland was mostly concentrated in North Dakota and South Dakota, east of the Missouri River, an area corresponding closely to the range of the Dakota skipper (Wright and Wimberly 2013, p. 2). In northeastern South Dakota, one of the few remaining strongholds for the Dakota skipper, about 269,000 acres (108,907 ha) of grassland was lost—primarily to cropland—between 2006 and 2012 (Reitsma *et al.* 2014, p. 3).

As with agricultural policies (Doherty *et al.* 2013, p. 15), prohibitions against take of Dakota skippers could interact with other factors to affect the rates at which native grassland is converted in the range of the species. Less than 20 percent of the grassland in the Prairie Pothole Region of the United States is permanently protected (Doherty *et al.* 2013, p. 7), and the vast majority of remaining grassland is privately owned. The conservation of ''working landscapes'' based on ranching and livestock operations ('grass-based farming') is frequently a priority of programs to conserve native grassland ecosystems in the northern Great Plains (*e.g.,* U.S. Fish and Wildlife Service 2011, p. 5). Exempting incidental take of Dakota skippers that may result from grazing and other routine livestock ranching activities will afford us more time to protect the species' habitats in these areas and will facilitate the cooperation and partnerships with livestock producers necessary to recover the species.

Three primary factors have led us to determine that it is necessary and advisable to exempt take of Dakota skippers caused by certain ranching activities, including grazing. First, a variety of socioeconomic and policy factors are leading to the conversion of native grasslands for the production of agricultural crops, as summarized above. Whereas conversion of native grassland for crop production would result in a permanent loss of Dakota skipper habitat and may also exacerbate other threats (*e.g.,* pesticide drift) to the species, grasslands can remain suitable for Dakota skippers when grazed (see below and Dana 1991, p. 54; Schlicht 1997, p. 5; Skadsen 1997, pp. 24–29). By exempting take of Dakota skippers caused by grazing, we acknowledge the positive role that some ranchers have already played in conserving Dakota skippers and the importance of preventing any additional loss and fragmentation of native grasslands as the result of activities in areas that could support the species.

Second, although some grazing practices pose a threat to Dakota skipper, grazing may also be an effective tool to improve Dakota skipper habitat when carefully applied in cooperation and consultation with private landowners, public land managers, and grazing experts. In eastern South Dakota, Dakota skipper populations were deemed secure at some sites managed with rotational grazing that was sufficiently light to maintain native plant species diversity (Skadsen 1997,

pp. 24–29), and grazing may also benefit Dakota skippers by increasing coverage of mid-height grasses, such as little bluestem, relative to tallgrasses, such as big bluestem and Indiangrass (Dana 1991, p. 54). Intensive early-season grazing can reduce the extent of Kentucky bluegrass, a nonnative species that invades prairie habitats and competes with native plant species (DeKeyser *et al.* 2013, p. 86). In addition, grazing may also inhibit the establishment of smooth brome and help to enhance coverage and diversity of native plants in prairies that have been invaded by nonnative cool-season grasses (U.S. Fish and Wildlife Service 2006, p. 2; DeKeyser *et al.* 2009, p. 18; Smart *et al.* 2013, p. 686). Because grazing can lead to adverse conditions for the Dakota skipper, however, the Service encourages collaboration with private landowners, public land managers (*e.g.,* Skadsen 2006, p. 5), State and Federal conservation agencies, and nongovernmental organizations to identify, implement, monitor, and refine grazing practices that are conducive to the species' conservation.

Third, recovery of the Dakota skipper will depend on the protection and restoration of high-quality habitats for the species on private lands and on public lands that are grazed or hayed by private individuals under lease or other agreements. Conservation of Dakota skippers on these lands will require the development and implementation of complex, individualized, and long-term management agreements that rely on robust monitoring of Dakota skipper populations and habitat features. All of these agreements will require a willingness on the part of the private ranchers to collaborate with the Service and our partners to implement, monitor, and adapt conservation grazing practices in a manner that allows for stable or growing Dakota skipper populations. This type of cooperative approach is more likely to take place and to be successful if we exempt take caused by grazing and the other activities that we specify in the 4(d) rule.

In some geographic areas, such as McHenry County, North Dakota, the Dakota skipper almost exclusively inhabits relatively flat and moist prairie habitats that are mowed for hay. In these areas we do not encourage a switch to grazing without careful consideration of the potential consequences to the Dakota skipper. These habitats, referred to as calcareous or ''alkaline prairies'' by McCabe (1979, p. 17; 1981, p. 179); ''wet mesic'' by Royer and Marrone (1992, p. 21); and ''Type A'' by Royer *et al.* (2008, p. 14), are distinguished from other Dakota skipper habitats by relatively flat topography and certain plant community and soil characteristics (Lenz 1999, pp. 5–7; Royer *et al.* 2008, pp. 14–15). Dakota skippers appear to be generally absent from this type of habitat in North Dakota where it is grazed, due to a shift away from a plant community that is suitable for the species (McCabe 1979, p. 17; 1981, p. 179). The shift in plant community composition and adverse effects to Dakota skipper populations may occur rapidly (McCabe 1981, p. 179; Royer and Royer 1998, p. 23). The conversion of similar habitats in Manitoba from haying to grazing may be a major threat to the Dakota skipper there as well (Webster 2007, pp. i–ii, 6). In contrast, limited or ''light rotational grazing'' of habitats on steep dry-mesic slopes in Saskatchewan may not conflict with Dakota skipper conservation (Webster 2007, p. ii).

The reduced vulnerability of habitats on dry-mesic slopes to the effects of grazing may be due, in part, to the tendency for grazing pressure to be lighter in sloped areas. The steepness of habitats occupied by Dakota skippers in Saskatchewan, for example, limits their use for grazing (Webster 2007, p. ii). Steep slopes may also play a role in reducing the adverse effects of grazing at some sites in South Dakota—at one grazed site inhabited by the Dakota skipper, for example, habitat on steep slopes was ''in good condition,'' whereas ''lesser slopes'' were ''moderately grazed'' and some areas were ''overgrazed'' (Skadsen 1999a, p. 29).

In the proposed rule, we cited the lack of any examples of strong populations of Dakota skippers where the relatively moist and flat ('Type A') habitats are grazed as evidence that it would not be necessary and advisable to exempt take caused by grazing in certain counties where 'Type A' habitats are found. As stated above, we still do not recommend a change to grazing on 'Type A' habitats occupied by the Dakota skipper unless a cooperative plan is developed to ensure that it will be done in a manner that conserves the species in the affected habitats. Nevertheless, in light of the great importance that cooperative relationships with certain public land management agencies and private livestock producers will play in conserving the Dakota skipper, we find that it is necessary and advisable to exempt take that may be caused by grazing on non-Federal lands regardless of geographic area. We do not expect this to result in a significant change in management from haying to grazing because other factors, such as the costs of building fences and developing livestock watering facilities, are more important factors that will influence this land management decision.

Provisions of the 4(d) Rule for the Dakota Skipper

Section 4(d) of the Act states that ''the Secretary shall issue such regulations as [s]he deems necessary and advisable to provide for the conservation'' of species listed as a threatened species. Conservation is defined in the Act to mean ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to [the Act] are no longer necessary.'' Additionally, section 4(d) states that the Secretary ''may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1).''

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, the Secretary may find that it is necessary and advisable not to include a taking prohibition, or to include a limited taking prohibition. See *Alsea Valley Alliance* v. *Lautenbacher,* 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* and 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002). In addition, as affirmed in *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988), the rule need not address all the threats to the species. As noted by Congress when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to him with regard to the permitted activities for those species. [S]he may, for example, permit taking, but not importation of such species,'' or [s]he may choose to forbid both taking and importation but allow the transportation of such species, as long as the measures will ''serve to conserve, protect, or restore the species concerned in accordance with the purposes of the Act'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Section 9 prohibitions make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, shoot, wound, kill, trap, capture, or collect; or attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any wildlife species listed as an endangered species, without written authorization. It also is illegal under

section 9(a)(1) of the Act to possess, sell, deliver, carry, transport, or ship any such wildlife that is taken illegally. Prohibited actions consistent with section 9 of the Act are outlined for threatened species in 50 CFR 17.31(a) and (b). Through this 4(d) rule, all prohibitions in 50 CFR 17.31(a) and (b) apply to the Dakota skipper except in the specific instances as outlined below. The 4(d) rule will not remove or alter in any way the consultation requirements under section 7 of the Act.

Routine Livestock Operations and Maintenance of Recreational Trails and Rights-of-Way

Incidental take that is caused by the routine livestock ranching and other specified trail and rights-of-way maintenance activities described below and that are implemented on private, State, and tribal lands and on other lands not under Federal jurisdiction (*e.g.* lands owned by county governments or local governments) will not be prohibited, as long as those activities are otherwise legal and conducted in accordance with applicable State, Federal, tribal, and local laws and regulations. For the purposes of this 4(d) rule, routine livestock ranching and recreational trail and rights-of-way maintenance activities include the items listed below. Except as explicitly stated below, these activities must be associated with livestock ranching for this 4(d) rule to apply.

(1) *Fence Construction and Maintenance:* Fences are an essential tool for livestock and ranch management. In addition, the strategic distribution of fencing is also necessary to implement multi-cell rotational grazing systems, which may be necessary to improve grazing management and provide a conservation benefit to Dakota skipper habitat.

(2) *Livestock Gathering and Management:* The installation and maintenance of corrals, loading chutes, and other livestock working facilities are critical to ranch operations. These activities may be carried out with only minimal impacts to Dakota skipper if carefully sited with respect to the location and distribution of important Dakota skipper habitat.

(3) *Development and Maintenance of Livestock Watering Facilities:* Without a suitable water source in a pasture, livestock ranching is impossible. The proper distribution of livestock watering sources is also a prerequisite to implementing improved grazing management via the use of multi-cell rotational grazing systems that may be necessary to conserve Dakota skipper habitat and to provide a conservation benefit to the species on grazed sites. This activity includes both the initial development of water sources and their maintenance. Dugout ponds, for example, typically require a cleanout after 15 to 20 years.

(4) *Noxious Weed Control:* State and county laws require landowners to control noxious weeds on their property, and the timing of control actions is usually dependent on the growth stage of the weed species. Control of noxious weeds may also be important to protect Dakota skipper habitat because native plant diversity declines when nonnative plant species invade and become established in prairies (Boettcher *et al.* 1993, p. 35). Broadcast application of herbicides, however, may result in significant deterioration of native plant diversity in prairies (Smart *et al.* 2011, p. 184). Therefore, incidental take of Dakota skipper that may result from spraying of herbicides would be exempt except as a result of broadcast spraying, which we define as the application of herbicides evenly across the entire application area. Note that herbicide applications would not affect the Dakota skipper if they do not affect the limited areas where the species is present. Broadcast applications of herbicides that do not affect habitats occupied by the Dakota skipper would not result in take of the species, and thus would not result in violation of section 9 of the Act. Take that may occur as a result of mowing that is carried out for the purpose of controlling one or more noxious weed species is also exempted from the take prohibitions under section 9 of the Act by issuance of this 4(d) rule.

(5) *Haying:* Stock cows need to be maintained through the non-growing season though supplemental feeding with hay; thus, haying (cutting grass and other vegetation for drying and use as livestock feed) is a critical component of ranch activity. Dakota skippers occur on several native hayland sites—sites where the native-prairie vegetation is mowed for hay. For the purposes of this rule, native hayland does not include lands that had previously been plowed and were then replanted to native or nonnative vegetation. Native hayland may include, however, areas within transportation (*e.g.,* road, highway, railroad) rights-of-ways and corridors where native grassland is mowed for hay. Native haylands are typically cut in August, after the needlegrass (*Hesperostipa spp.* or *Nassella viridula,* or both) awns drop. Incidental take of Dakota skippers that occurs as a result of haying no earlier than July 16 (after July 15) is exempted from the take prohibitions under section 9 of the Act by issuance of this 4(d) rule. Dakota skippers are unlikely to occur in replanted grasslands (grasslands replanted on formerly plowed or cultivated lands) or in tame hayland or grassland (hayland or grassland planted to and comprising primarily nonnative grass species, such as smooth brome (*Bromus inermis inermis*)). Therefore, mowing replanted and tame grasslands before July 16 would not result in take of Dakota skippers and would thus not result in a violation of section 9 of the Act.

(6) *Mowing Section Line Rights-of-Way and Recreational Trails:* Section line rights-of-way and some recreational trails need to be mowed several times during the growing season to ensure that snow will not catch and block vehicle access and that they are suitable for hiking and other intended recreational activities, respectively. Section line rights-of-way typically comprise disturbed soil that has been contoured for a roadway and are likely to contain only small proportions of Dakota skipper habitat at any affected site. Therefore, impacts to Dakota skipper populations are likely to be minimal, and any incidental take that is a result of mowing of section line rights-of-way and recreational trails will be exempt from the take prohibitions of section 9 of the Act. Recreational trails are travel ways established either through construction or use that are intended for and passable by at least one or more of the following: foot traffic, bicycles, in-line skates, wheelchairs, or cross-country skis. Incidental take that may be caused by mowing recreational trails does not need to be associated with livestock ranching for the 4(d) rule to apply.

(7) *Livestock (Cattle, Bison, or Horse) Grazing:* Incidental take of Dakota skippers that may result from grazing on private, State, or tribal land is exempt from the take prohibitions of section 9 of the Act.

We may issue permits to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 for endangered species, and at 17.32 for threatened species. With regard to endangered wildlife, a permit must be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum

extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of a listed species. Based on the best available information, the following actions are unlikely to result in a violation of section 9, if these activities are carried out in accordance with existing regulations and permit requirements; this list is not comprehensive:

(1) Unauthorized collecting, handling, possessing, selling, delivering, carrying, or transporting of the species, including import or export across State lines and international boundaries, except for properly documented antique specimens of these taxa at least 100 years old, as defined by section 10(h)(1) of the Act;

(2) Unauthorized modification, removal, or destruction of the prairie vegetation, soils, or hydrology in which the Dakota skipper and Poweshiek skipperling are known to occur;

(3) The unauthorized release of biological control agents that attack any life stage of these species, including the unauthorized use of herbicides, pesticides, or other chemicals in habitats in which the Poweshiek skipperling or Dakota skipper is known to occur;

(4) Introduction of nonnative species that compete with or prey upon the Dakota skipper and Poweshiek skipperling or their food sources, such as the introduction of nonnative leafy spurge, reed canary grass, or glossy buckthorn, to the State of Iowa, Michigan, Minnesota, North Dakota, South Dakota, and Wisconsin; and

(5) Unauthorized discharge of chemicals or fill material into any wetlands in which the Poweshiek skipperling or Dakota skipper are known to occur.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Twin Cities Ecological Services Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). Requests for copies of the regulations concerning listed animals and general inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 5600 American Blvd., West, Suite 990, Bloomington, MN (telephone 612–713–5350; facsimile 612–713–5292).

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

The Sisseton-Wahpeton Oyate, Flandreau Santee Sioux Tribe, Turtle Mountain Band of Chippewa, Three Affiliated Tribes, Spirit Lake Sioux Tribe, and Standing Rock Sioux Tribe are the main Tribes affected by this final rule. We began government-to-government consultation with these tribes prior to the publication of the proposed rule, through the public comment period, and during the development of the final listing determination.

We sent letters in September 2012 to each Tribe seeking early input regarding the species status review and to offer government-to-government consultation. We sent notification letters in October and November of 2013 to each Tribe describing the critical habitat exclusion process under section 4(b)(2) of the Act, and we engaged in conversation with the Tribes about the proposed listing and critical habitat rules to the extent possible. We have maintained contact with Flandreau Santee Sioux Tribe, Turtle Mountain Chippewa, Three Affiliated Tribes, Spirit Lake Sioux Tribe, and Standing Rock Sioux Tribe through letters, phone calls, and emails, and we notified each tribe when documents pertaining to the listing and critical habitat rules were made available.

We have coordinated several survey efforts with Sisseton-Wahpeton Oyate since 1995 and held an informational meeting for the Tribe in April 2014, to better explain the proposed listing and designation of critical habitat. We met with representatives from the Turtle Mountain Chippewa in May 2014, and conducted a site visit at that time to evaluate areas proposed for designation as critical habitat. We did not receive comments from the Sisseton-Wahpeton Oyate, Three Affiliated Tribes, Standing Rock Sioux Tribe, Flandreau Santee Sioux Tribe, Turtle Mountain Chippewa, or the Spirit Lake Nation. However, notification of the available economic analysis screening memorandum for the critical habitat proposal was provided to all Tribes in the species' ranges at the time it was made available to the public.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the Twin Cities Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Twin Cities Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

■ 2. Amend § 17.11(h) by adding entries for ''Skipper, Dakota'' and ''Skipperling, Poweshiek'' to the List of Endangered and Threatened Wildlife in alphabetical order under ''Insects'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
INSECTS							
*	*	*	*	*	*		*
Skipper, Dakota ...	*Hesperia dacotae*	U.S.A. (IA, IL, MN, ND, SD); Canada (Manitoba, Saskatchewan).	NA	T	851	NA	17.47(b)
*	*	*	*	*	*		*
Skipperling, Poweshiek.	*Oarisma poweshiek*.	U.S.A. (IA, IL, IN, MI, MN, ND, SD, WI,); Canada (Manitoba).	NA	E	851	NA	NA
*	*	*	*	*	*		*

* * * * *

■ 3. Amend § 17.47 by adding paragraph (b) to read as follows:

§ 17.47 Special rules—insects.

* * * * *

(b) Dakota skipper (*Hesperia dacotae*).

(1) *Which populations of the Dakota skipper are covered by this special rule?* This rule covers the distribution of Dakota skipper in the United States.

(2) *Prohibitions.* Except as noted in paragraph (b)(3) of this section, all prohibitions and provisions of §§ 17.31 and 17.32 apply to the Dakota skipper.

(3) *Exemptions from prohibitions.* Incidental take of Dakota skipper will not be a violation of section 9 of the Act if it occurs as a result of the following activities (except where explicitly stated otherwise, these activities must be associated with livestock ranching):

(i) *Fence construction and maintenance.*

(ii) *Livestock gathering and management.* The installation and maintenance of corrals, loading chutes, and other livestock working facilities must be carefully sited with respect to the location and distribution of important Dakota skipper habitat.

(iii) *Development and maintenance of livestock watering facilities.*

(iv) *Noxious weed control.* Incidental take of Dakota skipper that results from spraying of herbicides is not a violation of section 9 of the Act, except such take that results from broadcast spraying, which is the application of herbicides evenly across the entire application area. Incidental take that results from mowing to control one or more noxious weed species would also not be a violation of section 9 of the Act.

(v) *Haying.* For the purposes of this rule, native haylands do not include lands that had previously been plowed and were then replanted to native or nonnative vegetation, but native haylands do include areas within transportation (*e.g.,* road, highway, railroad) rights-of-ways and corridors where native grasses are mowed for hay. Haying of native haylands no earlier than July 16 (after July 15) would not be a violation of section 9 of the Act. Mowing of replanted grasslands (grasslands replanted on formerly plowed or cultivated lands) or tame haylands or grasslands (planted hayland or grassland comprising primarily nonnative grass species, such as smooth brome (*Bromus inermis inermis*)) would also not be a violation of section 9 of the Act at any time of the year.

(vi) *Mowing section line rights-of-way and recreational trails.* Mowing of section line rights-of-way (typically disturbed soil that has been contoured for a roadway) would not be a violation of section 9 of the Act. Mowing of recreational trails (travelways established either through construction or use that are intended for and passable by foot traffic, bicycles, in-line skates, wheelchairs, or cross-country skis) would not be a violation of section 9 of the Act, regardless of whether the trails are associated with livestock ranching.

(vii) *Livestock (cattle, bison, or horse) grazing on private, State, or tribal land.*

Dated: October 15, 2014.

Stephen Guertin,

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

[FR Doc. 2014–25190 Filed 10–23–14; 8:45 am]

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Part III

Environmental Protection Agency

40 CFR Part 98

Revisions to Reporting and Recordkeeping Requirements, and Confidentiality Determinations Under the Greenhouse Gas Reporting Program; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2010–0929; FRL–9916–76–OAR]

RIN 2060–AQ81

Revisions to Reporting and Recordkeeping Requirements, and Confidentiality Determinations Under the Greenhouse Gas Reporting Program; Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the reporting and recordkeeping requirements of the Greenhouse Gas Reporting Program. These amendments include an alternative verification approach in lieu of collecting certain data elements for which the EPA has identified disclosure concerns and for which the reporting deadline was deferred until March 31, 2015. The alternative verification approach includes the addition of new verification, recordkeeping, and reporting requirements while maintaining the EPA's ability to verify emissions and ensure compliance with the Greenhouse Gas Reporting Program. In conjunction with the amendments, the EPA is establishing final confidentiality determinations for the new data elements added in this action.

DATES: This final rule is effective on November 24, 2014.

ADDRESSES: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, William Jefferson Clinton Building West, Room B102, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER GENERAL INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGreporting@epa.gov.* For technical information, contact the Greenhouse Gas Reporting Rule Helpline at: *http://www.epa.gov/climatechange/emissions/ghgrule_contactus.htm.* Alternatively, contact Carole Cook at 202–343–9263.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this final rule, memoranda to the docket, and all other related information will also be available through the WWW on the EPA's greenhouse gas reporting rule Web site at *http://www.epa.gov/climatechange/emissions/ghgrulemaking.html.*

SUPPLEMENTARY INFORMATION:

Regulated Entities. This final rule revision on reporting and recordkeeping requirements and verification procedures affects entities that must submit annual greenhouse gas (GHG) reports under the Greenhouse Gas Reporting Program (GHGRP) (40 CFR part 98). The Administrator has determined that 40 CFR part 98 is subject to the provisions of Clean Air Act (CAA) section 307(d). See CAA section 307(d)(1)(V) (the provisions of CAA section 307(d) apply to ''such other actions as the Administrator may determine''). Entities affected by this final rule are owners and operators of facilities that are direct emitters of GHGs, which include those listed in Table 1 of this preamble:

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY

Category	NAICS	Examples of affected facilities
General Stationary Fuel Combustion Sources.		Facilities operating boilers, process heaters, incinerators, turbines, and internal combustion engines.
	321	Manufacturers of lumber and wood products.
	322	Pulp and paper mills.
	325	Chemical manufacturers.
	324	Petroleum refineries and manufacturers of coal products.
	316, 326, 339	Manufacturers of rubber and miscellaneous plastic products.
	331	Steel works, blast furnaces.
	332	Electroplating, plating, polishing, anodizing, and coloring.
	336	Manufacturers of motor vehicle parts and accessories.
	221	Electric, gas, and sanitary services.
	622	Health services.
	611	Educational services.
	325193	Ethyl alcohol manufacturing facilities.
	311611	Meat processing facilities.
	311411	Frozen fruit, juice, and vegetable manufacturing facilities.
	311421	Fruit and vegetable canning facilities.
Adipic Acid Production	325199	Adipic acid manufacturing facilities.
Aluminum Production	331312	Primary aluminum production facilities.
Ammonia Manufacturing	325311	Anhydrous and aqueous ammonia production facilities.
Cement Production	327310	Portland cement manufacturing plants.
Ferroalloy Production	331112	Ferroalloys manufacturing facilities.
Glass Production	327211	Flat glass manufacturing facilities.
	327213	Glass container manufacturing facilities.
	327212	Other pressed and blown glass and glassware manufacturing facilities.
HCFC–22 Production and HFC–23 Destruction.	325120	Chlorodifluoromethane manufacturing facilities.
Hydrogen Production	325120	Hydrogen production facilities.
Iron and Steel Production	331111	Integrated iron and steel mills, steel companies, sinter plants, blast furnaces, basic oxygen process furnace shops.

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY—Continued

Category	NAICS	Examples of affected facilities
Lead Production	331419	Primary lead smelting and refining facilities.
	331492	Secondary lead smelting and refining facilities.
Lime Production	327410	Calcium oxide, calcium hydroxide, dolomitic hydrates manufacturing facilities.
Nitric Acid Production	325311	Nitric acid production facilities.
Petrochemical Production	32511	Ethylene dichloride production facilities.
	325199	Acrylonitrile, ethylene oxide, methanol production facilities.
	325110	Ethylene production facilities.
	325182	Carbon black production facilities.
Petroleum and Natural Gas Systems	486210	Pipeline transportation of natural gas.
	221210	Natural gas distribution facilities.
	211	Extractors of crude petroleum and natural gas.
	211112	Natural gas liquid extraction facilities.
Petroleum Refineries	324110	Petroleum refineries.
Phosphoric Acid Production	325312	Phosphoric acid manufacturing facilities.
Pulp and Paper Manufacturing	322110	Pulp mills.
	322121	Paper mills.
	322130	Paperboard mills.
Silicon Carbide Production	327910	Silicon carbide abrasives manufacturing facilities.
Soda Ash Manufacturing	325181	Alkalies and chlorine manufacturing facilities.
	212391	Soda ash, natural, mining and/or beneficiation.
Titanium Dioxide Production	325188	Titanium dioxide manufacturing facilities.
Zinc Production	331419	Primary zinc refining facilities.
	331492	Zinc dust reclaiming facilities, recovering from scrap and/or alloying purchased metals.
	311411	Frozen fruit, juice and vegetable manufacturing facilities.
	311421	Fruit and vegetable canning facilities.
Wastewater Treatment [a]	322110	Pulp mills.
	322121	Paper mills.
	322122	Newsprint mills.
	322130	Paperboard mills.
	311611	Meat processing facilities.
	311411	Frozen fruit, juice and vegetable manufacturing facilities.
	311421	Fruit and vegetable canning facilities.
	325193	Ethanol manufacturing facilities.

[a] The inputs to emission equations (for which reporting was deferred to 2015) in these categories were evaluated following the four-step process set forth in the memorandum entitled ''Process for Evaluating and Potentially Amending Part 98 Inputs to Emission Equations'' (Docket ID No. EPA–HQ–OAR–2010–0929). Refer to Section 1.B of the proposal preamble (78 FR 55994, September 11, 2013) for further information regarding this evaluation. No amendment to the subpart affecting this industry category was proposed as a result of the evaluation. Accordingly, this final action does not include any amendment to this subpart. Refer to Section II.B of this preamble for further discussion of the EPA's decision.

Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding facilities and suppliers likely to be affected by this action. Types of facilities other than those listed in this table might also be affected by this action. To determine whether you are affected by this action, you should carefully examine the applicability criteria found in 40 CFR part 98, subpart A or the relevant criteria in the subparts. If you have questions regarding the applicability of this action to a particular facility or supplier, consult the person listed in the preceding **FOR FURTHER GENERAL INFORMATION CONTACT** section.

Many facilities that are affected by 40 CFR part 98 have GHG emissions from multiple source categories listed in Table 1 of this preamble.

Judicial Review. Under CAA section 307(b)(1), judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit (the Court) by December 23, 2014. Under CAA section 307(d)(7)(B), only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Section 307(d)(7)(B) of the CAA also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, Environmental Protection Agency, Room 3000, William Jefferson Clinton Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to the person listed in the preceding **FOR FURTHER GENERAL INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20004. Note that under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

CAA Clean Air Act
CaO Calcium oxide
CAR Climate Action Reserve
CBI Confidential business information
CEMS continuous emissions monitoring system
CFR Code of Federal Regulations
CKD Cement kiln dust
CO_2 Carbon dioxide

e-GGRT Electronic Greenhouse Gas Reporting Tool
EPA U.S. Environmental Protection Agency
FISMA Federal Information Security Management Act of 2002
FR Federal Register
FTC Federal Trade Commission
GHG Greenhouse gas
GHGRP Greenhouse Gas Reporting Program
HCFC–22 Chlorodifluoromethane
HFC Hydrofluorocarbons
HTML Hypertext markup language
ICR Information Collection Request
IVT Inputs Verification Tool
KA Ketone-alcohol oil (or cyclohexanol)
lb Pound
MMBtu Million British thermal units
N_2O Nitrous oxide
NAICS North American Industry Classification System
NIST National Institute of Standards and Technology
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management & Budget
PUC Public utility commission
RFA Regulatory Flexibility Act
SSM Startup, shutdown, and malfunction
TLS Transport Layer Security
TRI Toxics Release Inventory
UMRA Unfunded Mandates Reform Act
U.S. United States
WWW Worldwide Web
XML Extensible markup language

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

I. Executive Summary, Background, and Overview
A. How is this preamble organized?
B. Executive Summary
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D. Subparts Covered in the Final Rule
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II. Summary of Final Amendments to Part 98
A. Addition of a Requirement for Certain Reporters To Use an Inputs Verification Tool (IVT) to Enter Certain Data Elements
B. Removal of the Requirement To Report Certain Data Elements
C. Revision of Recordkeeping Requirements for Facilities Required To Use IVT
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A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
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D. Unfunded Mandates Reform Act (UMRA)
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. Executive Summary, Background, and Overview

A. How is this preamble organized?

Section I of this preamble provides background information regarding the origin of the final amendments. Section I also discusses the EPA's legal authority under the CAA to promulgate and amend the Greenhouse Gas Reporting Rule (40 CFR part 98, hereinafter referred to as ''Part 98'') and the EPA's legal authority to make confidentiality determinations for new data elements required by this amendment. Section II of this preamble describes the final amendments to Part 98, which includes the EPA's proposed alternative verification approach. Section II of this preamble also describes the major changes made since proposal to the alternative verification approach and provides brief summaries of significant public comments and the EPA's responses thereto. Section III of this preamble finalizes the confidentiality determinations for the new data reporting elements being added to Part 98 in this action. Section IV of this preamble discusses the impacts of the final amendments. Section V of this preamble describes the statutory and executive order requirements applicable to this action.

B. Executive Summary

The EPA is finalizing the proposed alternative verification approach for the GHGRP, with some changes made in response to public comments. The alternative verification approach includes amendments to reporting and recordkeeping requirements of Part 98, as follows:

- Adding a requirement for certain reporters under 23 subparts to use an EPA-provided inputs verification tool (IVT). For these subparts, 324 inputs to emission equations for which reporting was deferred to 2015 and for which disclosure concerns have been identified must be entered into IVT.[1] IVT will perform electronic verification on the entered inputs to emission equations and use the entered inputs to calculate the emission equation results. IVT will not retain the entered inputs (i.e., the inputs are not reporting requirements under Part 98); instead, IVT will conduct certain checks (e.g., accuracy of the inputs and the calculated emissions values) at the time of data entry and generate a verification summary. The EPA will not have access to the entered inputs either during the time of entry or any time thereafter. However, the verification summary, which will be accessible to the EPA once the reporter has completed using IVT and the annual report is submitted, will provide the EPA with information to conduct further verification if necessary.
- For 23 subparts, removing the requirement to report 378 inputs to emission equations for which reporting was deferred to 2015 and for which disclosure concerns have been identified.[2]
- For reporters required to use IVT, specifying the format for maintaining records of data entered into IVT so that all such records are maintained in a consistent format; and for each facility subject to the IVT requirement, lengthening the record retention period from 3 to 5 years for all data entered into IVT and for other records maintained by the reporting facility under Part 98 (including subparts not required to use IVT).
- For certain reporters required to use IVT, adding new data elements to be reported.

The EPA is not amending the reporting requirements for 151 inputs to emission equations for which reporting was deferred, but for which disclosure concerns were not identified and the data remain useful. For these inputs to emission equations, the deferral will

[1] Under this final action, IVT would not be required to be used by reporters for any reported GHG for which the reporter uses a continuous emissions monitoring system (CEMS) or an EPA-approved alternative method—as allowed under 40 CFR 98.33(a)(5), 98.53(a)(2), and 98.223(a)(2) to calculate the reported GHG value, rather than using inputs to emission equations (for which reporting was deferred to 2015) and the associated EPA-provided calculation methodologies to calculate the reported GHG value.

[2] As mentioned above, there are 378 equation inputs for which reporting was deferred to 2015 and for which the EPA determined there are disclosure concerns, and 324 of these equation inputs must be entered into IVT. Fifty-four of the 378 equation inputs do not need to be entered into IVT because these equation inputs are redundant to other equations inputs being entered into IVT or are otherwise not needed for verification.

expire on March 31, 2015, by which date these inputs must be reported.[3]

This alternative verification approach builds on the EPA's experience and success with electronic reporting and verification during the first 4 years of the GHGRP. This alternative verification approach, which includes additional verification checks that IVT will conduct on data entered into IVT (during the data entry process), provides the EPA with information necessary to identify facilities with potential reporting errors and conduct further verification following the submission of annual reports. This alternative verification approach, including its associated revisions to recordkeeping and reporting requirements, provides an alternative to collecting certain data elements for which disclosure concerns have been identified, while maintaining the EPA's ability to verify data and ensure compliance with the GHGRP.

Also, in conjunction with the amendments, the EPA is establishing confidentiality determinations for the new data elements finalized in this action.

C. Background on the Action

On October 30, 2009, the EPA published the Greenhouse Gas Reporting Rule, 40 CFR part 98, requiring annual reporting of GHG data from a broad range of industry sectors (74 FR 56260). Under Part 98, the EPA requires annual reporting of data from certain facilities and suppliers above specified emission or quantity-supplied thresholds. On July 7, 2010 (75 FR 39094) and subsequent proposals (77 FR 1434, January 10, 2012; 77 FR 10434, February 22, 2012), we proposed confidentiality determinations for the data elements required to be reported. The confidentiality of each reported data element was determined using a two-step approach: (1) Grouping data elements into 22 data categories (e.g., inputs to emission equations, emissions, and unit/process operating characteristics that are not inputs to emission equations for direct emitter source categories) and (2) making confidentiality determinations either categorically or on the basis of individual data elements. Refer to both the July 7, 2010 proposal (75 FR 39097) and the May 26, 2011 final rule (76 FR 30785–30786) for more detailed descriptions of this process. Refer to the May 26, 2011 final rule also for a discussion of individual data element confidentiality determinations. The EPA has established final confidentiality determinations for part 98 data elements except those in the ''inputs to emission equations'' category (May 26, 2011, 76 FR 30782; August 13, 2012, 77 FR 48072; and August 24, 2012, 77 FR 51477).[4] We proposed that ''inputs to emission equations'' meet the definition of ''emission data'' under 40 CFR 2.301(a)(2)(i). Because, under section 114(c) of the CAA, emission data are not entitled to confidential treatment, we did not evaluate whether such data elements would qualify as CBI, including whether disclosure would likely cause substantial competitive harm to the reporting facilities (75 FR 39105 and 39108, July 7, 2010).

Following our proposal, we received numerous industry comments expressing concerns regarding potential disclosure of many of these data elements. In light of the comments, the EPA expressed that ''these concerns warranted an in-depth evaluation of the potential impact from the release of inputs to emission equations'' and that the EPA would ''complete this evaluation and take appropriate final actions regarding inputs to equations before these data elements are reported to EPA and potentially be subject to release.'' (76 FR 53060, August 25, 2011). In a document published on December 27, 2010, we issued a call for information (75 FR 81366) requesting additional information to assist us in conducting our evaluation. To allow sufficient time to complete this evaluation through notice and comment, we deferred the reporting deadline for data elements assigned to the ''inputs to emission equation'' category. Reporting of certain of these data elements was deferred to March 31, 2013, as specified in Table A–6 to subpart A; and reporting of the remainder of these data elements was deferred to March 31, 2015, as specified in Table A–7 to subpart A (see the August 25, 2011 final rule, 76 FR 53057).

Our process for the abovementioned evaluation was documented in the final deferral document (76 FR 53057, August 25, 2011) and the accompanying memorandum entitled ''Process for Evaluating and Potentially Amending Part 98 Inputs to Emission Equations'' (Docket ID No. EPA–HQ–OAR–2010–0929). As discussed in the final deferral document and memorandum, our evaluation involved a four-step process, as follows:

- Step 1: Determine whether each data element assigned to the ''inputs to emission equations'' category is already publicly available.
- Step 2: For data elements assigned to the ''inputs to emission equations'' category that are not publicly available, evaluate whether disclosure of the information is likely to result in substantial competitive harm.
- Step 3: For data elements assigned to the ''inputs to emission equations'' category that are likely to cause substantial competitive harm if disclosed, evaluate potential alternative calculation methods.
- Step 4: For data elements assigned to the ''inputs to emission equations'' category that are likely to cause substantial competitive harm if disclosed, evaluate potential alternative verification methods.

Using each step of the four-step evaluation process, the EPA evaluated data elements for which reporting was deferred to March 31, 2015.[5] The results of the evaluation were documented in the four following memoranda available in the EPA's Docket ID No. EPA–HQ–OAR–2010–0929:

- ''Evaluation of Public Availability of Inputs to Emission Equations for which Reporting was Deferred to March 31, 2015,'' August 2013.
- ''Evaluation of Competitive Harm from Disclosure of 'Inputs to Equations' Data Elements Deferred to March 31, 2015,'' August 2013.
- ''Evaluation of Alternative Calculation Methods,'' August 2013.
- ''Evaluation of Alternative Verification Approaches For Greenhouse Gas Reporting Rule Subparts for which Reporting of Inputs to Emission Equations was Deferred to March 31, 2015,'' August 2013.

Based on the results of this evaluation, the EPA proposed on September 11, 2013 (78 FR 55994) amendments to the recordkeeping and reporting provisions for 24 subparts of Part 98, including an alternative

[3] In this action, the EPA is providing an option for Subpart W reporters to delay reporting of six inputs to emission equations for two reporting years in specific situations. Refer to section III.A.3 of this preamble for further discussion on this topic.

[4] There are a small number of data elements (besides data elements categorized as ''inputs to emission equations'') for which we have not made final confidentiality determinations because we concluded that a determination of confidentiality for the data element should be made on a case-by-case facility basis. For example, annual ferroalloy product production capacity in subpart K (ferroalloy production), was not assigned a confidentiality determination; see 76 FR 30782, May 26, 2011.

[5] Based on the same four-step process, we also evaluated all data elements for which reporting was deferred to March 31, 2013 (Table A–6 to Part 98), which did not result in amendments to Part 98. Accordingly, affected facilities were required to report by April 1, 2013 these data elements for reporting years 2010 through 2012 and must include them in annual reports for subsequent reporting years, as required by Part 98. For a discussion of this evaluation, refer to the EPA's memorandum ''Summary of Evaluation of Greenhouse Gas Reporting Program (GHGRP) Part 98 ''Inputs to Emission Equations'' Data Elements Deferred Until 2013'' (December 17, 2012), available at *http://www.epa.gov/ghgreporting/documents/pdf/2012/documents/2013-inputs-memo.pdf.* In addition, the reporting of the inputs to emission equations in subpart I was addressed by amendments published on November 13, 2013 (77 FR 68162).

verification approach, to address the inputs to emission equations for which disclosure concerns were identified in these subparts. The public comment period for the proposed rule amendments was initially scheduled to end on November 12, 2013. The EPA received requests to extend the public comment period, and the EPA published a document in the **Federal Register** on November 6, 2013 (78 FR 66674) extending the public comment period to November 26, 2013.

In this action, the EPA is finalizing the proposed alternative verification approach for 23 subparts of the GHGRP with some changes from the proposed rule. The EPA had proposed amendments but is not taking final action on subpart L inputs to emission equations. Final action on subpart L inputs to emission equations will be addressed in a separate rulemaking.[6] Responses to comments submitted on the proposed amendments can be found in both Section II of this preamble and the document ''Greenhouse Gas Reporting Rule—Revisions to Reporting and Recordkeeping Requirements, and Proposed Confidentiality Determinations Under the Greenhouse Gas Reporting Program: EPA's Responses to Public Comments'' (see Docket ID No. EPA–HQ–OAR–2010–0929).

D. Subparts Covered in the Final Rule

The final amendments remove certain reporting requirements and add certain verification requirements for all subparts listed in Table 2 of this preamble. Table 2 of this preamble includes most of the subparts of Part 98 with inputs to emission equations for which the reporting deadline was deferred until 2015. Subpart I is not included in Table 2 of this preamble because reporting of the inputs to emission equations for subpart I was addressed by amendments published on November 13, 2013 (77 FR 68162). As mentioned above, subpart L is not included in Table 2 of this preamble because the EPA's final decision on reporting of the inputs to emission equations for subpart L will be addressed in a separate rulemaking. Subpart II is not listed in Table 2 of this preamble because no subpart II inputs to emission equations were determined to have disclosure concerns, so no subpart II inputs are removed from reporting under this amendment. Subpart W is excluded from Table 2 of this preamble as well, because no inputs to emission equations in subpart W are being removed from reporting. Refer to the memorandum ''Final Evaluation of Competitive Harm from Disclosure of 'Inputs to Equations' Data Elements Deferred to March 31, 2015,'' September 2014 (refer to Docket ID No. EPA–HQ–OAR–2010–0929) for discussions about the EPA's harm analysis results for subparts W and II. Refer to Section II.B of this preamble for a discussion of amendments to subpart W. Additionally, parts of these final rule amendments affect subparts not listed in Table 2 of this preamble. Specifically, for owners or operators of facilities subject to both a subpart listed in Table 2 of this preamble and a subpart of Part 98 not listed in Table 2 of this preamble, the amended recordkeeping duration applies to the facility's records required for all Part 98 subparts (to which the reporter is subject). Refer to Sections II.C and III.B of the proposal preamble for further discussion of this recordkeeping amendment (78 FR 55994, September 11, 2013). Additionally, owners or operators of facilities reporting under subparts E, H, O, Q, W, Y, AA, CC, and II, as well as certain owners and operators reporting under subpart C, must report inputs to emission equations for which reporting was deferred to 2015 and disclosure concerns were not identified for reporting years 2010 through 2013 in the reporting year 2014 annual report.[7] Refer to Section III.A.3 of the proposal preamble for further discussion of this reporting amendment (78 FR 55994, September 11, 2013).

TABLE 2—SUBPARTS AFFECTED BY THE FINAL AMENDMENTS REMOVING CERTAIN REPORTING AND ADDING CERTAIN VERIFICATION REQUIREMENTS [a]

Subpart
C—General Stationary Fuel Combustion—Stationary fuel combustion sources (e.g., individual units, aggregations of units, common pipes, or common stacks) excluding those that contain at least one combustion unit connected to a fuel-fired electric generator owned or operated by an entity that is subject to regulation of customer billing rates by the public utility commission (PUC) (excluding generators connected to combustion units subject to 40 CFR part 98, subpart D) and that are located at a facility for which the sum of the nameplate capacities for all such electric generators is greater than or equal to 1 megawatt electric output.[b c]
E—Adipic Acid Production.
F—Aluminum Production.
G—Ammonia Manufacturing.
H—Cement Production.
K—Ferroalloy Production.
N—Glass Production.
O—HCFC–22 Production and HFC–23 Destruction.
P—Hydrogen Production.
Q—Iron and Steel Production.
R—Lead Production.
S—Lime Manufacturing.
U—Miscellaneous Uses of Carbonate.
V—Nitric Acid Production.
X—Petrochemical Production.
Y—Petroleum Refineries.
Z—Phosphoric Acid Production.
AA—Pulp and Paper Manufacturing.
BB—Silicon Carbide Production.
CC—Soda Ash Manufacturing.
EE—Titanium Dioxide Production.

[6] Accordingly, comments received covering solely topics related to subpart L will be addressed in a separate rulemaking.

[7] For six data elements in subpart W, reporting of the data for reporting year 2013 may be delayed until reporting year 2015 in specific cases. Refer to section II.B.2 of this preamble for further discussion of this optional reporting delay. Further, final action on the inputs to emission equations whose reporting deadline was deferred until 2015 in Subpart L will be addressed in a separate rulemaking.

TABLE 2—SUBPARTS AFFECTED BY THE FINAL AMENDMENTS REMOVING CERTAIN REPORTING AND ADDING CERTAIN VERIFICATION REQUIREMENTS [a]—Continued

Subpart
GG—Zinc Production.
TT—Industrial Waste Landfills.

[a] This final action does not remove reporting requirements or require use of IVT for any reported GHG value for which the reporter uses a continuous emissions monitoring system (CEMS) or an EPA-approved alternative method—as allowed under 40 CFR 98.33(a)(5), 98.53(a)(2), and 98.223(a)(2)—to calculate the reported GHG value, rather than using inputs to emission equations for which reporting was deferred to March 31, 2015, and the associated EPA-provided calculation methodologies to calculate the reported GHG value.

[b] Includes one deferred input to an emission equations, 40 CFR 98.3(d)(3)(v), which is specified in subpart A of Part 98 and applies to only certain reporters under subpart C.

[c] These subpart C sources may elect to report inputs to emission equations rather than use IVT.

E. Legal Authority

The EPA is amending Part 98 under its existing CAA authority provided in CAA section 114. As stated in the preamble to the 2009 final GHG reporting rule (74 FR 56260, October 30, 2009), CAA section 114(a)(1) provides the EPA broad authority to require the information to be reported by this rule because such data would inform and are relevant to the EPA's carrying out a wide variety of CAA provisions. See the preambles to the proposed (74 FR 16448, April 10, 2009) and final Part 98 (74 FR 56260, October 30, 2009) for further information.

In addition, pursuant to sections 114, 301, and 307 of the CAA, the EPA has established final confidentiality determinations for the new data elements required by this amendment. Section 114(c) of the CAA requires that the EPA make publicly available information obtained under CAA section 114, except for information (excluding emission data) that qualifies for confidential treatment. The Administrator has determined that this action (Part 98 amendment and confidentiality determinations) is subject to the provisions of CAA section 307(d).

II. Summary of Final Amendments to Part 98

The EPA is finalizing the proposed alternative verification approach for the GHGRP, with some changes made in response to public comments. A detailed description of the alternative verification approach is available in the preamble to the proposed rule (78 FR 55994, September 11, 2013). Additionally, the EPA is finalizing its CBI determinations for the new reporting elements added to Part 98 in this action, with changes made in response to public comments.

This section of the preamble describes the final amendments to Part 98, organized according to the following four general areas:

- Addition of a requirement for facilities subject to the subparts listed in Table 2 of this preamble to use IVT to enter 324 inputs to emission equations into IVT for which reporting was deferred to 2015 and for which disclosure concerns were identified.
- Removal of the requirement to report 378 inputs to emission equations for which reporting was deferred to 2015 and for which disclosure concerns were identified.[8]
- Revision of recordkeeping requirements for facilities required to use IVT.
- Addition of new reporting elements for certain facilities required to use IVT.

These four areas of final amendments are described in more detail in Sections II.A through II.D of this preamble. Specifically, each of these sections includes a summary of final amendments, a summary of major changes since proposal, and a summary of the major comments and the EPA's responses thereto. The comment response document (Docket ID. No. EPA–HQ–OAR–2010–0929) includes a complete listing of all comments received on the proposed rule (78 FR 55994, September 11, 2013) and the EPA's responses.

Additional rationale for these amendments is available in the preamble to the proposed rule (78 FR 55994, September 11, 2013).

The final amendments also include minor changes from the proposed rule that harmonize regulatory text to be consistent with other provisions in 40 CFR part 98, clarify regulatory text, and correct minor errors in the proposal. These changes are described in the memorandum ''Summary and Explanation of Minor Changes Since the Proposed Rule'' (Docket ID No. EPA–HQ–OAR–2010–0929).

[8] As mentioned above, there are 378 equation inputs for which reporting was deferred to 2015 and for which the EPA determined there are disclosure concerns, and 324 of these equation inputs must be entered into IVT. Fifty-four of the 378 equation inputs do not need to be entered into IVT because these equation inputs are redundant to other equations inputs being entered into IVT or are otherwise not needed for verification.

A. Addition of a Requirement for Certain Reporters To Use an Inputs Verification Tool (IVT) To Enter Certain Data Elements

1. Summary of Final Amendments to Part 98

The EPA is finalizing the proposed requirement that IVT be used by facilities subject to the subparts listed in Table 2 of this preamble, with some exceptions for certain subpart C sources, as further discussed in Section II.A.2 of this preamble. Most commenters generally supported use of IVT as an effective method for verifying emissions. Using entered inputs to emission equations, IVT calculates the equation results, conducts electronic verification checks on the inputs, and generates a verification summary, as follows. IVT will be deployed within the Electronic Greenhouse Gas Reporting Tool (e-GGRT) and will be integrated without interrupting the current electronic reporting process. Reporters will enter data into e-GGRT that are required to be reported in the annual report, and will also enter into e-GGRT (via IVT) the inputs to emission equations for which reporting is no longer required under the amendments. IVT will use these entered data to calculate the equation results, conduct electronic verification checks on the entered inputs to emission equations, and generate a verification summary that informs the EPA about the verification results without specifying the entered inputs to emission equations. IVT will not retain the entered inputs to emission equations, which will not be electronically accessible to the EPA during their entry or anytime thereafter. Instead, the EPA will rely on the verification summary, which will become accessible to the EPA after annual report submittal, and other follow-up verification procedures described in the proposed rule for conducting verification. Sources subject to multiple subparts under Part 98 are required to use IVT for only those subparts listed in Table 2 of this

preamble. Reporters must use IVT starting with reporting year 2014. A detailed description of IVT and these requirements is provided in the proposal preamble (78 FR 55994, September 11, 2013), the memorandum ''Technical Approach and Design for Inputs Verification Tool,'' August 2013 (refer to Docket ID No. EPA–HQ–OAR–2010–0929), and Section II.A.3 of this preamble.

The inputs to emission equations required to be entered into IVT are specified in the ''verification software records'' provisions in the recordkeeping section of each subpart specified in Table 2 of this preamble.

Subpart C sources (e.g., individual units, aggregations of units, common pipes, or common stacks) that do not meet the following criteria have the option to use IVT or to report these deferred inputs to emission equations for which reporting was deferred to 2015: Contain at least one combustion unit connected to a fuel-fired electric generator owned or operated by an entity that is subject to regulation of customer billing rates by the public utility commission (PUC) (excluding generators connected to combustion units subject to 40 CFR part 98, subpart D) and are located at a facility for which the sum of the nameplate capacities for all such electric generators is greater than or equal to 1 megawatt electric output. For those sources who choose to report their inputs to emission equations, e-GGRT will require the reporters to waive the right to make confidentiality claims before they can be reported via e-GGRT.

2. Summary of Changes Since Proposal

This section provides a brief summary of changes to the requirement to use IVT since proposal. The EPA's rationale for these changes is provided in Section II.A.3 of this preamble as part of the EPA's response to the related comment(s).

The changes to the proposed requirement to use IVT are as follows:

- The EPA has revised one of the criteria in 40 CFR 98.36(f) that specifies which stationary fuel combustion sources (e.g., individual units, aggregations of units, common pipes, or common stacks) subject to subpart C of part 98 are required to report inputs to emission equations for which reporting was deferred to 2015. At proposal, 40 CFR 98.36(f)(1) stated that the stationary combustion source contains at least one combustion unit connected to a fuel-fired electric generator granted access by the Public Utilities Commission to deliver power to the local or regional power grid (excluding generators that are connected to combustion units that are subject to subpart D of the part). In the final rule, this criterion is revised to state that the stationary fuel combustion source contains at least one combustion unit connected to a fuel-fired electric generator that is owned or operated by an entity that is subject to regulation of customer billing rates by the public utility commission (excluding generators that are connected to combustion units that are subject to subpart D of the part).
- For sources that do not meet the criteria specified in 40 CFR 98.36(f), the EPA has added an option in 40 CFR 98.3(d)(3)(v) and 40 CFR 98.36(a) to either elect to use IVT or, if potential disclosure is not a concern to the reporters, to report these inputs to emission equations. For reporting year 2014, if a subpart C source elects not to use IVT, the source is required to report their subpart C inputs to emission equations for which reporting was deferred to 2015 for reporting years 2010 through 2014 in the reporting year 2014 annual report. If this source is not required to use IVT for other subparts listed in Table 2 of this preamble, the source would not be subject to the extended recordkeeping requirements of 5 years.[9]
- The EPA has revised the proposed amendments to 40 CFR 98.5(b) to add an option for reporters subject to using IVT to enter an explanation into IVT in cases where IVT has produced a warning message for an entered data value (e.g., the value is outside the EPA's expected range), but the reporter believes that the data value is accurate as entered.
- The EPA has revised its method for specifying which inputs to emission equations must be entered into IVT. At proposal, 40 CFR 98.5(b) indicated which inputs to emission equations must be entered into IVT by referring to equations specified in proposed Table A–8 of Part 98. In the final rule, the EPA identifies the inputs to emission equations that must be entered into IVT in a ''verification software records'' provision in the recordkeeping section of each affected subpart. Therefore, proposed Table A–8 is not included in the final rule. Refer to Section II.C of this preamble for further discussion of these ''verification software records'' provisions.

Additionally, in response to public comments, the EPA is making changes related to implementation of the alternative verification approach. These changes do not involve regulatory amendments to Part 98, but do improve the design and use of the IVT and address questions and concerns raised by commenters. A summary of these changes follows.

IVT Testing. The EPA will provide an opportunity well in advance of the March 2015 reporting deadline for stakeholders to test and provide feedback to the EPA on IVT for the 23 subparts addressed in this final action via a compliance assistance open testing period, or ''sandbox.'' Refer to Section II.A.3 of this preamble for a description of ''sandbox'' testing and further discussion of this opportunity. The EPA encourages all stakeholders to participate in the sandbox testing because this testing will provide a valuable opportunity for reporters to preview and familiarize themselves with the new application for all applicable subparts before the open reporting period begins, typically in mid-February. The EPA intends to offer sandbox testing from October through December 2014, providing testing by subpart on a rolling basis. Participants who identify an error in IVT will have the opportunity to provide feedback to the EPA regarding their IVT testing experience. Such feedback will ensure a higher quality IVT for reporting in early 2015 and subsequent years. For details on the sandbox testing, including a schedule of when testing will occur for each of the 23 subparts, please see *http://www.epa.gov/ghgreporting/reporters/training/inputs-verifier.html.*

IVT Design. In response to commenter input, the EPA has revised the IVT design to improve the ease of use and the efficiency of the data entry process, instructions, help screens, warnings, and error messages. Refer to Section II.A.3 of this preamble for further discussion of these revisions. See the EPA's comment response document in Docket ID No. EPA–HQ–OAR–2010–0929 for a list of all public comments regarding additional improvements to IVT and the EPA's responses, including revisions to address errors identified by commenters.

3. Summary of Comments and Responses

This section provides a brief summary of the significant comments received in response to the proposed requirement to use IVT, and the EPA's responses. The EPA's comment response document in Docket ID No. EPA–HQ–OAR–2010–0929 provides a complete listing of all related comments and the EPA's responses.

Comment: One commenter asserted that the verification approach that the EPA has used during the deferral period has been successful, is efficient, and should be adopted as EPA's permanent approach for verification, rather than requiring facilities to use IVT. The commenter asserted that, during this deferral period, verification checks have been conducted through e-GGRT on data that have been reported to the EPA. The commenter believes that while the EPA has identified reporting errors during these years, such concerns will become increasingly rare as reporters become more familiar with and are able

[9] If the source is required to use IVT for other subparts, the source must retain records for all subparts (including subpart C) for a period of 5 years.

to streamline the reporting process. The commenter asserted that in situations where the EPA is not able to verify the data, the EPA can continue to follow-up with facilities. The commenter also asserted that the interim verification approach used by the EPA has strong parallels to other ''certification'' requirements that the EPA has long deemed sufficient to ensure compliance in similar circumstances. Finally, the commenter asserted that because the interim verification approach has been successful, the risk of entering CBI into an unproven system that has the potential to be insecure is not justified.

Response: As the commenter notes, the EPA has been conducting verification checks using data other than inputs to emission equations. Although the checks to date gave us some confidence in the submitted data, the verification approach being finalized in this action allows for more precise checks to be conducted and therefore a more robust verification approach. Specifically, requiring that the inputs to emission equations (for which disclosure concerns were identified) be entered into IVT allows the tool to verify reported emissions by calculating the emission equation results as well as conducting verification checks on the entered inputs to emission equations. These checks are designed to ensure that calculations are performed correctly by the reporter and that appropriate data were used to calculate emissions. While the EPA agrees that over time, commenters will become more familiar with e-GGRT and IVT and the increased familiarity may help to reduce reporting errors, it is important that the Agency's verification process is as robust as it can be to ensure the accuracy of the submitted data. The verification approach finalized in this action will accomplish that goal while at the same time addressing the concerns regarding potential disclosure of sensitive information.

Regarding the comment that the verification approach used during the deferral period is similar to ''other certification requirements that the EPA has long deemed sufficient to ensure compliance in similar circumstances,'' it is not clear which programs to which the commenter is referring. As the EPA stated in the memorandum ''Evaluation of Alternative Verification Approaches For Greenhouse Gas Reporting Rule Subparts for which Reporting of Inputs to Emission Equations was Deferred to March 31, 2015'' (EPA–HQ–OAR–2010–0929–0048), the EPA considered the verification approach used by the EPA's Toxics Release Inventory (TRI) program, which requires self-certification that the information reported is accurate, and includes electronic data checks and follow-up conducted by the EPA. However, the TRI is a different type of program than the GHGRP in that it does not require specific monitoring and calculation approaches, but rather requires that estimates be based on the best available information. In contrast, the GHGRP prescribes a set of specific calculation methods, or equations, for individual source categories, processes, and emission units, so that data collected from multiple facilities are consistent and comparable. Given the additional specification required by the GHGRP, the EPA concluded that the more precise checks that will be conducted by IVT are warranted.

The EPA addresses the comment about IVT's security and the assertion that the system is unproven later in this section of the preamble.

Comment: One commenter expressed concern regarding the language used in 40 CFR 98.36(f)(1), indicating that the language is vague and confusing. The commenter stated that the phrase ''granted access by the Public Utilities Commission (PUC) to deliver power to the local or regional electric power grid'' could result in confusion or overly-broad reporting of CBI. The commenter explained that some jurisdictions impose only registration and other ministerial requirements on units granted access; whereas some jurisdictions ''engage in direct price and other regulation of vertically integrated and other utility operations that grant or restrict franchise rights.'' The commenter cautioned that it is not clear what level of regulation constitutes a ''grant of access'' under the rule, explaining that all units, regardless of type or regulatory regime, require ''access'' to a local or regional grid in some form to make off-site sales of power.

The commenter recommended that the EPA avoid misinterpretation of 40 CFR 98.36(f) by clarifying in the final rule that only units subject to regulation as ''public utilities under the laws and regulations of a given state'' (as opposed to those under other Federal regulations or not otherwise subject to State utility commission oversight of operations and rates as ''public utilities'') should be considered as having been ''granted access by the Public Utilities Commission to deliver power to the local or regional electric power grid.'' The commenter also stated that it is incorrect to assume that information provided to PUCs or similar institutions is also disclosed publicly, and that the EPA should clarify how it will address such information if the PUC treats that information as CBI or it is otherwise not available to the public.

Response: For the reasons stated below, the EPA agrees that the proposed 40 CFR 98.36(f)(1) does not clearly define the combustion units that must report subpart C inputs to emission equations for which reporting was deferred to 2015. Proposed 40 CFR 98.36(f) specified that: (1) The stationary combustion source contains at least one combustion unit connected to a fuel-fired electric generator that has been granted access by the Public Utilities Commission to deliver power to the local or regional electric power grid (excluding generators that are connected to combustion units that are subject to subpart D of the part); and (2) The stationary fuel combustion source is located at a facility for which the sum of the nameplate capacities for all electric generators specified in paragraph (f)(1) of the section is greater than or equal to 1 megawatt electric output.[10] As indicated in the memorandum, ''Evaluation of Competitive Harm from Disclosure of 'Inputs to Equations' Data Elements Deferred to March 31, 2015,'' August 2013 (refer to Docket ID No. EPA–HQ–OAR–2010–0929), the EPA had found no disclosure concerns for any combustion source meeting the proposed criteria in 40 CFR 98.36(f)(1), including combustion sources owned or operated both by power producers whose primary purpose is selling electricity and by power producers whose primary purpose is not selling electricity. It was the EPA's understanding at the time that both types of power producers are granted access to the grid by the PUC, that such grant requires that the associated consumer billing rates be regulated by PUCs and that, therefore, the power producers experience a high level of transparency due to the practice of the owner or operator disclosing fuel costs to the PUC through ratemaking procedures. Based on the above understanding, the EPA had concluded that releasing these data would not reveal any proprietary information about facility or process performance, design, and operation; cost to do business; raw material usage; or production.

In light of the comment above, the EPA further investigated the reporting obligations of the owner or operators of power producers to PUCs. Based on these investigations, the EPA established that the PUC does not

[10] We received no comment on the proposed criterion (2), and we are therefore finalizing that criterion as proposed.

typically grant access to the grid, but sometimes requires utilities to grant other power producers access to the grid. The EPA recognized that not all power producers that are granted access to the grid are subject to regulation of rates by PUCs, and therefore some of these power producers do not experience the high level of transparency that would be associated with the disclosure of fuel costs to the PUC through ratemaking procedures. As a result, the EPA cannot conclude that there would be no disclosure concerns associated with the release of these data for power producers based on their connectivity to the grid, given that some power producers connected to the grid are not subject to regulation of rates by the PUC. The new understanding and resulting harm analysis described above are also reflected in the memorandum ''Final Evaluation of Competitive Harm from Disclosure of 'Inputs to Equations' Data Elements Deferred to March 31, 2015,'' September 2014 (refer to Docket ID No. EPA–HQ–OAR–2010–0929). Given that the EPA found no disclosure concerns with respect to those power producers subject to regulatory oversight of consumer billing rates by a PUC, the EPA has changed proposed 40 CFR 98.36(f)(1) in the final rule to more clearly and accurately describe the combustion units that must report as those units owned or operated by an entity that is subject to regulation of customer billing rates by the public utility commission. Power producers subject to regulatory oversight of consumer billing rates by a PUC include investor-owned utilities (IOUs) (i.e., the most common type of utility regulated by PUCs), non-utility generators, and consumer-owned utilities (COUs) that are subject to regulation of customer billing rates by a PUC. Because industrial plants that generate electricity are not subject to regulation of customer billing rates by a PUC, power producers owned or operated by industrial plants would not meet this revised reporting criterion in 40 CFR 98.36(f)(1).

The commenter recommended replacing the proposed language ''granted access by the PUC to deliver power to the grid'' with ''subject to regulation as a public utility under the laws and regulations of a given state.'' The terminology ''public utility'' could be interpreted to refer only to COUs, which are sometimes called ''public power,'' but excluding IOUs, which would not be appropriate because IOUs are subject to regulatory oversight of consumer billing rates by a PUC and therefore experience a high level of transparency. Also, the commenter's suggested phrase ''under the laws and regulations of a given state'' could be interpreted as meaning any state law or regulation, regardless of whether they are associated with PUCs. Given that virtually all facilities generating electricity are governed to some degree by other state laws and regulations, and those regulated by the PUC might not be regulated for ratemaking purposes, this suggested text would expand the reporting requirement beyond those facilities subject to regulation of rates by the PUC, which is the basis for our finding of transparency. Accordingly, the EPA has determined that the rule text suggested by the commenter was overly broad. The EPA has determined that the text ''owned by an entity subject to regulation of customer billing rates by a public utility commission'' more accurately describes the power producers for which we found no disclosure concerns and therefore must report the subpart C inputs to emission equations for which reporting was deferred until 2015.

The EPA agrees with the comment that not all information that is provided to PUCs may necessarily be made available to the public; however, the EPA believes that power producers subject to regulation of rates by PUCs generally experience a high level of transparency. The EPA has received no comment refuting the high level of transparency or stating that there are disclosure concerns associated with these subpart C inputs to emission equations. The final criterion (''subject to regulation of customer billing rates by PUCs'') was formulated to capture power producers that are utilities in states with so-called ''regulated'' electricity markets. In these states, power producers are generally owned by vertically integrated utilities, which operate as monopolies and sell power to customers at rates that are established through PUC proceedings. Given this monopolistic market for power producers subject to regulation of rates by PUCs, the EPA does not identify any disclosure concerns with reporting the inputs to emission equations in subpart C for reporters that meet the final criterion. In contrast, in ''deregulated'' or ''restructured'' states that have unbundled generation and delivery, independent power producers may compete to sell electricity, which is then delivered through a regulated distribution utility. These independent producers are not subject to PUC ratemaking procedures, and they will therefore not be required to report subpart C inputs to emission equation data for their combustion units. For the reasons stated above, the EPA concludes that clarifying the scope of the criteria to be those power producers that are subject to regulation of customer billing rates by PUCs accurately specifies facilities identified as having no disclosure concerns with the release of these data.

Specifically, the final 40 CFR 98.36(f) provides the following criteria to indicate which stationary fuel combustion sources (e.g., individual unit, aggregation of units, common pipe, or common stack) must report their inputs to emission equations for which reporting was deferred to 2015: (1) The stationary fuel combustion source contains at least one combustion unit connected to a fuel-fired electric generator owned or operated by an entity that is subject to regulation of customer billing rates by the public utility commission (excluding generators that are connected to combustion units that are subject to subpart D of the part); and (2) The stationary fuel combustion source is located at a facility for which the sum of the nameplate capacities for all electric generators specified in paragraph (f)(1) of the section is greater than or equal to 1 megawatt electric output. For any stationary fuel combustion source subject to subpart C that does not meet these criteria, the final rule provides an option for the source either to use IVT starting in reporting year 2014 or to report these data to the EPA, including reporting the data specified in revised Table A–7 for reporting years 2010 through 2013.[11] Refer to the comment summary and the EPA's response immediately following this response for further discussion about this new option.

Comment: Three commenters asserted that the EPA not require them to use IVT. They asserted that reporters under subpart HH (municipal solid waste landfills) have not expressed disclosure concerns regarding inputs to equations during comment periods for previous rulemakings, and that the proposal did not take this into consideration as it did not include an option to allow reporters to submit data to the EPA rather than use IVT. They further asserted that under the proposal, they would be required to use IVT for only a single equation input (quantity of fuel combusted under subpart C, Tier 1), and that the burden to their industry associated with use of IVT is not warranted, given that the single

[11] As discussed above, the e-GGRT will require that such reporter waive any confidentiality claim for its facility's inputs to emission equations before such data can be entered into e-GGRT.

equation input is associated with less than 1 percent of reported GHG emissions from the industry. The commenters expressed concern that imposing the proposed requirements associated with IVT on landfills would be burdensome, and indicated that they would be willing to report the single data element to the EPA. They recommended that the EPA exclude Tier 1 reporters from being required to use IVT.

Response: The IVT requirements in the final amendments for subpart C, which covers a wide range of industries, address disclosure concerns identified for certain ''inputs to emission equations'' data elements. However, these commenters expressed that they do not have disclosure concerns with their fuel use data, the single input required for Tier 1 reporting under subpart C. For these commenters who are not concerned with reporting their fuel use quantity under subpart C, the EPA sees no reason to insist that they use IVT instead of reporting such data. In addition, the fact that these commenters have not identified disclosure concerns with any inputs to equations suggests that it is likely that landfills using other subpart C calculation methods besides Tier 1 may similarly prefer to report inputs to emission equations data elements under subpart C instead of using the IVT. Further, given the wide range of industries reporting under subpart C, it is possible that there are other industries that do not have disclosure concerns with fuel quantity and other equation inputs for subpart C calculation methods. For any such subpart C reporter, the EPA similarly sees no reason to insist that it use IVT instead of reporting such data. Accordingly, the EPA is revising 40 CFR 98.36 to make it optional for subpart C sources that do not meet the criteria for electric generators in 40 CFR 98.36(f) [12] to use IVT. As such, under the final rule, a subpart C reporter, except for those meeting the criteria of 40 CFR 98.36(f), who does not have disclosure concerns for the subpart C inputs to emission equation data elements may waive confidentiality claims and report such data instead of using IVT. Before e-GGRT will accept entry of these inputs to emission equations data, it will require that the reporter waive confidentiality claims of such data.

If a subpart C source elects to report these data for reporting year 2014, the source is required to report these data for reporting years 2010 through 2013 as part of the reporting year 2014 annual report. If a source elects to use IVT in reporting year 2014, and then the source elects in a future year to report these data, the reporter will not be obligated to report these data for any prior year.

Comment: Six commenters recommended that the EPA allow reporters time to test IVT prior to the start of reporting for reporting year 2014, using a fully functional ''sandbox'' testing environment similar to that used previously for e-GGRT testing. These commenters urged the EPA to allow sandbox testing for each affected subpart, arguing that the subpart X prototype developed for commenter review at proposal allowed them to review only the design and functionality of the prototype for subpart X. They stressed that additional testing is necessary to ensure IVT works for all affected subparts. Two commenters noted that sandbox testing would allow errors in the software to be found and corrected prior to implementation. Commenters also noted that sandbox testing of each subpart would enable them to determine whether IVT calculates emission equation results correctly and stated that sandbox testing would provide an opportunity for reporters to compare results of the calculations in IVT against the values calculated using the optional calculation spreadsheets. Other commenters requested sandbox testing because it would allow them to review and comment on the verification ranges incorporated in IVT. One commenter stated that testing could provide important information that may result in improvements to IVT that obviate the need for reporters to over-ride error messages. Other commenters expressed concern about protection of CBI and concluded that rigorous testing of each affected subpart is critical to ensuring confidential data are protected.

Four commenters recommended that the EPA allow sandbox testing of the XML version of IVT. These commenters noted that the pilot IVT provided very limited testing for reporters using the XML option. They noted that the testing was limited to only one subpart, that only one sample XML file was provided for testing, and that the EPA did not provide the XML schema. Two commenters requested that the EPA provide additional time for reporters to review and test the XML IVT for each subpart. The complexity of the XML option, they argue, makes thorough testing of any XML schema essential.

Eight commenters asserted that the pilot tool available during the comment period for the subpart X mass balance methodology was too limited, and as a result provided limited value in assessing the burden of the tool for the other methodologies and subparts that would be required to use the tool. Two of these commenters noted that because subpart X has different inputs to equation data elements and equations than other subparts, they were unable to provide adequate feedback on the tool during the comment period. Two of these commenters suggested that the EPA develop a pilot reporting tool for their subpart of interest, and re-propose the verification tool for that subpart to provide ample opportunity to provide public comment on the burden associated with the use of the tool. Three of these commenters asserted that because the pilot testing for subpart X was limited to the mass balance methodology, it provided limited value to assess the ease of use and burden of the tool for the other methodologies within subpart X.

Two commenters indicated that reporters need more time in 2015 to complete their annual reports than in previous years. One commenter stated that in the past, the EPA has provided industry just a handful of weeks before the reporting deadline to update all of its data systems, input all of its data into e-GGRT, correct any errors, complete internal reviews of the reports, and to submit the reports. The commenter noted that the short timeframe was extremely challenging in past years. Both commenters indicated that it would be unacceptable for the EPA to provide another short timeframe in 2015, considering the new requirements to back-report 2010 through 2013 data and use the new IVT. One commenter requested that the inputs verification tool be fully functional by January 1, 2015 to allow reporters to undergo the required software development so that their systems accurately ''sync'' with the new version of e-GGRT. The commenter suggested that the EPA include language in Subpart A to indicate that for each day past January 1, 2015 that the upgraded e-GGRT is not available, the reporting deadline will be extended by one day.

Response: During the public comment period, the EPA provided a subpart X prototype for testing and comment. This prototype allowed reporters to review the overall design, structure, and functionality of IVT, which applies to all subparts that are to use the tool. It was not necessary to have a prototype for every subpart during the open comment period because the overall design of IVT is the same irrespective of the specific methodologies, or

[12] Sources meeting the criteria in 40 CFR 98.36(f) must report their subpart C inputs to emission equations that were deferred from reporting until 2015.

equations, in each subpart. Specifically, the tool demonstrated the following functions that apply to all subparts that are to use the tool: How IVT functions within e-GGRT, how to navigate from e-GGRT to IVT and vice versa, how inputs are entered into IVT, how IVT calculates equation results based on the inputs to emission equations entered, how an emission equation result calculated in IVT is transferred to the annual reporting form in e-GGRT, how the reporter may override an emission value calculated by IVT, how the results of the verification checks conducted in IVT appear in the verification summary, how a reporter may enter inputs to emission equations into IVT over multiple e-GGRT sessions without having to start over each time the reporter logs out of e-GGRT (by saving them on their local computer), and how to use the XML bulk upload feature rather than using webforms. Reporters were also able to generate the list of inputs entered into IVT that must be kept as a record, view the format of the records file created, and test the downloading of the records file for recordkeeping purposes. These features that were available for testing represent all of the key functions of IVT. Comments on any of the above features received during the public comment period would apply to all subparts that are required to use IVT and not just the subpart X prototype. The feedback assisted the EPA in determining improvements to the design and functionality of IVT for all subparts with the IVT requirement.

Although providing IVT for all subparts during the comment period was not necessary, the EPA agrees with the commenters that both the EPA and reporters would benefit from the opportunity to test IVT for all applicable subparts prior to the beginning of reporting for reporting year 2014. Accordingly, the EPA will offer reporters an opportunity prior to the beginning of the reporting year 2014 open reporting period (which is typically in mid-February) to view and provide feedback on the IVT modules for all 23 subparts listed in Table 2 of this preamble. The EPA will use a sandbox testing environment similar to that used previously for e-GGRT testing. The EPA intends to offer sandbox testing from October through December 2014, providing testing by subpart on a rolling basis. For details on the sandbox testing, including a schedule of when testing will occur for each of the 23 subparts, please see *http://www.epa.gov/ghgreporting/reporters/training/inputs-verifier.html.* We are confident that this sandbox testing period will provide reporters the time needed to sync their systems with IVT prior to the open reporting period for reporting year 2014, and submit their reports by March 31, 2015.

As previously provided for in the 2010 sandbox for testing of e-GGRT, the sandbox environment for IVT will provide participants an opportunity to try IVT functions for all 23 subparts, including navigating between IVT screens, entering data, testing the XML uploading option (saving XML files to local drives, and uploading XML files to IVT), checking the built-in calculation algorithms, and accessing Help content. Participants will be assigned a test facility for which they will be able to enter mock data for any IVT subpart module they wish to test.

Sandbox participants may notify the EPA should they identify an error, bug, or technical glitch in IVT. The EPA plans to conduct extensive testing to ensure that IVT calculates the emissions correctly for all subparts; however, should any calculation or other subpart-specific errors remain, these can be detected during the sandbox period and addressed prior to the open reporting period. Because extensive internal testing will have been conducted prior to the compliance assistance ''sandbox'' being made available, the EPA does not anticipate major issues during the sandbox period that cannot be addressed prior to the open reporting period.

Regarding the comment that additional time is needed due to the back-reporting of a significant amount of information, the EPA notes that, with the exception of subpart W, only a handful of inputs to equations in each subpart must be back-reported for years 2010 through 2013 (i.e., reporters typically will have no more than 10 inputs to equations in each of these subparts to report for these years.) Further, as discussed above, because the system will have gone through extensive testing followed by an IVT sandbox period for reporters to sync their systems with IVT before it is opened for reporting, we are confident that the reporters will have sufficient time to submit their reports, including back reporting a small number of inputs for reporting years 2010 through 2013. For subpart W, which has a substantial number of inputs to be back-reported to the EPA for these years, the EPA plans to use a spreadsheet to collect this data, and anticipates publishing the spreadsheet in October 2014. This will allow facilities to begin data entry into the spreadsheet prior to the open reporting period. The spreadsheet can then be uploaded to e-GGRT during the open reporting season. Refer to Section II.B.1 of this preamble for a discussion of the timing of entering inputs to emission equations for reporting years 2011 through 2013 for subpart W. In light of the extensive testing and the sandbox period, which will allow reporters to sync their systems with IVT prior to the open reporting period, and the EPA's plans to make the subpart W spreadsheet for 2010 through 2013 available in October, we have determined that the typical reporting period of approximately six weeks is sufficient.

As requested by commenters, sandbox participants may provide input on the ranges that the EPA has identified for the reasonable range verification checks on the inputs entered into IVT. As is the case for all expected range checks used as part of the electronic verification process, the EPA will set initial ranges and will continually refine ranges as additional information is obtained. Should the EPA receive feedback on expected range checks during the sandbox period, the EPA will review the feedback and adjust the ranges prior to the open reporting period as appropriate. Also, as is the case for all expected range checks conducted in e-GGRT, the reporter may enter any value into IVT regardless of the reasonable range. The expected ranges are not used by the EPA as a final determination regarding data quality or compliance; rather, they are used as a first step of the verification process and are further investigated. Finally, as is discussed in more detail later in this section of this preamble, during the reporting process, the reporter will have the opportunity to add a comment to the EPA associated with individual verification warnings in IVT. As a result, if reporters feel that an explanation is needed as to why a particular range was exceeded or that the range within IVT needs to be adjusted, they may do so as part of the annual reporting process.

Regarding the comments on the XML upload reporting option, the EPA notes that during the public comment period, we published an XML schema for the IVT prototype, as well as two sample files to be used with the prototype, an XML Inputs Verifier file and an XML Annual Report File. The sandbox that will be available for IVT will also include this XML upload reporting option. For subparts with XML reporters, the EPA will provide the XML schema for the inputs to equations data entered into IVT and example XML files to use for testing the XML upload approach. The EPA agrees that changes to the XML schema need to be

thoroughly tested, and the EPA plans to do so prior to releasing the XML schema for e-GGRT and IVT.

The EPA disagrees with the comments that the pilot verification tool provided at proposal for the mass balance methodology in subpart X was of limited value for assessing the burden of use for other methodologies and subparts required to use IVT. As discussed in detail above, the overall design of the IVT is the same irrespective of the differences in methodologies and subparts. Accordingly, the subpart X prototype allowed reporters to review the overall design, structure, and functionality of IVT for all subparts that are to use the tool. Based on their experience with the subpart X prototype, reporters may assess the burden associated with other subparts by comparing the number and complexity of equations in other subparts to the equations in subpart X. Further, in the proposed Impacts Analysis, ''Assessment of Cost Impacts of 2015 Inputs Proposal—Revisions to Reporting, Recordkeeping, and Verification Requirements Under the Greenhouse Gas Reporting Program,'' August 2013 (available in the EPA's Docket ID No. EPA–HQ–OAR–2010–0929), the EPA stated that the burden for entering inputs to equations into IVT is no different than it would be to enter them into e-GGRT for reporting to the EPA. The EPA did not receive comments on the proposed Impacts analysis. For the reasons stated above, we do not believe that it is necessary to re-propose the tool with all subparts to provide an opportunity to comment on the burden of using the tool for all subparts, as suggested by several commenters. Refer to the next comment and response for additional detail on the specific comments provided to the EPA on IVT design and functionality and how the EPA is addressing those comments.

Regarding the comment that rigorous testing of each affected subpart is critical to ensuring that data are adequately protected, refer to comments and responses later in this section on how the EPA is ensuring that inputs entered into IVT are not retained by the EPA.

Comment: Many commenters provided useful suggestions for improvements to IVT. For example, some commenters recommended IVT include functions that allow reporters to automatically populate web form fields in situations where the data are reported on a recurring basis (e.g., weekly, monthly, etc.) and are likely to remain constant over time. Other commenters recommended IVT allow data to be copied from external spreadsheets or other data files instead of being entered individually into IVT. These commenters noted that this approach would save time and avoid unnecessary transcription errors. Three commenters recommended that IVT flag any data entry errors related to the data being outside an acceptable range directly following data entry, rather than on a separate screen. One of these commenters requested that IVT should provide more information regarding the error triggered (e.g., whether the entered data are above or below the expected range). These commenters stressed that alerting reporters to errors at the moment of data entry would help reporters identify errors more quickly. Three commenters recommended an additional comment field be added to IVT that allows reporters to respond to IVT error messages. They maintained that this approach would streamline the verification process and save time for both the EPA and reporters by potentially avoiding follow-up after the report has been submitted to the EPA.

Response: The EPA has reviewed the commenters' suggested improvements to IVT and, with the exception of one suggestion described below, has incorporated these improvements in IVT. The EPA agrees with the suggestion that reporters should have the ability to automatically populate web form fields in situations where the data required to be entered were collected on a recurring basis (e.g., weekly, monthly, etc.). For example, in subpart X, for the gas stream entry fields, reporters will be able to automatically populate the monthly carbon content and molecular weight of the feedstock with the first month's values since those values may remain constant in many cases. The EPA anticipates that this change in IVT will improve the efficiency of the data entry process and reduce chances for errors associated with manual entry. Regarding the recommendation to allow data to be copied from external spreadsheets or other data files instead of being entered individually into IVT, the EPA agrees with commenters that this capability would reduce burden and errors associated with manual data entry. For each data element for which the reporter is required to enter values collected at a frequency greater than monthly, the EPA is providing an off-line tool to convert spreadsheets to the XML input format, for use with IVT.

The EPA has evaluated commenters' concerns regarding the flagging of data errors when they are entered into IVT. As discussed in the proposed rule, IVT provides ''real-time'' checks as data are entered into IVT, similar to checks in e-GGRT. The results of these checks, called validation messages in IVT, will be easily accessible within e-GGRT at the time of entry. Although such warnings will be on a separate screen, there are direct links to such screens to ensure that it is easy to navigate to IVT to revise data as needed. This is the same for all validation checks that are currently conducted and displayed within e-GGRT for all reporters. Although we recognize the potential usefulness of this suggestion, this type of design change would require a significant amount of resources, and cannot be done prior to the reporting period for reporting year 2014. The EPA is always open to making changes to e-GGRT and IVT over time, and may consider whether it is feasible to show validation messages on the same screen on which the data are being entered and, if so, whether to make such adjustment in IVT.

The EPA agrees with commenters that IVT should provide more information regarding the error triggered (e.g., whether entered data are above or below the expected range). Accordingly, in response to these comments, IVT will include an ''out of range'' message in the verification summary that indicates the range being used for each data element entered as well as whether the value entered was above or below the range. We anticipate that this additional information will make the verification process more efficient by reducing the amount of follow-up required for verification.

Finally, the EPA has considered commenter recommendations for addition of a comment field allowing reporters to respond to IVT error messages, explaining why a potential error may not be an error, such as when an entered equation input is found to be out of range or has otherwise triggered a message on the verification summary. The EPA recognizes that, in some cases, reporters may have inputs to emission equations that are legitimately outside of identified ranges due to unique circumstances. In cases such as these, we agree with commenters that this option will reduce the amount of follow-up required of the EPA and reporters. As such, we have implemented this change in IVT.

Comment: Eight commenters raised security concerns regarding data entered into IVT. These commenters wanted additional information on how IVT would protect sensitive data and assurances that the data would not be inadvertently disclosed. One commenter stated that the security of IVT was particularly important to facilities that are required to comply with certain U.S.

export control requirements. Four commenters were concerned about security during the period of transient storage while the user is logged into IVT of data. Some commenters asked for clarification on where the data will reside during this period, while other commenters wanted the EPA to demonstrate that data would only be stored temporarily and that no data would be retained during a system crash. Some commenters wanted additional information about who would have access to the data during this transient storage of the data. One commenter wanted the EPA to confirm that data with disclosure concerns entered into IVT would not be accessible to EPA personnel. Two commenters were concerned that outside vendors would have access to data in the transient storage area. Three commenters were concerned about the security of data transmitted over the Internet. Two commenters were concerned that data could be intercepted during transmission by proxy servers and that data may still be stored in these proxy servers after the session ends. One commenter expressed concern that use of XML files to input data into IVT raises security concerns because the format is easily readable, containing the definitions needed to decipher the data values. This commenter was also concerned that malicious or inadvertent HTML codes can be inserted into XML files thereby causing other security vulnerabilities. Other commenters wanted the EPA to confirm that IVT will not submit confidential information over the Internet.

Response: IVT is designed to operate securely within e-GGRT, as a transient process, such that data entered into IVT would be temporarily housed in the IVT system while the reporter is actively using IVT. The IVT system is designed so that entered inputs data are placed only in session (server memory). The entered inputs will not be saved to the underlying EPA database, nor will they be saved to the server's file system. The EPA has taken the following steps to ensure that inputs data are not mistakenly appended to data that are saved (e.g., when saving validation and verification summary records to the database) and to ensure that information saved to the server logs does not contain user-entered inputs data. IVT has not been configured to use the server's file system to temporarily save files. Instead, IVT is configured only to use memory for transient housing of inputs data while the reporter is actively using IVT. This configuration applies to inputs data entered into IVT webforms or data uploaded from a local 'inputs' file through the IVT webforms, as well as inputs data uploaded through the XML upload process. As with data entered through the webform, IVT will not save uploaded XML files to the underlying EPA database or to the server's file system, but will only retain the data in server memory for the duration of the session. Uploaded XML files will be validated against a published schema definition (i.e., published document prescribing the required format of the file), so in many cases XML files containing ''malicious or inadvertent HTML codes'' would be rejected by the system as not being well-formed. If ''malicious or inadvertent HTML codes'' were inserted into an XML in a manner that did not render it invalid, the file would be rejected by a process that inspects uploaded files for script tags. Therefore, the system is not vulnerable to any potential HTML code appended to these files. The entered inputs to emission equations are then erased when the user's session with e-GGRT ends.

Regarding the comments that unauthorized persons may be able to access data that are temporarily in session while the reporter is actively using IVT and the concerns with transmission of data over the Internet and potential data interception, the EPA complies with the strict security procedures and guidance governing access to federal data servers established by the National Institutes of Standards and Technology (NIST) and in accordance with the Federal Information Security Management Act of 2002 (FISMA). All EPA information systems must meet the security requirements defined in the NIST Special Publication 800–53.[13] Adherence to the NIST Federal Information Systems requirements are intended to protect EPA information systems, including e-GGRT, from a diverse set of threats including hostile cyber-attacks, natural disasters, structural failures, and human errors. As such, the program keeps a security plan up to date and conducts annual reviews of the security controls. Furthermore, in order to address the security concerns noted by the commenter regarding unauthorized access to data while it is in session on the server, the EPA has identified an additional security layer beyond the NIST requirements to encrypt the transient session data used by the server while the reporter is actively using IVT. The session data will be encrypted with a key unique to that user's session. As a result, the EPA has concluded that this suite of protections is sufficient to address concerns raised regarding the possibility of unauthorized persons accessing data in the transient housing area while the reporter is actively using IVT.

Regarding the comments expressing concern over transmission of data over the Internet and potential data interception, the inputs data entered by a reporter in the web form are encrypted via Transport Layer Security (TLS) security protocol. TLS is a standard security protocol providing an encrypted link between the client (the user's browser) and the EPA's servers. TLS encryption ensures that entered data are secure from the browser to the EPA server. Normal Internet HTTP communication sends data between the client and the server in plain text. Application of the TLS protocol to HTTP communication (HTTPS) will ensure that the inputs data are encrypted rather than in plain text while in transit. TLS encryption ensures that data are completely secure from the user's browser to the e-GGRT servers. Although data are transferred over the Internet through proxy servers, due to TLS encryption, the inputs data would never be in plain text and could not be deciphered by intermediate or proxy servers. TLS is the standard security protocol used to protect the transfer of many types of sensitive data, including credit card numbers, banking data, and similar information requiring maximum protection. The EPA does not use proxy servers for its e-GGRT database, but relies completely on dedicated server space at the National Computer Center. Therefore, TLS termination takes place only on secured e-GGRT servers. The EPA will always use these secure servers (identified with the ''https'' prefix), which identify that the TLS security protocol is applied, and IVT will not incorporate inputs to emission equations data into URLs. This also applies to data transferred through XML upload. XML data uploaded by a user will also be encrypted via TLS security protocol and will not be in plain text while in transit. If intercepted while in transit, the XML data would be encrypted and therefore indecipherable. These encrytion procedures will protect data as they are transferred between the client's browser and the EPA's servers.

IVT is also designed to protect data in the instance of a system malfunction. In the event of a system crash, all session data are lost, including the session key that would be capable of decrypting that data. There are no processes in place to save any information during a system crash. Therefore, if a reporter enters data

[13] *http://csrc.nist.gov/publications/PubsSPs.html.*

into IVT and the IVT system malfunctions, the reporter's data are not stored in any way and cannot be recovered.

Regarding an earlier comment that IVT is an unproven system, the EPA disagrees with this comment. The EPA designed a prototype to demonstrate the functionality of the tool. As stated earlier in this preamble, this prototype allowed reporters to review the overall design, structure, and functionality of IVT, which applies to all subparts required to use the tool. For additional information on this topic, please see the discussion earlier in this preamble on the prototype and ''sandbox'' testing.

In summary, the EPA has taken several steps to add safeguards and to build multiple security ''layers'' into the system to prevent release of the data as they are transmitted to the EPA's servers and temporarily housed while the user is actively using IVT, but are not retained in the server memory after the user's e-GGRT session ends. The EPA is confident that the described security procedures will adequately protect the data entered into IVT.

Comment: Six commenters stated that they consider equation input data required to be entered into IVT to be CBI and expressed concern that the EPA has not gone far enough to legally protect these data from public disclosure. Four commenters described how these data meet the five-part criteria specified in 40 CFR 2.208 for confidential treatment. The commenters asserted that the EPA recognized in its proposed rule that these data are entitled to protection from public disclosure. The commenters questioned why, given this recognition, the EPA has not afforded these data CBI protection under the CAA. Two commenters questioned why the EPA was silent in its proposal as to whether these data are to be afforded CBI protection, instead focusing on revising reporting and recordkeeping requirements for these data.

Five of the commenters referred to a continued risk associated with the proposed verification approach that equation inputs entered into IVT will be available to the public or subject to disclosure under the CAA. Four commenters noted that section 114(c) requires that the EPA must provide ''emission data'' to the public, if requested. One of these commenters described the continued risk as related to the EPA's inspection of facility records, indicating that the EPA did not include provisions in the proposal explaining whether or how records of equation input data entered into IVT are to be afforded CBI protection or otherwise protected from public disclosure as a result of Agency review of records. The commenter further stated that the proposed rule does not set forth a requirement that the EPA can access these data only through an official enforcement-related action that might afford the information privileged status and provide some security from public release, nor, according to the commenter, are there provisions to ensure that non-enforcement staff or EPA contractors cannot access the data and inadvertently release these data or otherwise render the information unprotected.

Three commenters further expressed concern that by retaining any residual risk of disclosure of equation input data entered into IVT, 40 CFR part 98 could potentially subject reporters to antitrust liability. The commenters explained that equation input data required to be entered into IVT include cost- and output-related information that is a significant determinant of prices, including information regarding fuel production and distribution, which provides details about plant operations and inputs, nature, and location of sources.

The six commenters contended that the EPA must take further steps to address the remaining ''residual risk'' of disclosure under the CAA of equation input data required to be entered into IVT. Five of the commenters urged the EPA to provide CBI protection to equation inputs entered into IVT. Four of the commenters urged the EPA to address their concerns about disclosure by explicitly stating in the final rule that data entered into IVT qualify for confidential treatment under the EPA's regulations and should not be deemed ''emission data.'' One commenter requested that the EPA address their concerns about disclosure by including in the final rule language expressly recognizing the CBI status of these data. One commenter urged the EPA to further address concerns about the residual risk of disclosure by clarifying, in the preamble to the final rule, that equation input data entered into IVT remain at all times in the possession of the company entering the data and thus are not subject to disclosure under any other Federal law as a result of entry into IVT.

Response: As explained below, the EPA has not determined either in this rulemaking or any other final action that the equation input data entered into IVT are entitled to CBI protection. The EPA previously amended Part 98 to defer the reporting of inputs to emission equations data elements to allow the Agency time to evaluate concerns raised by some reporters regarding potential public disclosure of some of these data elements and to take appropriate action (76 FR 53057, August 25, 2011). The four-step evaluation, which was designed to inform the Agency whether and what further action may be appropriate, includes discussions of potential disclosure scenarios as well as consideration of alternative emission calculation and verification methods.[14] The evaluation does not include establishing confidentiality status for any data that the EPA assigns to the inputs to emission equations category. Any such determination must be made in accordance with the CAA and the EPA's implementing regulations under 40 CFR part 2, subpart B. Based on the evaluation,[15] we had proposed, and are now taking final action, to replace the requirement to report certain inputs to emission equations by 2015 with a requirement to enter these data into IVT. Although the final rule addresses potential disclosure concerns with respect to certain inputs by providing an alternative verification tool (i.e., IVT) instead of requiring reporting of these inputs, it does not include final confidentiality determinations for any equation input data required to be entered into IVT, nor has the EPA stated anywhere in the rulemaking record that such data are entitled to CBI protection. The EPA therefore has not concluded that any such data (inputs to emission equations) are entitled to CBI protection.

Regarding the comments that expressed concern about the EPA's ability to protect equation input data entered into IVT, the concern may have stemmed from a mistaken belief that the EPA will have possession of such data. That is not the case as explained in detail here, as well as in the response to comment immediately above, Section II.A of the preamble to the proposed rule (78 FR 55994, September 11, 2013), and the memorandum ''Technical Approach and Design for Inputs Verification Tool,'' August 2013 (refer to Docket ID No. EPA–HQ–OAR–2010–

[14] For a description of the evaluation process, please see the memorandum titled ''Process for Evaluating and Potentially Amending Part 98 Inputs to Emission Equations'' (Docket ID No. EPA–HQ–OAR–2010–0929).

[15] The results of the evaluation were documented in the four following memoranda available in the EPA's Docket ID No. EPA–HQ–OAR–2010–0929: ''Evaluation of Public Availability of Inputs to Emission Equations for which Reporting was Deferred to March 31, 2015,'' August 2013; ''Evaluation of Competitive Harm from Disclosure of 'Inputs to Equations' Data Elements Deferred to March 31, 2015,'' August 2013; ''Evaluation of Alternative Calculation Methods,'' August 2013; ''Evaluation of Alternative Verification Approaches For Greenhouse Gas Reporting Rule Subparts for which Reporting of Inputs to Emission Equations was Deferred to March 31, 2015,'' August 2013.

0929). During the time period that a reporter is entering data (i.e., inputs to emissions equations) into IVT, the EPA will have no access to the data being entered. Further, when a reporter logs out of IVT, none of the data entered into IVT are retained in the EPA's electronic systems. To address concerns about potential release of these data via the Internet, the EPA provides further clarifications regarding the security of IVT elsewhere in this section of the preamble. Given that the EPA will have no access to, nor possession of, data entered into IVT, such data will not be considered to be agency records as defined by the Freedom of Information Act or the Federal Records Act, and the EPA cannot conceive, and the commenters did not explain, which federal law would require the EPA to release information that it does not have. For the same reason, the EPA also rejects any suggestion that the Agency is legally required to protect or make confidentiality determinations for equation input data entered into IVT. The commenters have not identified any law or regulation that requires the EPA to protect data not in the EPA's possession, nor do we believe that any such duty exists. For the reasons stated above, we disagree with the comments that the EPA must provide CBI protection to equation input data entered into IVT.

With respect to the commenter's inquiry on how records of equation input data entered into IVT, which are required to be kept on-site, are protected from public disclosure as a result of Agency review of records, we describe below the verification process, including follow-up on-site visits. As described below, we do not envision that an onsite review of records for purposes of verifying emissions reported using inputs that are entered into IVT would necessitate or typically involve collection of those records. Rather, visual inspections would likely suffice to determine whether or not a facility is in compliance.

As described below, the EPA has developed a robust electronic verification and communication system in order to ensure high quality data are reported under the GHGRP, and the verification summaries from IVT will be integrated into that process. This electronic verification approach helps to minimize the need for on-site review which helps to reduce the burden and costs to the EPA and reporters. Likely scenarios under which a GHGRP inspection could occur due to information received from the IVT verification summaries are described below. As described below, none of these activities typically involve the EPA's collection of the inputs entered into the IVT.

As explained in the proposed rule, the first step of the verification process will include review of the verification summary generated by the IVT in conjunction with the results of the verification checks that are currently used on the annual report data. In the event that the EPA's review results in remaining questions regarding data quality, the EPA plans to follow-up with the facility initially via email or phone to determine whether a reporting error has occurred. For example, if the EPA learns from the facility that the facility's production doubled in a given year due to unusually high demand, the EPA may then understand the increase in emissions, certain out of range warnings, and determine that there is not a data quality issue. If the EPA is unable to resolve the issue via phone and email, an on-site visit may be needed. The EPA anticipates that these visits would likely include a review of the records required to be kept which, as mentioned above, include the record of the inputs to emission equations that were entered into IVT as well as an examination of the monitoring equipment. Depending on the results of the verification summary for a particular facility, the EPA envisions two general scenarios for these on-site visits. One scenario would be that the verification summary produced by IVT for a particular facility indicates that the reported emissions values matched the values calculated by IVT but other verification checks show that certain inputs are outside the EPA's expected range(s). In that scenario, the EPA anticipates that if a site visit is needed, the site visit would focus on the accuracy of the inputs entered into IVT. To verify the accuracy of the inputs entered into IVT, the EPA would likely check whether data entered into IVT are consistent with other records required to be kept by the facility. For example, if an input to an equation is a monthly average of a value that is measured daily by a particular on-site monitor and the daily measured values are also required records, the EPA may confirm that the input entered into IVT is in fact the average of the daily values. In addition, the EPA may confirm that the on-site monitor meets the specifications prescribed in Part 98, such as calibration and accuracy specifications. If calibration and accuracy specifications do not comply with Part 98 requirements, then a substantive error [16] would likely be identified, and the facility would need to resubmit their report. If the inputs at issue comport with the on-site records, then there would be no further action necessary by either the EPA or the reporter. As described above, because we envision that verification would be completed while on-site, we do not expect that there would be a need to collect inputs records.

In the second scenario, an on-site visit that is conducted in a situation when the verification summary produced by IVT indicates a discrepancy between the reported emissions and the emission equation results calculated by IVT, the EPA anticipates that the visit would focus on determining the root cause of the discrepancy. The EPA would ask the facility to demonstrate how their emissions calculations yielded a result different from the one calculated through the use of IVT. The EPA expects that such discrepancy is likely a result of mathematical error(s), which would likely constitute a substantive error, and the facility would need to resubmit their report.

In both of these scenarios, the EPA envisions that the discrepancies would be resolved on-site and that collecting the on-site records of inputs would not be necessary. Despite the above, we do not rule out the possibility that collection of certain records could be necessary under unique circumstances not contemplated above. However, the EPA does not know at this point what records would be removed, the specific circumstances under which they would be collected and the reasons for such collection, and therefore we cannot address at this time how such records would be treated. Should that occur, the EPA will treat the collected information according to applicable laws and regulations.

Regarding the comments asserting that 40 CFR part 98 could potentially subject reporters to antitrust liability, the EPA reiterates that information entered into IVT is not reported to or collected by the EPA. As a result, it does not become an agency record and, therefore, it is not subject to Freedom of

[16] 40 CFR 98.3(h)(3) defines substantive error as an error that impacts the quantity of GHG emissions reported or otherwise prevents the reported data from being validated or verified. 40 CFR 98.3(h) states that once a substantive error is identified, an owner or operator shall, within 45 days of receipt of the notification, either resubmit the report that, for each identified substantive error, corrects the identified substantive error (in accordance with the applicable requirements of this part) or provide information demonstrating that the previously submitted report does not contain the identified substantive error or that the identified error is not a substantive error.

Information Act or other required disclosures related to agency records.

B. Removal of the Requirement To Report Certain Data Elements

1. Summary of Final Amendments to Part 98

The EPA is removing the requirement to report 396 data elements in the 23 subparts listed in Table 2 of this preamble. Of these 396 data elements removed from reporting, 378 data elements are removed due to disclosure concerns and 18 data elements are removed because these data elements are redundant to other inputs being reported or are no longer useful to be reported to the EPA in the absence of other inputs to emission equations that will no longer be reported (refer to the discussion below for further explanation). Of the 378 data elements removed from reporting due to disclosure concerns, 324 data elements will be entered into IVT.[17] We are finalizing the proposed amendments to remove reporting requirements and require entry of these data elements into IVT, with changes specified in Section II.B.2 of this preamble.

Table 3 of this preamble provides a summary of the number of data elements removed from reporting for each subpart. Refer to Table 1 in the memorandum ''Data Elements Deferred to March 31, 2015: Final List of 'Inputs to Equations' Data Elements Not To Be Reported,'' September 2014, (refer to Docket ID No. EPA–HQ–OAR–2010–0929) for a list of these 396 data elements removed from reporting.

TABLE 3—SUBPARTS FOR WHICH REPORTING REQUIREMENTS ARE REMOVED

Subpart	Number of inputs to emission equations for which reporting was deferred to 2015 (''deferred inputs'')	Number of deferred inputs for which reporting is removed
C—General Stationary Fuel Combustion—Stationary fuel combustion sources excluding sources that contain at least one combustion unit connected to a fuel-fired electric generator owned or operated by an entity that is subject to regulation of customer billing rates by the public utility commission (excluding generators connected to combustion units subject to 40 CFR part 98, subpart D) and that are located at a facility for which the sum of the nameplate capacities for all such electric generators is greater than or equal to 1 megawatt electric output[a]	[b] 26	[b] 26
E—Adipic Acid Production	21	11
F—Aluminum Production	29	29
G—Ammonia Manufacturing	8	8
H—Cement Production	16	14
K—Ferroalloy Production	13	13
N—Glass Production	3	3
O—HCFC–22 Production and HFC–23 Destruction	15	12
P—Hydrogen Production	7	7
Q—Iron and Steel Production	86	85
R—Lead Production	10	10
S—Lime Manufacturing	9	9
U—Miscellaneous Uses of Carbonate	6	6
V—Nitric Acid Production	21	21
X—Petrochemical Production	[c] 19	[c] 19
Y—Petroleum Refineries	75	70
Z—Phosphoric Acid Production	4	4
AA—Pulp and Paper Manufacturing	31	28
BB—Silicon Carbide Production	3	3
CC—Soda Ash Manufacturing	10	4
EE—Titanium Dioxide Production	2	2
GG—Zinc Production	8	8
TT—Industrial Waste Landfills	4	4

[a] These subpart C sources may elect to report inputs to emission equations rather than use IVT. Additionally, the reporting requirements are not amended for stationary fuel combustion sources that contain at least one combustion unit connected to a fuel-fired electric generator owned or operated by an entity that is subject to regulation of customer billing rates by the PUC (excluding generators connected to combustion units subject to 40 CFR part 98, subpart D) and that are located at a facility for which the sum of the nameplate capacities for all such electric generators is greater than or equal to 1 megawatt electric output.

[b] Includes one deferred input to an emission equations, 40 CFR 98.3(d)(3)(v), which is specified in subpart A of part 98 and applies to only certain reporters under 40 CFR part 98, subpart C.

[c] There were 2 additional inputs to emission equations for which reporting was deferred to 2015; however, these two inputs are not reflected in this table because the inputs were removed from Part 98 by a previous rulemaking (78 FR 71904, November 29, 2013).

The EPA is finalizing the proposed amendments to exclude from reporting 18 deferred inputs to emission equations for which no disclosure concerns have been identified. As explained in the preamble to the proposed rule (78 FR 56005, September 11, 2013), while posing no disclosure concerns, these data elements are redundant to other inputs being reported or are no longer useful to be reported in the absence of other inputs to emission equations that will no longer be reported; they are not needed to be reported to the EPA for data verification and they are also not helpful in informing future GHG policy development. For further information

[17] As mentioned above, there are 378 equation inputs for which reporting was deferred to 2015 and for which the EPA determined there are disclosure concerns, and 324 of these equation inputs must be entered into IVT. Fifty-four of the 378 equation inputs do not need to be entered into IVT because these equation inputs are redundant to other equations inputs being entered into IVT or are otherwise not needed for verification.

on these 18 data elements, please see the memorandum ''Data Elements Deferred to March 31, 2015: Final List of Data Elements Not To Be Reported,'' September 2014 (refer to Docket ID No. EPA–HQ–OAR–2010–0929).

For the remaining inputs to emission equations for which reporting was deferred to 2015 for the 23 subparts listed in Table 2 of this preamble, the EPA is not amending the reporting requirements because the EPA has not identified disclosure concerns associated with their public release, and reporting of these data elements remains useful to the EPA for data verification as well as for informing future GHG policy development. Deferral of reporting of these inputs to emission equations expires on March 31, 2015. As a result, by March 31, 2015, 151 inputs to emission equations must be reported for reporting year 2014 and all prior reporting years, except as described below for six inputs to emission equations in subpart W of part 98. These 151 data inputs must also be reported in the annual report for all future reporting years, except as specified below for the six inputs to emission equations in subpart W. Refer to Section III.A.3 of the preamble to the proposed rule (78 FR 56005, September 11, 2013) for further discussion about how 2010 through 2014 data will be included in the 2014 annual report. For a list of these 151 deferred inputs to emission equations that will be reported, refer to Table 2 of the memorandum cited above. Additionally, to clarify which data elements must be reported for previous reporting years 2010 through 2013, the EPA is finalizing its proposed revision of Table A–7 of Part 98, ''Data Elements That Are Inputs To Emission Equations And For Which The Reporting Deadline Is March 31, 2015'', which includes these 151 inputs to emission equations that must be reported.

For the purposes of reporting the subpart W inputs for reporting years 2011 through 2014, the EPA plans to use a spreadsheet format that will be uploaded to e-GGRT. Recognizing the substantial amount of information that facilities will be entering into the spreadsheet, the EPA anticipates publishing the spreadsheet in October 2014. This will allow facilities to begin data entry into the spreadsheet prior to the open reporting period. The spreadsheet can then be uploaded to e-GGRT during the open reporting season.

For subpart W, the EPA is finalizing the proposed decision to require subpart W facilities to report all inputs to emission equations for which reporting was deferred to 2015; however, in the final rule, in response to comment, the EPA is providing an option for reporters to delay reporting of six of these inputs to emission equations for two reporting years for specific situations related to two types of exploratory wells, delineation and wildcat wells (as defined in this final rule in 40 CFR 98.238), starting with reporting year 2013.

2. Summary of Changes Since Proposal

This section provides a brief summary of changes since proposal to the proposed requirement to use IVT. The EPA's rationale for these changes is provided in Section II.A.3 as part of the EPA's response to the related comment(s).

The changes to the list of data elements removed from reporting and required to be entered into IVT are as follows:

- The proposed amendments, specifically at 40 CFR 98.5(b), required that the inputs to emission equations for the calculation methods listed in the proposed Table A–8, ''Calculation Methods For Which Inputs To the Calculation Methods Must be Entered Into Verification Software Specified By the Administrator,'' be entered into IVT. In the final rule, the EPA removed the proposed Table A–8 of part 98, replacing it with a new ''verification software records'' provision in the recordkeeping section of each affected subpart, which lists for each subpart each equation input that must be entered into IVT.
- The proposed amendments required that the data element in 40 CFR 98.196(b)(8) be entered into IVT. After proposal, we discovered that this data element is not an input to an emission equation. Further, it is no longer needed for verification because the proposed new data element (40 CFR 98.196(b)(18)), which is being finalized in this action, will be sufficient for verification purposes. Therefore, in the final rule, we are removing the reporting requirement for this data element.
- The proposed amendments did not require that the input to Equation F–4 be entered into IVT, because this input is not required to be reported under Part 98. Based on a suggestion from a commenter, in the final rule we are requiring that the input to Equation F–4 be entered into IVT. Although part 98 does not require reporting of this input, the commenter stated that this input should be entered into IVT, and we agree that it is needed for calculating and verifying emissions in subpart F.
- The EPA is replacing eight reporting elements, which were incorrectly identified in the final deferral rulemaking (76 FR 53057, August 25, 2011) as inputs to Equations F–2 and F–3 and were, therefore, incorrectly proposed (78 FR 55994, September 11, 2013) to be entered into IVT (instead of the correct inputs to Equations F–2 and F–3). As a result of a comment received, the EPA discovered that it had previously misidentified eight data elements as inputs to Equations F–2 and F–3, mistakenly required and then deferred their reporting under part 98, and recently mistakenly proposed their entry into IVT. These misidentified data elements are annual values; whereas the inputs to these two equations are monthly values, which are not required to be reported under Part 98. In light of the error, the EPA is requiring in this final rule that the correct inputs (monthly values) for Equations F–2 and F–3 be entered into IVT. Further, given that the EPA had previously incorrectly required the reporting of these eight annual values as inputs to Equations F–2 and F–3, and given that the actual inputs (i.e., the monthly values) for Equations F–2 and F–3 will be entered into IVT, the EPA does not need these eight annual values for verification. The EPA is therefore finalizing the removal of reporting of these eight annual values for Equations F–2 and F–3. Refer to the EPA's comment response document in Docket ID No. EPA–HQ–OAR–2010–0929 for further discussion of this comment supporting entry into IVT of monthly input data for Equations F–2 through F–4 and the EPA's response.
- For a given sub-basin, in the following situations, the EPA is providing the option to delay for two reporting years the reporting of six data elements associated with delineation or wildcat wells starting in reporting year 2013:

—For gas well completions or workovers with hydraulic fracturing, where wildcat wells and/or delineation wells are the only wells in a sub-basin that can be used for the measurement; and

—for onshore production storage tanks, where wildcat wells and/or delineation wells are the only wells in a sub-basin.

These six data elements are: (1) Measured flow rate of backflow during well completion (40 CFR 98.236(c)(6)(i)(B)); (2) measured flow rate of backflow during well workover (40 CFR 98.236 (c)(6)(i)(D)); (3) total number of days of backflow from all wells during completions (40 CFR 98.236 (c)(6)(i)(E)); (4) total number of days of backflow from all wells during workovers (40 CFR 98.236 (c)(6)(i)(F)); (5) total volume of oil from all wellhead separators sent to tank(s) in barrels per year (40 CFR 98.236(c)(8)(i)(F)); and (6) total volume of sales oil from all wells in barrels per year (40 CFR 98.236(c)(8)(ii)(A)). For reporting years 2011 and 2012, the two year delay would still require reporting by March 31, 2015. As a result, there is no need to delay reporting for these two reporting years. Refer to Section II.B.3 of this preamble for the EPA's rationale for this decision. If the 2-year delay in reporting is used, the reporter must report the following information in the current reporting year: indicate for each delayed reporting element that one of the two situations listed above is true (e.g., for gas well completions or workovers with hydraulic fracturing, wildcat wells and/or delineation wells are the only wells in a sub-basin that can be used for the measurement). In addition, when reporters report the delayed inputs to emission equations after the 2 year delay, they must also report the API well ID numbers for the applicable wildcat and/or delineation wells in the sub-basin for which the reporting element was delayed.
- For purposes of part 98, the EPA has added to 40 CFR 90.238 definitions of

''delineation well'' and ''wildcat well.'' ''Delineation well'' is defined as a well drilled in order to determine the boundary of a field or producing reservoir. ''Wildcat well'' is defined as a well outside known fields or the first well drilled in an oil or gas field where no other oil and gas production exists. These definitions are consistent with the definitions of ''delineation well'' and ''wildcat well'' in 40 CFR part 60, subpart OOOO. Refer to Section II.B.2 of this preamble for the EPA's rationale for this decision.

- The EPA has removed from reporting the inputs to emission equations in 40 CFR 98.226(i), (j), (m)(4), (m)(5), and (p). These data must be entered into IVT, except for 40 CFR 98.226(j). Refer to Section II.B.3 of this preamble for the EPA's rationale for this decision.

3. Summary of Comments and Responses

This section summarizes the significant comments and responses related to the proposed amendments to remove reporting requirements and require entry of data into IVT. The EPA's comment response document in Docket ID No. EPA–HQ–OAR–2010–0929 provides a complete listing of all comments related to this topic and the EPA's responses.

Comment: One commenter asserted that all 9 inputs to emission equations reported under 40 CFR 98.226(i), (j), (m)(4) and (5), and (p) would reveal process design, process performance, and operational efficiencies data regarding a nitric acid train. The commenter further noted that the EPA indicated in section 2.2 of its memorandum, ''Evaluation of Competitive Harm from Disclosure of 'Inputs to Equations' Data Elements Deferred to March 31, 2015,'' August 2013 (refer to Docket ID No. EPA–HQ–OAR–2010–0929), that these types of data could be used to determine facility operational conditions and would, therefore, have disclosure concerns.

Response: In the EPA's proposed harm analysis cited above in the comment summary, the EPA stated that the 9 inputs to emission equations reported under 40 CFR 98.226(i), (j), (m)(4) and (5), and (p) would not reveal any proprietary information about cost to do business, raw material usage, production, or facility or process performance, design, and operation, as long as the emission factors required to be reported in 40 CFR 98.226(m)(1) are not reported. As a result of this comment, the EPA further investigated the operational conditions at current nitric acid facilities, and considered the specific case when there are nitric acid facilities that have non-operational nitric acid trains and others that are in the process of installing or upgrading NO_X control devices, some of which can also serve as N_2O abatement (i.e., non-selective catalytic reduction). In light of this, the data reported under 40 CFR 98.226(i), (j), (m)(4), (m)(5), and (p), if reported over a multiple-year period where facilities are making changes to the operational status of their trains and/or abatement systems, could be used to determine train-specific conditions at the facility, such as efficiency losses, equipment degradation, changes in nitric acid demand, and/or the installation of N_2O abatement technology. As a result, the EPA agrees with the commenter that the deferred inputs to emission equations reported under 40 CFR 98.226(i), (j), (m)(4), (m)(5), and (p) (destruction efficiency and fraction control factor of the abatement technology, abatement utilization factor, and nitrous oxide (N_2O) concentration and volumetric flow rate per test run during performance test of each train) would reveal information about process design, process performance, and operational efficiencies of a nitric acid train, regardless of whether the emission factors required to be reported in 40 CFR 98.226(m)(1) are not reported. Therefore, the EPA has concluded that these data have disclosure concerns, and the EPA is removing these data from the reporting requirements in the final rule. Reporters will be required to enter these data into IVT, except 40 CFR 98.226(j), which is not needed to be entered into IVT for verification purposes because IVT generates this value using the inputs entered into Equation V–2 and Equation V–2.

Comment: One commenter expressed concern about reporting information on exploratory wells in Subpart W, especially when the wells are located in step-out areas where no prior reporting exists for a given sub-basin (including vertical or horizontal wells). The commenter explained that the problem occurs when an exploratory well is the sole well in a sub-basin (including vertical or horizontal wells) and is not reported in combination with other wells, thereby shielding any individual well's contribution. The commenter noted that its concerns are related to the timing of releasing the information to the public, as the commenter stated that the information is most sensitive if it is made available too early during the exploration or initial development stages. The commenter stated that the success of a well in exploratory areas could be inferred if detailed data are provided to the public too soon during the exploration and assessment period. The commenter provided an example of such an occurrence: An exploratory well completed in December of the reporting year, data reported to the EPA by end of March of the following year and then released by the EPA to the public within a few months during the same year. The commenter stated that early release of data regarding operating characteristics of such wells, including postflowback flaring/venting volumes, could cause competitive harm if made publicly available too early.

The commenter noted that Federal law and State codes allow companies to designate as confidential the data obtained from exploratory wells, especially in new discovery areas or areas that are being explored for development. The commenter further noted that the original intent of State oil and gas commissions to allow withholding of select drilling and production information from early release to the public was to allow competitive exploration by searching for new pockets of oil or gas and experimenting with new tools and techniques. The commenter stated that releasing data on such wells through the GHGRP—despite the fact that they are held confidential by other regulatory bodies—could cause substantial competitive harm and lead to a loss of investment value. The commenter explained that competitive harm could occur if the public could obtain detailed high-resolution operational information on a well-by-well basis and on a daily or weekly basis.

The commenter requested that the EPA categorically determine that all information associated with exploratory wells, with the exception of well ID and location, be classified as CBI for a period of at least 24 months from the start of exploration. The commenter recommended either of two suggested approaches under the GHGRP: (1) Companies would report all data to the EPA as mandated by subpart W, but the EPA would hold the reported data as CBI and not include it in its public data release for at least 24 months (this could be accomplished by a flagging system (or a ''radio button'') in e-GGRT that could also allow for a short informative text on why that particular well information is to be maintained confidential); or (2) the EPA could set up a deferral system where initial data on exploratory wells will be well ID and location information and the remaining data would be backfilled by companies after a period of 24 months. The commenter added that neither option would require case-by-case review of companies' information, and both are consistent with the approach taken by state oil and gas commissions and are

protective of companies' commercial investment interests.

Response: The EPA reviewed the types of data identified by the commenter as having disclosure concerns for exploratory wells: ''data regarding operating characteristics . . . including post-flowback flaring/venting volumes.'' In our proposed memorandum ''Evaluation of Competitive Harm from Disclosure of 'Inputs to Equations' Data Elements Deferred to March 31, 2015,'' August 2013 (refer to Docket ID No. EPA–HQ–OAR–2010–0929), the EPA stated regarding exploratory wells, that because onshore production data are reported under the GHGRP at a sub-basin level, as defined by county boundaries, the data are aggregated to a large enough scale that disclosure of the data collected under subpart W would not reveal any proprietary information about the facility or cost to do business. After further investigation in response to the comment received, and review of the state laws protecting these types of data, the EPA has determined that, in the following situations which were not specifically considered in the proposed rule, early public disclosure of certain deferred inputs to emission equations associated with wildcat wells and/or delineation wells could reveal the well productivity, thereby resulting in the loss of investment value:

- For gas well completions or workovers with hydraulic fracturing, where wildcat wells and/or delineation wells are the only wells in a sub-basin that can be used for the measurement; and
- For onshore production storage tanks, where wildcat wells and/or delineation wells are the only wells in a sub-basin.

The inputs to emission equations (for which reporting was deferred to 2015) that could reveal well productivity for wildcat and/or delineation wells in the applicable situations listed above are as follows:

- For gas well completions or workovers with hydraulic fracturing, the measured flow rate of backflow during well completion (40 CFR 98.236(c)(6)(i)(B));
- For gas well completions or workovers with hydraulic fracturing, the measured flow rate of backflow during well workover (40 CFR 98.236(c)(6)(i)(D));
- For gas well completions or workovers with hydraulic fracturing, the total number of days of backflow from all wells during completions (40 CFR 98.236(c)(6)(i)(E));
- For gas well completions or workovers with hydraulic fracturing, the total number of days of backflow from all wells during workovers (40 CFR 98.236(c)(6)(i)(F));
- For onshore production storage tanks, the total volume of oil from all wellhead separators with wellhead gas-liquid separator oil throughput greater than or equal to 10 barrels per day sent to tank(s) in barrels per year (40 CFR 98.236(c)(8)(i)(F)); and
- For onshore production storage tanks, the total volume of sales oil from all wells with oil production greater than or equal to 10 barrels/day in barrels per year (40 CFR 98.236(c)(8)(ii)(A)).

These six inputs to emission equations data elements are themselves a small subset of the inputs to emission equations data elements (for which reporting was deferred to 2015) collected in subpart W, as there are 90 such inputs to emission equations in subpart W. Further, wildcat and delineation wells represent a relatively small percentage of the wells being reported under the GHGRP for these data elements. As such, in the interim period before these data are reported to the EPA, the EPA will be able to verify the majority of the emissions using the inputs to equations that will be reported to the EPA. For the six inputs to emission equations that may be delayed for 2 years, the EPA will verify emissions using other data reported to the EPA, and will conclude verification upon receipt of the data. The EPA agrees with the commenter that a 2-year delay of reporting is sufficient to prevent early public disclosure of these data and will provide sufficient time for the reporter to thoroughly conduct an assessment of the well. Given the results of this evaluation, the EPA determined that, for these six inputs to emission equations, in those cases where a reporter has wildcat wells or delineation wells in a sub-basin and these wells meet one of the two situations described above, reporters should be provided an option to delay reporting of the given input for two reporting years starting in reporting year 2013. There is no early public disclosure concern for these inputs for reporting years 2011 and 2012 because 2 years would already have passed before they are to be reported in March 31, 2015. As a result, there is no need to delay reporting for these two reporting years. For reporting years 2013 and thereafter, this delay will prevent early public disclosure of information regarding well productivity. In such cases, if the 2-year delay in reporting is used, the reporter must report the following information in the current reporting year: indicate for each delayed reporting element that one of the two situations listed above is true (e.g., for gas well completions or workovers with hydraulic fracturing, wildcat wells and/or delineation wells are the only wells in a sub-basin that can be used for the measurement). In addition, when reporters report the delayed inputs to emission equations after the 2 year delay, they must also report the API well ID numbers for the applicable wildcat and/or delineation wells in the sub-basin for which the reporting element was delayed.

The EPA also determined that additional definitions are necessary in order to clarify and specify the types of exploratory wells (delineation and wildcat wells) covered by the 2-year delay of reporting option. The EPA is adopting the terms and definitions used to describe delineation wells and wildcat wells in the new source performance standards for the oil and gas sector under 40 CFR part 60, subpart OOOO, as reporters under 40 CFR part 98, subpart W are also complying with 40 CFR part 60, subpart OOOO requirements. To minimize confusion for reporters and be consistent with 40 CFR part 60, subpart OOOO, the final rule includes the terms and definitions of a ''delineation well'' and ''wildcat well,'' as used in 40 CFR part 60, subpart OOOO. ''Delineation well'' is defined as a well drilled in order to determine the boundary of a field or producing reservoir. ''Wildcat well'' is defined as a well outside known fields or the first well drilled in an oil or gas field where no other oil and gas production exists.

C. Revision of Recordkeeping Requirements for Facilities Required To Use IVT

1. Summary of Final Amendments to Part 98

The EPA is finalizing the proposed revisions to recordkeeping requirements for facilities required to use IVT. For each facility required to use IVT, the facility is required to retain all records starting with records for reporting year 2010, including records for subparts not subject to using IVT, for 5 years, rather than the 3-year record retention period required for non-IVT users. In other words, if any facility subject to using IVT is also subject to a subpart of Part 98 not listed in Table 2 of this preamble, the facility is required to maintain the records required for those other subparts for 5 years. Facilities subject to IVT are also required to maintain a record of all inputs to emission equations entered into IVT, in the format provided by IVT. At the time the reporter completes entry of data into IVT, the facility is required to download from IVT a file that lists the entered data and maintain a copy of the file as a record of the entered inputs. As specified in 40 CFR 98.3(g), subpart A, this file may be maintained in electronic or hard copy format. Refer to Sections II.C and III.B of the proposal preamble (78 FR 55994, September 11, 2013) for further discussion of these

amendments to the Part 98 recordkeeping requirements being finalized in this action.

The EPA has added a new ''verification software records'' provision to the recordkeeping section of each subpart listed in Table 2 of this preamble to list all inputs to emission equations required to be entered into IVT. As mentioned above, a list of the entered inputs must be downloaded from IVT and maintained as records.

We are also revising an error in 40 CFR 98.3(g), as proposed. As discussed in Section III.B of the proposal preamble (78 FR 55994, September 11, 2013), in a previous action amending this paragraph (76 FR 73866, November 29, 2011), our intention was to amend the second sentence of the paragraph regarding record retention duration; however, the third sentence regarding record format was inadvertently amended. As a result, as proposed, we are removing the second sentence of 40 CFR 98.3(g) and reinstating the previous third sentence of 40 CFR 98.3(g) (regarding format of records). Refer to Section II.B of this preamble for further discussion of this new provision.

2. Summary of Changes Since Proposal

The EPA is making no changes to the proposed revisions to recordkeeping requirements for IVT users. To clarify which data are entered into IVT and must be kept as records (i.e., the data included in the file generated by IVT to be maintained as a record), the EPA is adding a ''verification software records'' provision to the recordkeeping section of each subpart specified in Table 2 of this preamble. Each ''verification software records'' provision lists the inputs to equations required to be entered into IVT and required to be maintained as a record.

3. Summary of Comments and Responses

This section summarizes the significant comments and responses related to the proposed amendments to the recordkeeping requirements for IVT users. The EPA's comment response document in Docket ID No. EPA–HQ–OAR–2010–0929 provides a complete listing of all comments and responses related to this topic.

Comment: Three commenters supported the EPA's extension of the records retention period. Eight commenters opposed the EPA's proposal to extend the record retention time from 3 to 5 years. Five of the eight commenters indicated that this proposed requirement would add significantly more burden to owners with multiple reporting facilities, where some facilities would be subject to a 3-year record retention schedule and some of which would be subject to a 5-year record retention period. Three of these commenters presented this argument in the context of landfills, where one owner would have multiple landfills, and only certain of the landfills would be subject to using IVT due to being subject to subpart C. One of the five commenters explained that owners of multiple facilities in remote locations (e.g., offshore production platforms, compressor stations, fuel supply terminals) rely on data centers and centralized archiving procedures to maintain accurate records and back-up documentation for demonstrating compliance for some records. The commenter provided one example of a scenario where an owner of multiple facilities subject to subparts C, W, and NN would be subject to use of IVT due to subpart C. The commenter indicated that this requirement would create confusion by requiring that data maintained in the central data centers be organized according to two different record retention periods. Additionally, the commenter asserted, for a given reporter (e.g., gas processing plant subject to subparts C and W), some records are maintained on site and other are maintained in a central data exchange. The commenter added that the requirement to keep records according to two different retention periods would substantially increase the volume of records required. Another commenter also pointed out the increased confusion associated with maintaining records for multiple record duration periods.

Two commenters contended that this revision conflicts with the justification the EPA previously made for requiring 3 years in the 2009 promulgated GHGRP rule, citing that the EPA determined it was sufficient time to audit and review, reduces recordkeeping burden, and is consistent with recordkeeping requirements in other Federal programs. Two of the commenters stated that the EPA did not provide sufficient justification for extending the record retention time. Two of the commenters disagreed with the EPA's rationale that the extra time is needed for follow-up with reporters because IVT would generate an immediate flag on a real-time basis of any input errors and follow-up could be immediate. One of these commenters further disagreed with the EPA's rationale that the extra time would allow the EPA inspectors time for appropriate assessment of compliance, because the EPA could accomplish this with timely inspections that do not need the extra time.

One commenter expressed concern that the proposed extra retention time would be an unfair burden because it only applies to those sources using IVT and not all sources. The commenter added that sources using IVT would be unfairly subjected to potential additional fines and penalties for noncompliance for an extra 2 years, while other sources would not be subject to this noncompliance issue. The commenter concluded that requiring the verification IVT users to retain information longer would lead to unjustified prejudices against these source categories.

Six of the eight commenters that opposed the EPA's proposal to extend the record retention time from 3 to 5 years also opposed the EPA's proposal that this 5-year record retention requirement for IVT users be extended to all subparts applicable to a reporter. The six commenters opposed this additional requirement for the same reasons they opposed the 5-year retention period.

Response: The EPA is finalizing in this action this proposed amendment to recordkeeping requirements for IVT users as part of the alternative verification approach included in these amendments. As previously stated in the proposal preamble (September 11, 2013, 78 FR 55994), the EPA considered whether the current record retention period and record format requirements would be sufficient to allow the EPA to perform data verification under this alternative verification approach. We considered:

- The time we would need to follow up with reporters to further verify reported GHG emissions.
- The desirability of retaining multiple years of data records to allow for appropriate assessment of compliance and for analyses of trends for policy analysis purposes.
- The format of records, and whether the current format would be adequate for our verification process. For example, we considered whether records of inputs to emission equations (for which reporting was deferred to 2015) contained in multiple separate documents (as currently allowed under Part 98) would allow an EPA inspector to efficiently analyze the consistency of the data elements and use the data elements to perform calculations to confirm reported GHG emissions.

This revision to the recordkeeping timeframe is part of the new verification approach using IVT that is being finalized today. Given the large number of reporters under the subparts identified in Table 2 of this preamble (over 2,000 facilities) and the likely increase in follow-up activities under

the new approach, it is important that relevant records are available to the EPA for follow-up activities with facilities, including on-site audits if necessary, regarding potential errors, discrepancies, or questions. When an EPA employee visits a facility, it is important that the employee be able to examine not only the current year's records but those from previous years as well, because previous years' data will provide year-to-year comparisons, which are useful for verifying the current year's data. A 5-year record retention period ensures the availability of relevant records for the follow-up activities described above.

Regarding the general comment that this proposed 5-year record retention requirement would add significantly more burden to owners with multiple reporting facilities, the EPA disagrees with this assertion. Given that reporters are already required to maintain records for 3 years, the reporter is not required to do anything more than keep the records for an additional 2 years. Only one commenter provided a description of the additional burden for these types of owners. The commenter referred to a scenario where one parent company has multiple facilities subject to different combinations of subparts NN, C, and W (where some facilities are in remote locations, such as offshore production platforms, compressor stations, and fuel supply terminals). As such, the parent company is subject to both a 3-year record duration for some facilities and a 5-year record duration for other facilities. The commenter described the burden as being associated with the need for their records that are maintained in their central data centers to be organized according to two different record retention periods. However, the commenter did not provide any additional information or data to support their claim that the increased burden associated with this scenario would be significant, and the EPA does not understand how saving data electronically for an additional 2 years would require significant additional burden. The EPA received no comments on its proposed impacts analysis, which concluded that there is no additional burden imposed on keeping records for 2 additional years (refer to Section V of the proposal preamble, September 11, 2013, 78 FR 55994). Lastly, if a parent company does not want to maintain some facilities' records for 3 years and others for 5 years, there is nothing in this rulemaking that prevents owners from maintaining all records for a period of 5 years.

Regarding the comment that this 5-year record duration requirement conflicts with the EPA's justification in the 2009 promulgated GHGRP rule that the 3-year duration is adequate, the EPA's rationales for extending the recordkeeping period under the new verification approach using IVT do not conflict with the previous justification for the 3-year recordkeeping requirement in the 2009 rulemaking because the 2009 GHGRP rule (74 FR 56260) did not include the alternative verification approach being finalized today. Since the IVT approach was not part of the 2009 rulemaking, the previous consideration did not take into account this new approach that is being finalized today. Further, at the time the previous justification was made, not only was there no IVT approach, the inputs to equations, which were necessary for verifying emissions under the 2009 rule, were required to be reported timely with the annual reports. In light of the subsequent changes to the verification approach and input reporting, it is unreasonable to suggest that the previous justification for a 3-year recordkeeping period still applies. The commenter did not identify or explain any deficiency in the EPA's rationales for extending the record keeping period to accommodate the IVT approach.

Regarding the comment that this 5-year record duration requirement is inconsistent with recordkeeping requirements in other Federal programs, the other Federal programs referred to by the commenter (i.e., Department of Energy (DOE) and Acid Rain Program (ARP)) are not using the alternative verification approach associated with this action. As such, comparison to DOE or ARP reporting programs is not appropriate. The EPA also notes that the EPA's National Emission Standards for Hazardous Air Pollutants require 5-year record retention (see 40 CFR 63.10(b)).

Regarding the comment that the EPA does not need extra time to allow for follow-up with reporters because IVT would generate an immediate flag on a real-time basis of any input errors and follow-up could be immediate, based on its experience with data verification for reporting years 2010 through 2012, the EPA anticipates situations where the verification summary will indicate discrepancies between reported GHG emissions and the GHG emission equation results calculated by IVT as well as other verification results that will require further attention. In certain situations, the EPA will need additional time to follow up with these reporters to resolve discrepancies, as further described above.

Regarding the comment that the EPA does not need extra time because the EPA could accomplish this alternative verification approach with ''timely inspections,'' as further described above, the EPA anticipates more direct follow-up activities under the alternative verification approach associated with this action. Given the large number of sources reporting to the GHGRP and limited resources, any direct follow-up with facilities would be more effective with the ability to access 5 years of data.

In response to the comment that the proposed extra retention time would be an unfair burden because certain sources would be unfairly subjected to potential additional fines and penalties for noncompliance for an extra 2 years, it is important to note that different facilities within the Greenhouse Gas Reporting Program are subject to different verifications approaches (reporting inputs to emissions equations versus using IVT). Different verification approaches necessitate different reporting and record keeping requirements to ensure the success of the individual verification approach. Further, we do not believe that the 5-year record retention period is complex or otherwise difficult or burdensome to implement; if a facility uses IVT, it must keep all of its record for 5 years. Given that a reporter is already required to maintain records for 3 years, this 5-year recordkeeping requirement does not require any action beyond keeping these records for an additional 2 years. In any event, the commenters did not provide any information to support the claim that 2 additional years of record maintenance would somehow trigger additional fines and penalties. Further, the commenter provided no comment on the EPA's proposed impacts analysis, which concluded that there is no additional burden imposed on keeping records for 2 additional years (refer to Section V of the proposal preamble, September 11, 2013, 78 FR 55994).

Regarding the comments opposing extending the 5-year record retention requirement to all subparts for IVT users, the EPA proposed this provision because during a site visit, if questions arise regarding the accuracy of equation inputs entered into IVT, it may be necessary to examine other recordkeeping information not entered into IVT, such as a monitoring plan or recordkeeping information in a different subpart, in order to fully investigate the accuracy of the data at issue. For example, a lime production facility with natural gas-fired kilns may report combustion emissions under subpart C, CO_2 process emissions from lime kilns

under subpart S, and CO_2 supply under subpart PP. As part of the site visit, the EPA may check for inconsistencies in the quantities of CO_2 collected and transferred off site (reported under subpart PP) compared with the CO_2 process emissions reported under subpart S. Specifically, if a facility reported collecting 32,000 metric tons under subpart PP but reported generating only 30,000 metric tons of CO_2 in their lime kilns, then the EPA may need to check the records and review the monitoring plan for both subpart S and PP to determine why this inconsistency occurred. If this facility also elected to report the natural gas combusted (i.e., the facility elects not to use IVT for subpart C), then the EPA would also use the fuel quantity data to check for unexpected inconsistencies in the subpart S data using parameters such as the ratio of CO_2 emissions to fuel consumption and looking for significant changes in such parameters when compared to data from previous years. As part of this process, the EPA may examine the monitoring plan associated with all of the subparts reported by this facility to ensure that the correct monitoring was conducted by the facility. In this example, if facilities were allowed to retain records for only 3 years for subparts for which IVT was not used, the EPA's verification and compliance activities would be impacted by incomplete records for subparts C and PP when compared with subpart S. As the above example illustrates, records necessary to verify data submitted by a facility using IVT may include that facility's data from subparts not subject to IVT. It is therefore necessary to ensure that all data necessary for verification are available, and this 5-year record retention period requirement will provide assurance of on-site data availability. The EPA received no additional rationale opposing this provision beyond the rationales presented against the 5-year record duration requirement. The EPA received no details to contradict the EPA's proposed impacts analysis, which concluded that this proposed requirement would impose no additional burden (refer to Section V of the proposal preamble, September 11, 2013, 78 FR 55994). As such, the EPA is finalizing the proposed requirement for IVT users to maintain records for all subparts for a period of 5 years.

Comment: One commenter suggested that the recordkeeping section of each subpart be modified to clearly specify which records related to IVT must be maintained. The commenter argued that e-GGRT is a reporting tool, but not a regulation, such that it would not be appropriate for IVT to dictate which records must be maintained.

Response: The EPA had requested comment on whether additional specificity within the recordkeeping requirements of each subpart would improve the clarity of the specific records that are required to be retained. After considering the commenter's request, the EPA agrees with the recommendation to specify each record that reporters must maintain. In the final rule, each subpart listed in Table 2 of this preamble includes, in the recordkeeping section, a new ''verification software records'' provision that specifies each data element in that subpart that must be entered into IVT and maintained as a record.

D. Addition of Reporting Requirements for Certain Facilities Required To Use IVT

1. Summary of Final Amendments to Part 98

The EPA is finalizing the proposed addition of new reporting requirements for facilities required to use IVT for subparts E, G, H, P, Q, S, V, X, and AA of part 98, with changes to the proposed amendments for subparts E, V, Y, and AA, as discussed in Section II.D.2 of this preamble. The final list of new data elements being added in this action is in Table 4 of this preamble.

TABLE 4—NEW DATA ELEMENTS BEING FINALIZED IN TODAY'S ACTION FOR SUBPARTS E, G, H, P, Q, S, V, X, AND AA OF PART 98

Subpart	Subpart name	New data element description
E	Adipic Acid Production	If only cyclohexane is oxidized to produce adipic acid: the annual quantity of cyclohexane (tons) used to produce adipic acid. If materials other than cyclohexane are oxidized to produce adipic acid: the annual quantity of cyclohexanone and cyclohexanol mixture (metric tons) used to produce adipic acid.
		Annual percent nitrous oxide (N_2O) emission reduction for all production units combined.
G	Ammonia Production	Annual ammonia production (metric tons, sum of all process units reported within subpart G).
		Annual methanol production (metric tons) for each process unit.
H	Cement Production	Annual clinker production (metric tons).
		Annual average clinker carbon dioxide (CO_2) emission factor for the facility, averaged across all kilns (metric tons CO_2/metric ton clinker produced).
		Annual average cement kiln dust (CKD) CO_2 emission factor for the facility, averaged across all kilns (metric tons CO_2/metric ton CKD produced).
P	Hydrogen Production	Name and annual quantity (metric tons) of each carbon-containing fuel and feedstock.
		Annual methanol production (metric tons) for each process unit.

TABLE 4—NEW DATA ELEMENTS BEING FINALIZED IN TODAY'S ACTION FOR SUBPARTS E, G, H, P, Q, S, V, X, AND AA OF PART 98—Continued

Subpart	Subpart name	New data element description
Q	Iron and Steel Production	If you use the carbon mass balance method in 40 CFR 98.173(b)(1) to determine CO_2 emissions: The annual mass (metric tons) of all gaseous, liquid, and solid fuels (combined) used in process units specified in Equations Q–1 through Q–7 of subpart Q, calculated as specified in Equation Q–9 of subpart Q being finalized in this action. Do not include fuel used in a stationary combustion unit where emissions are reported under subpart C.
		If you use the carbon mass balance method in 40 CFR 98.173(b)(1) to determine CO_2 emissions: The annual mass (metric tons) of all non-fuel material inputs (combined) specified in Equations Q–1 through Q–7 of subpart Q, calculated as specified in Equation Q–10 of subpart Q being finalized in this action.
		If you use the carbon mass balance method in 40 CFR 98.173(b)(1) to determine CO_2 emissions: The annual mass (metric tons) of all solid and liquid products and byproducts (combined) specified in Equations Q–1 through Q–7 of subpart Q, calculated as specified in Equation Q–11 of subpart Q being finalized in this action.
		If you use the carbon mass balance method in 40 CFR 98.173(b)(1) to determine CO_2 emissions: The weighted average carbon content of all gaseous, liquid, and solid fuels (combined) included in Equation Q–9 of subpart Q being finalized in this action, calculated as specified in Equation Q–12 of subpart Q being finalized in this action.
		If you use the carbon mass balance method in 40 CFR 98.173(b)(1) to determine CO_2 emissions: The weighted average carbon content of all non-fuel inputs to all furnaces (combined) included in Equation Q–10 of subpart Q being finalized in this action, calculated as specified in Equation Q–13 of subpart Q being finalized in this action.
		If you use the carbon mass balance method in 40 CFR 98.173(b)(1) to determine CO_2 emissions: The weighted average carbon content of all solid and liquid products and byproducts from all furnaces (combined) included in Equation Q–11 of subpart Q being finalized in this action, calculated as specified in Equation Q–14 of subpart Q being finalized in this action.
S	Lime Manufacturing	Annual quantity (tons) of lime product sold, by type.
V	Nitric Acid Production	Annual percent N_2O emission reduction for all nitric acid trains combined.
X	Petrochemical Production	If using the CEMS method to calculate GHG emissions: Name and annual quantity (in metric tons) of each product. If using the mass balance method to calculate GHG emissions: Name and annual quantity (in metric tons) of each product used in Equations X–1, X–2, and X–3 of subpart X.
		If using the CEMS method to calculate GHG emissions: Name and annual quantity (in metric tons) of each carbon-containing feedstock. If using the mass balance method to calculate GHG emissions: Name and annual quantity (in metric tons) of each carbon-containing feedstock used in Equations X–1, X–2, and X–3 of subpart X.
AA	Pulp and Paper Manufacturing	For each pulp mill lime kiln: Quantity of calcium oxide (CaO) produced (metric tons).
		For each pulp mill lime kiln: Percentage of annual heat input, individually for each fossil fuel type.

The EPA is also adding six new equations (Equations Q–9 through Q–14 of part 98) to subpart Q, as proposed, to specify how to calculate and report each of the six new data elements added to subpart Q in this action. Final confidentiality determinations for the data elements specified in Table 4 are presented in Section III of this preamble.

2. Summary of Changes Since Proposal

This section provides a brief summary of changes since proposal. The EPA's rationale for these changes is provided in Section II.D.3 of this preamble as part of the EPA's response to the related comment(s). In cases where the EPA is making a change that was not related to a public comment, a summary of the rationale is included in this section.

The changes to the proposed addition of new reporting requirements for facilities required to use IVT are as follows:

- In the final rule, the new data element for subpart E, 40 CFR 98.56(m), specifies that if only cyclohexane is oxidized to produce adipic acid, the reporter must report the annual quantity of cyclohexane used to produce adipic acid; otherwise, if materials other than cyclohexane are oxidized to produce adipic acid, the reporter must report the annual quantity of cyclohexanone and cyclohexanol mixture used to produce adipic acid. Refer to Section II.D.3 of this preamble for the rationale for this revision.

• The EPA is not finalizing the proposed addition of two new data elements to subpart AA: The annual mass of steam generated (proposed as 40 CFR 98.276(m)(1)) and the ratio of the unit's maximum rated heat input capacity to its design rated steam output capacity (proposed as 40 CFR 98.276(m)(2)). Refer to Section II.D.3 of this preamble for the rationale for this revision.

• The EPA is revising the new data element added to subpart V (40 CFR 98.226(q)) to read ''annual percent N_2O emission reduction for all nitric acid trains combined.'' The text ''nitric acid trains'' replaces proposed text ''production units'' to be consistent with the terminology used elsewhere in subpart V. This rationale is documented in ''Summary and Explanation of Minor Changes Since the Proposed Rule'' (Docket ID No. EPA–HQ–OAR–2010–0929).

• The EPA is not finalizing the proposed addition of the following three new data elements to subpart Y, which were proposed to be required to be reported when Equation Y–3 is used to calculate flare CO_2 emissions: Annual quantity of flare gas combusted, annual average molecular weight of flare gas combusted, and annual average carbon content of flare gas combusted, all for normal operations and startup, shutdown, and malfunction (SSM) events combined. The EPA included these new elements in the proposal to supplement the IVT verification approach by minimizing the need for potential follow-up activities (e.g., phone calls, emails, site visits, etc.) to verify reported GHG emissions from flares using Equation Y–3 to calculate emissions. Specifically, such information would allow the EPA to verify and reconcile potential differences between reported emissions and emissions equation results calculated by IVT, and therefore minimize the need for follow-up via phone, email or site visits. At the time of proposal, the EPA did not consider the proposed new reporting elements in conjunction with the monitoring requirements associated with Equation Y–1a and Y–1b. In the process of finalizing this rulemaking, the EPA realized that, under the current rule, if the flare gas composition (which determines molecular weight and carbon content) is measured weekly or more frequently, reporters are required to use either Equation Y–1a or Y–1b to calculate flare CO_2 emissions. Reporters that either do not measure the composition of flare gas or conduct such measurements but less frequently than weekly may use Equation Y–3, which does not require such values to calculate routine flare gas emissions. As a result, requiring reporters to report annual averages of molecular weight and carbon content when using Equation Y–3 would undermine the purpose of Equation Y–3 by requiring facilities that do not currently measure these values to now have to determine and report these values. These facilities would now have to conduct such measurements or provide the values through other means. In the case where reporters do not measure these values, they would likely report the values determined for the subset of flare emissions related to SSM events, which would not be representative of the annual average, and therefore would not be useful for verification. As a result, the EPA is not finalizing the proposed reporting of the annual average molecular weight of flare gas combusted and annual average carbon content of flare gas combusted, both for normal operations and SSM events combined. Further, given that the three proposed data elements were to be used together to provide an alternative method of estimating emissions, requiring reporting of the annual quantity of flare gas combusted would not be useful in the absence of the other two data elements. The EPA is therefore not requiring the reporting of these three data elements in the final rule and will continue to rely on the general IVT verification approach for verifying flare CO_2 emissions using Equation Y–3.

3. Summary of Comments and Responses

This section summarizes the significant comments and responses related to the proposed addition of new reporting requirements for facilities required to use IVT. See the EPA's comment response document in Docket ID No. EPA–HQ–OAR–2010–0929 for a complete listing of all comments and responses related to this topic.

Comment: One commenter suggested that the amount of cyclohexanone and cyclohexanol combined (also called ketone-alcohol oil or (KA) used to manufacture adipic acid should be substituted for cyclohexane for the verification of N_2O emissions from adipic acid manufacturing. The commenter indicated that they use an EPA-approved alternate method, as allowed under 40 CFR 98.53(a)(2) to report N_2O emissions, and the proposed new data element would not fairly represent emissions from their manufacturing facility. The commenter explained that the EPA is assuming that adipic acid is manufactured wholly via the oxidation of cyclohexane to KA, which is then further oxidized with nitric acid to adipic acid. The commenter stated that this assumes that all the KA used in the nitric acid oxidation comes from cyclohexane oxidation and all the KA produced is used to produce adipic acid. However, the commenter stated that, in reality, KA can be purchased or sold commercially as well as produced using materials other than cyclohexane. The commenter noted that they operate an alternate process to produce KA in addition to the cyclohexane-based KA production.

Response: The EPA agrees with the commenter that the proposed new data element for subpart E (i.e., 40 CFR 98.56(m), the annual quantity of cyclohexane fed to all production lines, combined) will be useful to the EPA for verification purposes for only those reporters that are producing all adipic acid from cyclohexane. At proposal, the EPA had assumed that all KA used to produce adipic acid was produced by the reporting facility using cyclohexane. Based on this commenter input and further consideration, the EPA has determined that there are cases where either the KA used by the reporting facility to create adipic acid is purchased from another KA producer or the reporting facility uses materials other than cyclohexane to produce KA (such as the facility represented by the commenter). In a case where the KA used by the reporting facility to create adipic acid is purchased from another KA producer, the reporting facility may not know whether and how much cyclohexane was used to produce the KA. Likewise, in cases where the reporting facility uses materials other than cyclohexane to produce KA (which may then be used to produce adipic acid), the reported annual quantity of cyclohexane used to produce adipic acid would not be applicable and, therefore, not useful to EPA for verification of reported GHG emissions (representing all adipic acid produced) because this quantity of cyclohexane would represent only part (or none, if no cyclohexane is used) of the KA used to produce adipic acid. In cases where a reporter is producing KA using materials other than cyclohexane, or where a reporter is purchasing KA, the EPA has changed the new data element to be the quantity of KA fed to adipic acid production lines. In the final rule, the EPA has revised the new data element to specify that if only cyclohexane is oxidized to produce adipic acid, the reporter must report the annual quantity of cyclohexane used to produce adipic acid; otherwise, the reporter must report the annual quantity of KA used to produce adipic acid. Regarding the comment that some adipic acid producers are selling some of the KA produced, these adipic acid producers will be required to report a corrected quantity of cyclohexane or KA, as applicable, used to produce adipic acid to account for any KA sold. Regarding the comment that some adipic acid producers purchase KA to produce adipic acid, these reporters will be required to report the annual quantity of KA used to produce adipic acid under 40 CFR 98.56(m)(2).

Comment: One commenter supported the reporting for two new data elements proposed to be reported for subpart AA: (1) Quantity of calcium oxide (CaO) produced (metric tons), and (2) percent of annual heat input, individually for each fossil fuel type. The commenter opposed the reporting of two other data

elements proposed to be reported for subpart AA for each chemical recovery furnace and chemical recovery combustion unit for which Equation C–2c of subpart C is not used to calculate CO_2 emissions: (1) Annual mass of steam generated (pound (lb) steam), individually for each fossil fuel type and for spent liquor solids, and (2) Ratio of the unit's maximum rated heat input capacity to its design rated steam output capacity (MMBtu/lb steam), individually for each fossil fuel type and for spent liquor solids. The commenter contended that these requirements are unclear and unnecessary and should be removed from the final rule. The commenter asserted that these proposed reporting requirements for pulp mills directly contradict the requirement in 40 CFR 98.36(e)(2)(ii)(D) that requires stationary fuel combustion units to report the steam and heat/steam ratio only if Equation C–2c is used. Regarding recovery units not using Equation C–2c, the commenter indicated that determining these two data elements would be overly burdensome because determining steam generation by fuel type would be very difficult. The commenter explained that most recovery furnaces only use spent pulping liquor as their fuel and some may use other fuels for either start-up or for flame stabilization, but, generally, the fuels are liquid; and, other than using a percent of fuel to estimate the amount of steam generation per fuel type, the commenter did not know of any other method to determine the amount of steam generation per fuel type. As such, the commenter requested that these two proposed new data elements (annual mass of steam generated and ratio of the unit's maximum rated heat input capacity to its design rated steam output capacity) be eliminated in the final rule.

Response: The EPA thanks the commenter for their support for reporting the quantity of CaO produced, and percent of annual heat input, individually for each fossil fuel type. These two data elements are added as proposed. Regarding the other two data elements (annual mass of steam generated (lb steam), individually for each fossil fuel type and for spent liquor solids, and ratio of the unit's maximum rated heat input capacity to its design rated steam output capacity (MMBtu/lb steam), individually for each fossil fuel type and for spent liquor solids), the EPA included these new elements in the proposal to supplement the IVT verification approach because having such information would allow the EPA to verify and reconcile potential differences between reported emissions and emissions equation results calculated by IVT and therefore minimize the need for follow-up via phone, email or on-site visit. However, as the EPA stated in the proposal preamble (September 11, 2013), the proposal to collect these two data elements was also based in part on the EPA's incorrect assumption that the proposed new reporting elements would be readily available for affected facilities, or easily calculated using data already required to be collected. In light of the comment, and after further investigation of the method available to reporters to calculate steam generated by fuel type, the EPA has learned that generating these two new data reporting elements would require a significant investment in time. Upon further consideration, the EPA concludes that any potential time saved from the reduced follow-up activities due to collection of these two data elements is outweighed by the significant resources and time required for the facilities to generate these data. The EPA is therefore not requiring the reporting of these two data elements in the final rule and will continue to rely on the general IVT verification approach for verifying chemical recovery furnace and chemical recovery combustion unit emissions. For the reasons stated above, the EPA is not finalizing these two new data elements in this final action.

III. Summary of Final Confidentiality Determinations for New Data Elements

A. Summary of Final CBI Determinations

The EPA is finalizing the proposed data category assignment and confidentiality determination for each new data element added in this final rule[18] except 40 CFR 98.226(q). For 40 CFR 98.226(q), the EPA is finalizing the proposed data category assignment, but is not making any final confidentiality determination. The EPA's rationale for this change is provided in Section III.B of this preamble.

For the 16 new data elements listed in Table 5 of this preamble, the EPA has determined that they are entitled to confidential treatment, as proposed. Specifically, the EPA is finalizing the proposed category assignments of these data elements to the ''Production/Throughput Data that are Not Inputs to Emission Equations'' and ''Raw Materials Consumed that are Not Inputs to Emission Equations'' data categories and the application of the categorical confidentiality determinations made for these categories in the 2011 final CBI rule (76 FR 30782, May 26, 2011) to these data elements.

TABLE 5—DATA ELEMENTS ASSIGNED TO THE ''PRODUCTION/THROUGHPUT DATA THAT ARE NOT INPUTS TO EMISSION EQUATIONS'' AND ''RAW MATERIALS CONSUMED THAT ARE NOT INPUTS TO EMISSION EQUATIONS'' DATA CATEGORIES

Subpart	Final citation	Data element
''Production/Throughput Data That Are Not Inputs to Emission Equations'' Data Category		
G—Ammonia Production	40 CFR 98.76(b)(14)	Annual ammonia production (metric tons, sum of all process lines reported within subpart G).
	40 CFR 98.76(b)(15)	Annual methanol production (metric tons) for each process unit.
H—Cement Kilns	40 CFR 98.86(b)(16)	Annual clinker production (metric tons).
P—Hydrogen Production	40 CFR 98.166(e)	Annual methanol production (metric tons) for each process unit.
S—Lime Manufacturing	40 CFR 98.196(b)(18)	Annual quantity (tons) of lime product sold, by type.
X—Petrochemical	40 CFR 98.246(a)(13) and (b)(10)	If using the CEMS method to calculate GHG emissions: Name and annual quantity (in metric tons) of each product. If using the mass balance method to calculate GHG emissions: Name and annual quantity (in metric tons) of each product used in Equations X–1, X–2, and X–3 of subpart X.

[18] EPA is not finalizing the addition of all the data elements proposed to be added to the rule. Five data elements are not being added to the rule. The EPA's rationale for this change is provided in Section III.B of this preamble.

TABLE 5—DATA ELEMENTS ASSIGNED TO THE ''PRODUCTION/THROUGHPUT DATA THAT ARE NOT INPUTS TO EMISSION EQUATIONS'' AND ''RAW MATERIALS CONSUMED THAT ARE NOT INPUTS TO EMISSION EQUATIONS'' DATA CATEGORIES—Continued

Subpart	Final citation	Data element
AA—Pulp and Paper	40 CFR 98.276(l)(1)	For each pulp mill lime kiln: Quantity of calcium oxide (CaO) produced (metric tons).
''Raw Materials Consumed That Are Not Inputs to Emission Equations'' Data Category		
E—Adipic Acid Production	40 CFR 98.56(m)	If only cyclohexane is oxidized to produce adipic acid, report the annual quantity of cyclohexane (tons) used to produce adipic acid. If materials other than cyclohexane are oxidized to produce adipic acid, report the annual quantity of cyclohexanone and cyclohexanol mixture (tons) used to produce adipic acid.
P—Hydrogen Production	40 CFR 98.166(b)(7)	Name and annual quantity (metric tons) of each carbon-containing fuel and feedstock.
Q—Iron and Steel	40 CFR 98.176(e)(6)(i)	If you use the carbon mass balance method in 40 CFR 98.173(b)(1) to determine CO_2 emissions: The annual mass (metric tons) of all gaseous, liquid, and solid fuels (combined) used in process units specified in Equations Q–1 through Q–7, calculated as specified in a new Equation Q–9 of subpart Q in the final rule amendments. Does not include fuel used in a stationary combustion unit where emissions are reported under subpart C.
	40 CFR 98.176(e)(6)(ii)	If you use the carbon mass balance method in 40 CFR 98.173(b)(1) to determine CO_2 emissions: The annual mass (metric tons) of all non-fuel material inputs (combined) specified in Equations Q–1 through Q–7 of subpart Q, calculated as specified in a new Equation Q–10 of subpart Q in the final rule amendments.
	40 CFR 98.176(e)(6)(iii)	If you use the carbon mass balance method in 40 CFR 98.173(b)(1) to determine CO_2 emissions: The annual mass (metric tons) of all solid and liquid products and byproducts (combined) specified in Equations Q–1 through Q–7, calculated as specified in a new Equation Q–11 of subpart Q in the final rule amendments.
	40 CFR 98.176(e)(6)(iv)	If you use the carbon mass balance method in 40 CFR 98.173(b)(1) to determine CO_2 emissions: The weighted average carbon content of all gaseous, liquid, and solid fuels (combined) included in Equation Q–9 of subpart Q, calculated as specified in a new Equation Q–12 of subpart Q in the final rule amendments.
	40 CFR 98.176(e)(6)(v)	If you use the carbon mass balance method in 40 CFR 98.173(b)(1) to determine CO_2 emissions: The weighted average carbon content of all non-fuel inputs to all furnaces (combined) included in Equation Q–10 of subpart Q, calculated as specified in a new Equation Q–13 of subpart Q in the final rule amendments.
	40 CFR 98.176(e)(6)(vi)	If you use the carbon mass balance method in 40 CFR 98.173(b)(1) to determine CO_2 emissions: The weighted average carbon content of all solid and liquid products and byproducts from all furnaces (combined) included in a new Equation Q–11 of subpart Q in the final rule amendments, calculated as specified in new Equation Q–14 of subpart Q in the final rule amendments.
X—Petrochemical	40 CFR 98.246(a)(12) and (b)(9)	If using the CEMS method to calculate GHG emissions: Name and annual quantity (in metric tons) of each carbon-containing feedstock. If using the mass balance method to calculate GHG emissions: Name and annual quantity (in metric tons) of each carbon-containing feedstock used in Equations X–1, X–2, and X–3 of subpart X.

The five new data elements listed below in Table 6 of this preamble were proposed to be assigned to the ''Unit Process Operating Characteristics that are Not Inputs to Emission Equations'' category, for which EPA has not established a categorical confidentiality determination. Individual confidentiality determinations were proposed for these data elements, which are shown in Table 6 below. In this action, the EPA is finalizing the categorical assignments and confidentiality determinations for four of the five new data elements listed in Table 6, as proposed. The EPA revised the confidentiality determination for the new data element in subpart V, as shown in Table 6.

TABLE 6—FINAL CONFIDENTIALITY DETERMINATIONS FOR NEW DATA ELEMENTS ASSIGNED TO THE "UNIT/PROCESS OPERATING CHARACTERISTICS THAT ARE NOT INPUTS TO EMISSION EQUATIONS"

Subpart	Citation	Data element	Confidentiality determination	Final rationale for confidentiality determination
E—Adipic Acid Production.	40 CFR 98.56(n) ..	Annual percent N_2O emission reduction for all production units combined.	Not CBI	The annual facility percent N_2O reduction could not be used to calculate adipic acid production. The level of N_2O reductions varies by the type of abatement technology, the environment in which the abatement technology is operating, the age of the abatement technology, the age of the catalyst used, and the maintenance level of the abatement technology.
H—Cement Kilns ...	40 CFR 98.86(b)(17).	Annual average clinker CO_2 emission factor for the facility, averaged across all kilns (metric tons CO_2/metric ton clinker produced).	CBI	This data element could be used to back calculate a facility's clinker production data, which would result in competitive disadvantage.
	40 CFR 98.86(b)(18).	Annual average cement kiln dust (CKD) CO_2 emission factor for the facility, averaged across all kilns (metric tons CO_2/metric ton CKD produced).	CBI	This data element could provide information about the efficiency of the operation, which would result in competitive disadvantage.
V—Nitric Acid Production.	40 CFR 98.226(q)	Annual percent N_2O emission reduction for all nitric acid trains combined.	ND [a]	Refer to Section III.B of this preamble for the rationale for this determination.
AA—Pulp and Paper.	40 CFR 98.276(l)(2).	For each pulp mill lime kiln: Percent of annual heat input, individually for each fossil fuel type.	Non-CBI	Release of this data would not result in competitive harm because lime kiln fossil fuel use as a fraction of design heat input was reported to the EPA as part of a 2011 ICR survey, and facilities reporting via the survey made no CBI claims regarding fuel type and percent of design heat input.

[a] ND = No determination is being finalized.

B. Response to Public Comments

The EPA received several comments related to the proposed confidentiality determinations for new data elements. Several commenters provided support for the EPA's proposed confidentiality determinations for new data elements proposed to be reported in subparts G, H, S, P, Y, and AA. These comments may be found in the EPA's comment response document in Docket ID No. EPA–HQ–OAR–2010–0929. We received several comments questioning the proposed confidentiality determination of several new data elements, including requests that the data elements be treated as confidential, or that the confidentiality be determined on a case-by-case basis, and summaries of these comments and EPA's responses thereto are provided below. Additional comments and the EPA's responses may be found in the comment response document noted above.

Comment: One commenter provided comments on confidentiality determinations for new data elements proposed for subpart V (Nitric Acid Production). The commenter expressed support for the inclusion of the data element ''annual percent nitrous oxide emissions reduction for all production units combined'' (40 CFR 98.226(q)) in the ''Unit/Process 'Operating' Characteristics That Are Not Inputs to Emission Equations'' data category. However, the commenter disagreed with the EPA's proposed determination that the data element is considered not confidential. The commenter disagreed with the EPA's assertion that the data could not be used to calculate nitric acid production for an individual train because it is an aggregate number, stating that for facility with only a single nitric acid train with N_2O abatement, this would not hold true. The commenter further asserted that the EPA was incorrect to assume that the data are publicly available through the voluntary Climate Action Reserve (CAR). The commenter stated that although some industry members participate in the CAR and release the information, several do not. The commenter contested that it is inappropriate for the EPA to base part of its decision on the voluntary reporting of some facilities. As an alternative, the commenter requested that the EPA not make a confidentiality determination for this data element as it has done for other data elements and, instead, allow individual reporters to assert CBI claims for the data element.

Response: The EPA agrees with the commenter that the annual percent nitrous oxide emissions reduction for all production units combined is not publicly available on an annual basis through the CAR for all facilities reporting under this subpart, and notes that the EPA did not indicate such was the case in the proposed rule. At proposal, the EPA did not specifically consider the situation where a facility has only one nitric acid train. After further investigation in response to the comment received, the EPA agrees that, in cases where a facility has only one nitric acid train with N_2O, the data element ''annual percent nitrous oxide emissions reduction for all production units combined'' (40 CFR 98.226(q)) could be used to calculate nitric acid production. For facilities with only one nitric acid train with N_2O abatement, the reporting of annual percent N_2O emissions reductions, together with annual N_2O emissions from nitric acid

production (as required to be reported in 40 CFR 98.3(c)(4)), the destruction efficiency (as required to be reported in 40 CFR 98.226(i)), and the abatement utilization factor (as required to be reported in 40 CFR 98.226(j)), could be used to back-calculate the mass of nitric acid produced. Further, the EPA cannot conclude that in specific situations, if a facility adds a nitric acid train from one year to the next, and the EPA publishes this data for the year that the facility has two nitric acid trains, that data revealing the annual percent nitrous oxide emissions reductions for all production units combined could not be back-calculated or estimated for the previous year (when the facility had one nitric acid train.)

However, if a facility reports this information to the CAR and it is publicly available, the EPA sees no reason why the same data could not be published through the Greenhouse Gas Reporting Program, regardless of the number of nitric acid trains at the facility. In light of the above, the EPA cannot make a confidentiality determination that applies to all facilities required to report this data element. Therefore, the EPA is not finalizing a confidentiality determination for this data element. In Table 6 of this preamble, the determination for this data element is designated as ''ND,'' which means that no determination has been made. The EPA will make a confidentiality determination for this data element on a case by case basis.

Comment: One commenter provided support for the confidentiality determinations for three new data elements proposed in subpart Y: Annual quantity of flare gas combusted (40 CFR 98.256(e)(11)(i)); annual average molecular weight of flare gas combusted (40 CFR 98.256(e)(11)(ii)); and annual average carbon content of flare gas combusted (40 CFR 98.256(e)(11)(iii)). The three data elements, which are only required when using Equation Y–3 of subpart Y, were assigned to the ''Unit/Process 'Operating' Characteristics that Are Not Inputs to Emission Equations'' Data Category'' and were not classified as CBI in the proposal. Another commenter disagreed with the EPA's determination that these data are not confidential. The commenter explained that the flared gases are process gases, and would reveal characteristics of iron and steel processes. The commenter stated that the data elements may reveal operating efficiency, provide information that would allow competitors to infer production costs and process characteristics, and enable them to gain a competitive advantage. The commenter asserted that the data elements are CBI and must be considered CBI in the final rule.

Response: The EPA proposed to collect these three data elements to assist the EPA in verifying reported GHG emissions associated with flaring gas when Equation Y–3 is used. The EPA is not finalizing the reporting of these data elements. Refer to Section II.D.2 of this preamble for further discussion of the EPA's rationale for this decision.

IV. Impacts of the Final Rule

The EPA has determined that the cost associated with this final action will be $438,000 in the first year of implementation and $55,000 in each subsequent year, as further summarized below. A full discussion of the impacts may be found in the memorandum, ''Assessment of Cost Impacts of 2015 Inputs Proposal—Revisions to Reporting, Recordkeeping, and Verification Requirements Under the Greenhouse Gas Reporting Program,'' August 2013, available in the EPA's Docket ID No. EPA–HQ–OAR–2010–0929.

A. How were the costs of this final rule estimated?

1. Inputs Verification Tool

The data elements required to be used for calculating the annual GHG emissions values, and the cost associated with collecting these data elements, have not changed from the estimate made during the original rulemaking process. The time associated with entry of these inputs to emission equations into e-GGRT (including into the new IVT) is expected to be equivalent to the time originally anticipated for data entry. Prior to using IVT, as currently required, reporters must use their own calculation tool (e.g., calculator, calculation software) to calculate the annual GHG emissions values, using the same sets of equations and entering the same data elements that they would enter into the tool.

The EPA does recognize however that there may be some time associated with learning the new procedures for IVT and we have estimated a cost of approximately $67 per facility, or $383,000 for the first year for all affected facilities. During their first session using IVT, reporters would need to spend approximately one hour to become familiar with how the tool operates within e-GGRT. The requirement to use IVT would not result in any change in the respondent activity of entering these data into e-GGRT. Once the reporter has become familiar with the tool, the EPA does not anticipate any additional burden. The cost includes technical, clerical, and managerial labor hours. For further information about this cost estimate, refer to the memorandum ''Assessment of Cost Impacts of 2015 Inputs Final Rule—Revisions to Reporting, Recordkeeping, and Verification Requirements Under the Greenhouse Gas Reporting Program'' September 2014 and the supporting statement for the information collection request, ''Supporting Statement, Environmental Protection Agency: Revisions to Reporting and Recordkeeping Requirements, and Final Confidentiality Determinations Under the Greenhouse Gas Reporting Program, Office of Management and Budget (OMB) Control Number 2060–0629, ICR Number 2300.12,'' both available in Docket ID No. EPA–HQ–OAR–2010–0929.

2. New Data Elements

We are adding 21 new data elements that were not previously required to be reported under Part 98 (see Section II.D of this preamble for further discussion). These data elements must be reported by facilities in certain subparts that are required to use IVT. Of these 21 data elements, seven data elements are related to annual production or raw material usage, which are collected by a facility as a routine part of conducting business. For these data elements, we are not requiring that reporters comply with specific data collection or monitoring requirements beyond the methods commonly used for accounting purposes. The other 14 data elements to be reported are calculated values using data currently required to be collected to perform emissions calculations. For all of these additional data elements, the EPA has estimated a nominal additional cost to report the data element and fulfill the recordkeeping requirements. The total costs associated with reporting and recordkeeping for the 21 data elements in 9 subparts is $55,000. These costs represent the cost for all affected facilities in the first year.

B. Do the final confidentiality determinations change the impacts of the final amendments?

The final confidentiality determinations for the new data elements would not affect whether and how data are reported and, therefore, would not impose any additional burden on sources. Whether a data reporting element is determined to be CBI, not CBI, or emission data, the reporting element is reported to the EPA through e-GGRT in the same manner.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

The information collection requirements in this final rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by the EPA has been assigned EPA ICR number 2300.12. The information collection requirements are not enforceable until OMB approves them.

This action finalizes amendments to reporting and recordkeeping requirements and verification procedures for the GHGRP. In addition, the EPA is publishing confidentiality determinations for the new data elements added in this action. The amendments to the reporting requirements in the source category-specific subparts are not anticipated to result in significant burden for reporters. The data elements required to be reported are expected to be readily available for affected facilities, or easily calculated using data already required to be collected (e.g., a monthly value was previously reported and an annual value is to be reported).

Impacts associated with the changes to the reporting requirements in each subpart are detailed in the memorandum ''Assessment of Cost Impacts of 2015 Inputs Final Rule—Revisions to Reporting, Recordkeeping, and Verification Requirements under the Greenhouse Gas Reporting Program,'' September 2014, (see Docket ID No. EPA–HQ–OAR–2010–0929). Burden is defined at 5 CFR 1320.3(b).

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. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of these final rule amendments and confidentiality determinations on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. After considering the economic impacts of these final amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by these final rule amendments include small businesses across all sectors of the economy encompassed by Part 98, small governmental jurisdictions, and small non-profits. We have determined that these facilities will experience impacts of roughly a first-year cost of $67 per facility for learning new procedures for the verification tool and an annual cost of $93 per facility for the recordkeeping and reporting of 21 new data elements.

Although these final rule amendments will not have a significant economic impact on a substantial number of small entities, the EPA nonetheless has tried to reduce the impact of this rule on small entities. The EPA supports a ''help desk'' for the GHGRP, which will be available to answer questions on the provisions in this final rulemaking.

D. Unfunded Mandates Reform Act (UMRA)

The final amendments and confidentiality determinations do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This action finalizes the following requirements: (1) Requirements for certain reporters under 23 subparts to use an EPA-provided IVT instead of reporting certain data elements for which disclosure concerns have been identified, (2) lengthening the record retention time for reporters required to use IVT, and (3) new data elements to be reported for certain reporters using IVT and confidentiality determinations for these new data element. As discussed in Section IV of this preamble, for the first year, the total collective impact on regulated entities is (1) $383,000, or $67 per entity, for using IVT; and (2) $55,000, or $93 per entity, for the final new data elements to be reported. Thus, the final amendments and confidentiality determinations are not subject to the requirements of sections 202 or 205 of UMRA.

This final rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action amends reporting and recordkeeping requirements and verification procedures for certain reporters in the GHGRP. In addition, the EPA is finalizing confidentiality determinations for the new data elements added in this action. As discussed in Section IV of this preamble, the total collective impact on regulated entities is $438,000 in the first year, and $55,000 annually thereafter. Because this impact on each individual facility is estimated to be approximately $67–$160 in the first year and $93 annually thereafter, the EPA has determined that the provisions in this action will not significantly impact small governments. In addition, because none of the provisions apply specifically to small governments, the EPA has determined that the provisions in this action will not uniquely impact small governments. Therefore, this action is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

The final 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. The final amendments and confidentiality determinations apply to facilities that directly emit greenhouses gases and fuel and chemicals suppliers. These changes do not apply to governmental entities unless the government entity owns a facility that directly emits GHGs above threshold levels (such as a large

stationary combustion device), so relatively few government facilities will be affected. Moreover, for government facilities that are subject to the rule, the final revisions will not have a significant cost impact. This final rule also does not limit the power of States or localities to collect GHG data and/or regulate GHG emissions. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This final rule does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The final amendments and confidentiality determinations apply directly to facilities that directly emit GHGs or that are suppliers of GHGs. They will not have tribal implications unless the tribal entity owns a facility that directly emits GHGs above threshold levels (such as a landfill or large combustion device). Relatively few tribal facilities would be affected. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This final rule is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Part 98 relates to monitoring, reporting, and recordkeeping and does not impact energy supply, distribution, or use. This final rule amends reporting and recordkeeping requirements and verification procedures for the GHGRP. In addition, the EPA is finalizing confidentiality determinations for the new data elements added in this rulemaking. These final amendments and confidentiality determinations do not make any changes to the existing monitoring, recordkeeping, or reporting requirements under Part 98 that affect the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or 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. NTTAA directs the EPA to provide Congress, through the OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rulemaking does not involve any new technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 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.

The EPA has determined that these final rule amendments and confidentiality determinations will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the amendments do not affect the level of protection provided to human health or the environment. This is because the final amendments address information collection and reporting and verification procedures.

K. Congressional Review Act

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 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**. 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). This rule will be effective on November 24, 2014.

List of Subjects 40 CFR Part 98

Environmental protection, Administrative practice and procedure, Greenhouse gases, Reporting and recordkeeping requirements.

Dated: September 26, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency amends title 40, chapter I, of the Code of Federal Regulations as follows:

PART 98—MANDATORY GREENHOUSE GAS REPORTING

■ 1. The authority citation for part 98 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—General Provision

■ 2. Section 98.3 is amended by revising paragraphs (c)(4)(vii), (d)(3)(v), (g) introductory text, and (g)(2)(i) to read as follows:

§ 98.3 What are the general monitoring, reporting, recordkeeping and verification requirements of this part?

* * * * *

(c) * * *

(4) * * *

(vii) The owner or operator of a facility is not required to report the data elements specified in Table A–6 of this subpart for calendar years 2010 through 2011 until March 31, 2013. The owner or operator of a facility is not required to report the data elements specified in Table A–7 of this subpart for calendar years 2010 through 2013 until March 31, 2015 (as part of the annual report for reporting year 2014), except as otherwise specified in Table A–7 of this subpart.

* * * * *

(d) * * *

(3) * * *

(v) For each stationary fuel combustion source that meets the criteria specified in § 98.36(f), report any facility operating data or process information used for the GHG emission calculations. A stationary fuel combustion source that does not meet the criteria specified in § 98.36(f) must either report the data specified in this paragraph (d)(3)(v) in the annual report or use verification software according to § 98.5(b) in lieu of reporting the data specified in this paragraph.

* * * * *

(g) *Recordkeeping.* An owner or operator that is required to report GHGs under this part must keep records as specified in this paragraph (g). Except as otherwise provided in this paragraph, retain all required records for at least 3 years from the date of submission of the annual GHG report for the reporting year in which the record was generated. The records shall be kept in an electronic or hard-copy format (as appropriate) and recorded in a form that is suitable for expeditious inspection and review. If the owner or operator of a facility is required under § 98.5(b) to use verification software specified by the Administrator, then all records required for the facility under this part must be retained for at least 5 years from the date of submission of the annual GHG report for the reporting year in which the record was generated, starting with records for reporting year 2010. Upon request by the Administrator, the records required under this section must be made available to EPA. Records may be retained off site if the records are readily available for expeditious inspection and review. For records that are electronically generated or maintained, the equipment or software necessary to read the records shall be made available, or, if requested by EPA, electronic records shall be converted to paper documents. You must retain the following records, in addition to those records prescribed in each applicable subpart of this part:

* * * * *

(2) * * *

(i) The GHG emissions calculations and methods used. For data required by § 98.5(b) to be entered into verification software specified in § 98.5(b), maintain the entered data in the format generated by the verification software according to § 98.5(b).

* * * * *

■ 3. Section 98.5 is revised to read as follows:

§ 98.5 How is the report submitted?

(a) Each GHG report and certificate of representation for a facility or supplier must be submitted electronically in accordance with the requirements of § 98.4 and in a format specified by the Administrator.

(b) For reporting year 2014 and thereafter, you must enter into verification software specified by the Administrator the data specified in the verification software records provision in each applicable recordkeeping section. For each data element entered into the verification software, if the software produces a warning message for the data value and you elect not to revise the data value, you may provide an explanation in the verification software of why the data value is not being revised.

■ 4. Table A–7 to Subpart A of Part 98 is revised to read as follows:

TABLE A–7 TO SUBPART A OF PART 98—DATA ELEMENTS THAT ARE INPUTS TO EMISSION EQUATIONS AND FOR WHICH THE REPORTING DEADLINE IS MARCH 31, 2015

Subpart	Rule citation (40 CFR part 98)	Specific data elements for which reporting date is March 31, 2015 ("All" means all data elements in the cited paragraph are not required to be reported until March 31, 2015)
A	98.3(d)(3)(v)	All.[a]
C	98.36(b)(9)(iii)	Only estimate of the heat input.[a]
C	98.36(c)(2)(ix)	Only estimate of the heat input from each type of fuel listed in Table C–2 of subpart C of this part.[a]
C	98.36(e)(2)(i)	All.[a]
C	98.36(e)(2)(ii)(A)	All.[a]
C	98.36(e)(2)(ii)(C)	Only HHV value for each calendar month in which HHV determination is required.[a]
C	98.36(e)(2)(ii)(D)	All.[a]
C	98.36(e)(2)(iv)(A)	All.[a]
C	98.36(e)(2)(iv)(C)	All.[a]
C	98.36(e)(2)(iv)(F)	All.[a]
C	98.36(e)(2)(ix)(D)	All.[a]
C	98.36(e)(2)(ix)(E)	All.[a]
C	98.36(e)(2)(ix)(F)	All.[a]
E	98.56(g)	All.
E	98.56(h)	All.
E	98.56(j)(4)	All.
E	98.56(j)(5)	All.
E	98.56(j)(6)	All.
E	98.56(l)	All.
H	98.86(b)(11)	All.
H	98.86(b)(13)	Name of raw kiln feed or raw material.
L	98.126(b)(1)	Only data used in calculating the absolute errors and data used in calculating the relative errors.
L	98.126(b)(2)	All.
L	98.126(b)(6)	Only mass of each fluorine-containing reactant fed into the process.
L	98.126(b)(7)	Only mass of each fluorine-containing product produced by the process.
L	98.126(b)(8)(i)	Only mass of each fluorine-containing product that is removed from the process and fed into the destruction device.

TABLE A–7 TO SUBPART A OF PART 98—DATA ELEMENTS THAT ARE INPUTS TO EMISSION EQUATIONS AND FOR WHICH THE REPORTING DEADLINE IS MARCH 31, 2015—Continued

Subpart	Rule citation (40 CFR part 98)	Specific data elements for which reporting date is March 31, 2015 ("All" means all data elements in the cited paragraph are not required to be reported until March 31, 2015)
L	98.126(b)(8)(ii)	Only mass of each fluorine-containing by-product that is removed from the process and fed into the destruction device.
L	98.126(b)(8)(iii)	Only mass of each fluorine-containing reactant that is removed from the process and fed into the destruction device.
L	98.126(b)(8)(iv)	Only mass of each fluorine-containing by-product that is removed from the process and recaptured.
L	98.126(b)(8)(v)	All.
L	98.126(b)(9)(i)	All.
L	98.126(b)(9)(ii)	All.
L	98.126(b)(9)(iii)	All.
L	98.126(b)(10)	All.
L	98.126(b)(11)	All.
L	98.126(b)(12)	All.
L	98.126(c)(1)	Only quantity of the process activity used to estimate emissions.
L	98.126(c)(2)	All.
L	98.126(d)	Only estimate of missing data.
L	98.126(f)(1)	All.
L	98.126(g)(1)	All.
L	98.126(h)(2)	All.
O	98.156(d)(2)	All.
O	98.156(d)(3)	All.
O	98.156(d)(4)	All.
Q	98.176(f)(1)	All.
W	98.236(c)(1)(i)	All.
W	98.236(c)(1)(ii)	All.
W	98.236(c)(1)(iii)	All.
W	98.236(c)(2)(i)	All.
W	98.236(c)(3)(i)	All.
W	98.236(c)(3)(ii)	Only Calculation Methodology 2 of § 98.233(d).
W	98.236(c)(3)(iii)	All.
W	98.236(c)(3)(iv)	All.
W	98.236(c)(4)(i)(A)	All.
W	98.236(c)(4)(i)(B)	All.
W	98.236(c)(4)(i)(C)	All.
W	98.236(c)(4)(i)(D)	All.
W	98.236(c)(4)(i)(E)	All.
W	98.236(c)(4)(i)(F)	All.
W	98.236(c)(4)(i)(G)	All.
W	98.236(c)(4)(i)(H)	All.
W	98.236(c)(4)(ii)(A)	All.
W	98.236(c)(5)(i)(D)	All.
W	98.236(c)(5)(ii)(C)	All.
W	98.236(c)(6)(i)(B)	All.[b]
W	98.236(c)(6)(i)(D)	All.[b]
W	98.236(c)(6)(i)(E)	All.[b]
W	98.236(c)(6)(i)(F)	All.[b]
W	98.236(c)(6)(i)(G)	Only the amount of natural gas required.
W	98.236(c)(6)(i)(H)	Only the amount of natural gas required.
W	98.236(c)(6)(ii)(A)	All.
W	98.236(c)(6)(ii)(B)	All.
W	98.236(c)(7)(i)(A)	Only for Equation W–14A of § 98.233.
W	98.236(c)(8)(i)(F)	All.[b]
W	98.236(c)(8)(i)(K)	All.
W	98.236(c)(8)(ii)(A)	All.[b]
W	98.236(c)(8)(ii)(H)	All.
W	98.236(c)(8)(iii)(A)	All.
W	98.236(c)(8)(iii)(B)	All.
W	98.236(c)(8)(iii)(G)	All.
W	98.236(c)(12)(ii)	All.
W	98.236(c)(12)(v)	All.
W	98.236(c)(13)(i)(E)	All.
W	98.236(c)(13)(i)(F)	All.
W	98.236(c)(13)(ii)(A)	All.
W	98.236(c)(13)(ii)(B)	All.
W	98.236(c)(13)(iii)(A)	All.
W	98.236(c)(13)(iii)(B)	All.

TABLE A–7 TO SUBPART A OF PART 98—DATA ELEMENTS THAT ARE INPUTS TO EMISSION EQUATIONS AND FOR WHICH THE REPORTING DEADLINE IS MARCH 31, 2015—Continued

Subpart	Rule citation (40 CFR part 98)	Specific data elements for which reporting date is March 31, 2015 ("All" means all data elements in the cited paragraph are not required to be reported until March 31, 2015)
W	98.236(c)(13)(v)(A)	All.
W	98.236(c)(14)(i)(B)	All.
W	98.236(c)(14)(ii)(A)	All.
W	98.236(c)(14)(ii)(B)	All.
W	98.236(c)(14)(iii)(A)	All.
W	98.236(c)(14)(iii)(B)	All.
W	98.236(c)(14)(v)(A)	All.
W	98.236(c)(15)(ii)(A)	All.
W	98.236(c)(15)(ii)(B)	All.
W	98.236(c)(16)(viii)	All.
W	98.236(c)(16)(ix)	All.
W	98.236(c)(16)(x)	All.
W	98.236(c)(16)(xi)	All.
W	98.236(c)(16)(xii)	All.
W	98.236(c)(16)(xiii)	All.
W	98.236(c)(16)(xiv)	All.
W	98.236(c)(16)(xv)	All.
W	98.236(c)(16)(xvi)	All.
W	98.236(c)(17)(ii)	All.
W	98.236(c)(17)(iii)	All.
W	98.236(c)(17)(iv)	All.
W	98.236(c)(18)(i)	All.
W	98.236(c)(18)(ii)	All.
W	98.236(c)(19)(iv)	All.
W	98.236(c)(19)(vii)	All.
Y	98.256(h)(5)(i)	Only value of the correction.
Y	98.256(k)(4)	Only mole fraction of methane in coking gas.
Y	98.256(n)(3)	All (if used in Equation Y–21 of § 98.253 to calculate emissions from equipment leaks).
Y	98.256(o)(4)(vi)	Only tank-specific methane composition data and gas generation rate data.
AA	98.276(e)	All.
CC	98.296(b)(10)(i)	All.
CC	98.296(b)(10)(ii)	All.
CC	98.296(b)(10)(iii)	All.
CC	98.296(b)(10)(iv)	All.
CC	98.296(b)(10)(v)	All.
CC	98.296(b)(10)(vi)	All.
II	98.356(d)(2)	All (if conducting weekly sampling).
II	98.356(d)(3)	All (if conducting weekly sampling).
II	98.356(d)(4)	Only weekly average temperature (if conducting weekly sampling).
II	98.356(d)(5)	Only weekly average moisture content (if conducting weekly sampling).
II	98.356(d)(6)	Only weekly average pressure (if conducting weekly sampling).

[a] Required to be reported only by: (1) Stationary fuel combustion sources (e.g., individual units, aggregations of units, common pipes, or common stacks) subject to subpart C of this part that contain at least one combustion unit connected to a fuel-fired electric generator owned or operated by an entity that is subject to regulation of customer billing rates by the PUC (excluding generators connected to combustion units subject to 40 CFR part 98, subpart D) and that are located at a facility for which the sum of the nameplate capacities for all such electric generators is greater than or equal to 1 megawatt electric output; and (2) stationary fuel combustion sources (e.g., individual units, aggregations of units, common pipes, or common stacks) subject to subpart C of this part that do not meet the criteria in (1) of this footnote that elect to report these data elements, as provided in § 98.36(a), for reporting year 2014.

[b] This rule citation provides an option to delay reporting of this data element for certain wildcat wells and/or delineation wells.

Subpart C—General Stationary Fuel Combustion Sources

■ 5. Section 98.36 is amended by:
■ a. Revising paragraph (a);
■ b. Revising paragraph (b)(9)(iii) and adding paragraph (b)(9)(iv);
■ c. Revising paragraphs (c)(2)(ix) and (x);
■ d. Revising paragraph (e)(2)(ii)(C) and adding paragraph (e)(2)(ii)(E); and
■ e. Adding paragraph (f).

■ The revisions and additions read as follows:

§ 98.36 Data reporting requirements.

(a) In addition to the facility-level information required under § 98.3, the annual GHG emissions report shall contain the unit-level or process-level data specified in paragraphs (b) through (f) of this section, as applicable, for each stationary fuel combustion source (e.g., individual unit, aggregation of units, common pipe, or common stack) except as otherwise provided in this paragraph (a). For the data specified in paragraphs (b)(9)(iii), (c)(2)(ix), (e)(2)(i), (e)(2)(ii)(A), (e)(2)(ii)(C), (e)(2)(ii)(D), (e)(2)(iv)(A), (e)(2)(iv)(C), (e)(2)(iv)(F), and (e)(2)(ix)(D) through (F) of this section, the owner or operator of a stationary fuel combustion source that does not meet the criteria specified in paragraph

(f) of this section may elect either to report the data specified in this sentence in the annual report or to use verification software according to § 98.5(b) in lieu of reporting these data. If you elect to use this verification software, you must use the verification software according to § 98.5(b) for all of these data that apply to the stationary fuel combustion source.

(b) * * *

(9) * * *

(iii) An estimate of the heat input from each type of fuel listed in Table C–2 of this subpart that was combusted in the unit during the report year.

(iv) The annual CH_4 and N_2O emissions for each type of fuel listed in Table C–2 of this subpart that was combusted in the unit during the report year, expressed in metric tons of each gas and in metric tons of CO_2e.

* * * * *

(c) * * *

(2) * * *

(ix) An estimate of the heat input from each type of fuel listed in Table C–2 of this subpart that was combusted in the units sharing the common stack or duct during the report year.

(x) For each type of fuel listed in Table C–2 of this subpart that was combusted during the report year in the units sharing the common stack or duct during the report year, the annual CH_4 and N_2O mass emissions from the units sharing the common stack or duct, expressed in metric tons of each gas and in metric tons of CO_2e.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(C) The high heat values used in the CO_2 emissions calculations for each type of fuel combusted during the reporting year, in mmBtu per short ton for solid fuels, mmBtu per gallon for liquid fuels, and mmBtu per scf for gaseous fuels. Report a HHV value for each calendar month in which HHV determination is required. If multiple values are obtained in a given month, report the arithmetic average value for the month.

* * * * *

(E) For each HHV used in the CO_2 emissions calculations for each type of fuel combusted during the reporting year, indicate whether the HHV is a measured value or a substitute data value.

* * * * *

(f) Each stationary fuel combustion source (e.g., individual unit, aggregation of units, common pipe, or common stack) subject to reporting under paragraph (b) or (c) of this section must indicate if both of the following two conditions are met:

(1) The stationary fuel combustion source contains at least one combustion unit connected to a fuel-fired electric generator owned or operated by an entity that is subject to regulation of customer billing rates by the public utility commission (excluding generators that are connected to combustion units that are subject to subpart D of this part).

(2) The stationary fuel combustion source is located at a facility for which the sum of the nameplate capacities for all electric generators specified in paragraph (f)(1) of this section is greater than or equal to 1 megawatt electric output.

■ 6. Section 98.37 is revised to read as follows:

§ 98.37 Records that must be retained.

In addition to the requirements of § 98.3(g), you must retain:

(a) The applicable records specified in §§ 98.34(f) and (g), 98.35(b), and 98.36(e).

(b) *Verification software records.* For each stationary fuel combustion source that elects to use the verification software specified in § 98.5(b) rather than report data specified in paragraphs (b)(9)(iii), (c)(2)(ix), (e)(2)(i), (e)(2)(ii)(A), (e)(2)(ii)(C), (e)(2)(ii)(D), (e)(2)(iv)(A), (e)(2)(iv)(C), (e)(2)(iv)(F), and (e)(2)(ix)(D) through (F) of this section, you must keep a record of the file generated by the verification software for the applicable data specified in paragraphs (b)(1) through (36) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (b)(1) through (36) of this section.

(1) Mass of each solid fuel combusted (tons/year) (Equation C–1 of § 98.33).

(2) Volume of each liquid fuel combusted (gallons/year) (Equation C–1).

(3) Volume of each gaseous fuel combusted (scf/year) (Equation C–1).

(4) Annual natural gas usage (therms/year) (Equation C–1a of § 98.33).

(5) Annual natural gas usage (mmBtu/year) (Equation C–1b of § 98.33).

(6) Mass of each solid fuel combusted (tons/year) (Equation C–2a of § 98.33).

(7) Volume of each liquid fuel combusted (gallons/year) (Equation C–2a).

(8) Volume of each gaseous fuel combusted (scf/year) (Equation C–2a).

(9) Measured high heat value of each solid fuel, for month (which may be the arithmetic average of multiple determinations), or, if applicable, an appropriate substitute data value (mmBtu per ton) (Equation C–2b of § 98.33).

(10) Measured high heat value of each liquid fuel, for month (which may be the arithmetic average of multiple determinations), or, if applicable, an appropriate substitute data value (mmBtu per gallons) (Equation C–2b).

(11) Measured high heat value of each gaseous fuel, for month (which may be the arithmetic average of multiple determinations), or, if applicable, an appropriate substitute data value (mmBtu per scf) (Equation C–2b).

(12) Mass of each solid fuel combusted during month (tons) (Equation C–2b).

(13) Volume of each liquid fuel combusted during month (gallons) (Equation C–2b).

(14) Volume of each gaseous fuel combusted during month (scf) (Equation C–2b).

(15) Total mass of steam generated by municipal solid waste or each solid fuel combustion during the reporting year (pounds steam) (Equation C–2c of § 98.33).

(16) Ratio of the boiler's maximum rated heat input capacity to its design rated steam output capacity (MMBtu/pounds steam) (Equation C–2c).

(17) Annual mass of each solid fuel combusted (short tons/year) (Equation C–3 of § 98.33).

(18) Annual average carbon content of each solid fuel (percent by weight, expressed as a decimal fraction) (Equation C–3).

(19) Annual volume of each liquid fuel combusted (gallons/year) (Equation C–4 of § 98.33).

(20) Annual average carbon content of each liquid fuel (kg C per gallon of fuel) (Equation C–4).

(21) Annual volume of each gaseous fuel combusted (scf/year) (Equation C–5 of § 98.33).

(22) Annual average carbon content of each gaseous fuel (kg C per kg of fuel) (Equation C–5).

(23) Annual average molecular weight of each gaseous fuel (kg/kg-mole) (Equation C–5).

(24) Molar volume conversion factor at standard conditions, as defined in § 98.6 (scf per kg-mole) (Equation C–5).

(25) Identify for each fuel if you will use the default high heat value from Table C–1 of this subpart, or actual high heat value data (Equation C–8 of § 98.33).

(26) High heat value of each solid fuel (mmBtu/tons) (Equation C–8).

(27) High heat value of each liquid fuel (mmBtu/gallon) (Equation C–8).

(28) High heat value of each gaseous fuel (mmBtu/scf) (Equation C–8).

(29) Cumulative annual heat input from combustion of each fuel (mmBtu) (Equation C–10 of § 98.33).

(30) Total quantity of each solid fossil fuel combusted in the reporting year, as defined in § 98.6 (pounds) (Equation C–13 of § 98.33).

(31) Total quantity of each liquid fossil fuel combusted in the reporting year, as defined in § 98.6 (gallons) (Equation C–13).

(32) Total quantity of each gaseous fossil fuel combusted in the reporting year, as defined in § 98.6 (scf) (Equation C–13).

(33) High heat value of the each solid fossil fuel (Btu/lb) (Equation C–13).

(34) High heat value of the each liquid fossil fuel (Btu/gallons) (Equation C–13).

(35) High heat value of the each gaseous fossil fuel (Btu/scf) (Equation C–13).

(36) Fuel-specific carbon based F-factor per fuel (scf CO_2/mmBtu) (Equation C–13).

Subpart E—Adipic Acid Production

■ 7. Section 98.56 is amended by:

■ a. Revising the introductory text;

■ b. Removing and reserving paragraphs (b), (c), and (j)(1) and (3); and

■ c. Adding paragraphs (m) and (n).

The revisions and additions read as follows:

§ 98.56 Data reporting requirements.

In addition to the information required by § 98.3(c), each annual report must contain the information specified in paragraphs (a) through (n) of this section at the facility level.

* * * * *

(m) If only cyclohexane is oxidized to produce adipic acid and the quantity is known, report the information specified in paragraph (m)(1) of this section. If materials other than cyclohexane are oxidized to produce adipic acid, report the information specified in paragraph (m)(2) of this section.

(1) Annual quantity of cyclohexane (tons) used to produce adipic acid.

(2) Annual quantity of cyclohexanone and cyclohexanol mixture (tons) used to produce adipic acid.

(n) Annual percent N_2O emission reduction for all production units combined.

■ 8. Section 98.57 is amended by revising the introductory text and adding paragraph (i) to read as follows:

§ 98.57 Records that must be retained.

In addition to the information required by § 98.3(g), you must retain the records specified in paragraphs (a) through (i) of this section at the facility level:

* * * * *

(i) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (i)(1) through (3) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (i)(1) through (3) of this section.

(1) Annual adipic acid production from each adipic acid production unit (tons) (Equations E–2, E–3a, E–3b, E–3c, and E–3d of § 98.53).

(2) Production rate per test run during the performance test for each production unit test run (tons adipic acid produced/hr) (Equation E–1 of § 98.53).

(3) Annual adipic acid production per N_2O abatement technology during which N_2O abatement technology was used (tons adipic acid produced) (Equation E–2).

Subpart F—Aluminum Production

■ 9. Section 98.66 is amended by:

■ a. Removing and reserving paragraphs (a) and (c)(2);

■ b. Revising paragraphs (c)(3), (e)(1), and (f)(1); and

■ c. Removing and reserving paragraph (g).

The revisions read as follows:

§ 98.66 Data reporting requirements.

* * * * *

(c) * * *

(3) The last date when the smelter-specific-slope coefficients (or overvoltage emission factors) were measured.

* * * * *

(e) * * *

(1) Annual anode consumption if using the method in § 98.63(g).

* * * * *

(f) * * *

(1) Annual paste consumption if using the method in § 98.63(g).

* * * * *

■ 10. Section 98.67 is amended by adding paragraph (i) to read as follows:

§ 98.67 Records that must be retained.

* * * * *

(i) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (i)(1) through (30) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (i)(1) through (30) of this section.

(1) Slope coefficient per potline per month (kg CF_4/metric ton Al)/(AE-Mins/cell-day)) (Equation F–2 of § 98.63).

(2) Anode effect minutes per cell-day per potline per month (AE-Mins/cell-day) (Equation F–2).

(3) Anode effect frequency per potline per month (AE/cell-day) (Equation F–2).

(4) Anode effect duration per potline per month (minutes) (Equation F–2).

(5) Metal production of aluminum per potline per month (metric tons) (Equation F–2).

(6) Overvoltage emission factor per potline per month (kg CF4/metric ton Al) (Equation F–3 of § 98.63).

(7) Metal production of aluminum per potline per month (metric tons) (Equation F–3).

(8) Weight fraction of C_2F6/CF_4 per potline per month (kg C_2F_6/kg CF_4) (Equation F–4 of § 98.63).

(9) Net annual prebaked anode consumption (metric tons C/metric tons Al) (Equation F–5 of § 98.63).

(10) Annual metal production of aluminum (metric tons) (Equation F–5).

(11) Sulfur content in baked anode (weight percent) (Equation F–5).

(12) Ash content in baked anode (weight percent) (Equation F–5).

(13) Annual paste consumption (metric ton/metric ton Al) (Equation F–6 of § 98.63).

(14) Annual metal production of aluminum (metric tons) (Equation F–6).

(15) Annual emissions of cyclohexane soluble matter (kg/metric ton Al) (Equation F–6).

(16) Binder content of paste (weight percent) (Equation F–6).

(17) Sulfur content of pitch (weight percent) (Equation F–6).

(18) Ash content of pitch (weight percent) (Equation F–6).

(19) Hydrogen content of pitch (weight percent) (Equation F–6).

(20) Sulfur content in calcined coke (weight percent) (Equation F–6).

(21) Ash content in calcined coke (weight percent) (Equation F–6).

(22) Carbon in skimmed dust from Søderberg cells (metric ton C/metric ton Al) (Equation F–6).

(23) Initial weight of green anodes (metric tons) (Equation F–7 of § 98.63).

(24) Annual hydrogen content in green anodes (metric tons) (Equation F–7).

(25) Annual baked anode production (metric tons) (Equation F–7).

(26) Annual waste tar collected (metric tons) (Equation F–7).

(27) Annual packing coke consumption (metric tons/metric ton baked anode) (Equation F–8 of § 98.63).

(28) Annual baked anode production (metric tons) (Equation F–8).

(29) Sulfur content in packing coke (weight percent) (Equation F–8).

(30) Ash content in packing coke (weight percent) (Equation F–8).

Subpart G—Ammonia Manufacturing

■ 11. Section 98.76 is amended by removing and reserving paragraphs (b)(2) and (b)(7) through (11) and adding paragraphs (b)(14) and (15) to read as follows:

§ 98.76 Data reporting requirements.

* * * * *

(b) * * *

(14) Annual ammonia production (metric tons, sum of all process units reported within subpart G).

(15) Annual methanol production for each process unit (metric tons).

■ 12. Section 98.77 is amended by revising the introductory text and adding paragraph (c) to read as follows:

§ 98.77 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the following records specified in paragraphs (a) through (c) of this section for each ammonia manufacturing unit.

* * * * *

(c) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (c)(1) through (7) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (c)(1) through (7) of this section.

(1) Volume of each gaseous feedstock used in month (scf of feedstock) (in Equation G–1 of § 98.73).

(2) Carbon content of each gaseous feedstock, for month (kg C per kg of feedstock) (in Equation G–1).

(3) Molecular weight of each gaseous feedstock per ammonia manufacturing unit with gaseous feedstock (kg/kg-mole) (Equation G–1).

(4) Volume of each liquid feedstock used in month (gallons of feedstock) (Equation G–2 of § 98.73).

(5) Carbon content of each liquid feedstock, for month (kg C per gallon of feedstock) (Equation G–2).

(6) Mass of each solid feedstock used in month (kg of feedstock) (Equation G–3 of § 98.73).

(7) Carbon content of each solid feedstock, for month (kg C per kg of feedstock) (Equation G–3).

Subpart H—Cement Production

■ 13. Section 98.86 is amended by:

■ a. Removing and reserving paragraphs (b)(2), (5), (6), (8), (10), and (12);

■ b. Revising paragraphs (b)(13) and (15); and

■ c. Adding paragraphs (b)(16) through (18).

The revisions and additions read as follows:

§ 98.86 Data reporting requirements.

* * * * *

(b) * * *

(13) Name of raw kiln feed or raw material.

* * * * *

(15) Method used to determine the monthly clinker production from each kiln.

(16) Annual clinker production (metric tons).

(17) Annual average clinker CO_2 emission factor for the facility, averaged across all kilns (metric tons CO_2/metric ton clinker produced).

(18) Annual average CKD CO_2 emission factor for the facility, averaged across all kilns (metric tons CO_2/metric ton CKD produced).

■ 14. Section 98.87 is amended by adding paragraph (c) to read as follows:

§ 98.87 Records that must be retained.

* * * * *

(c) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (c)(1) through (17) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (c)(1) through (17) of this section.

(1) Identify per kiln per month if clinker is measured directly, or is calculated from raw feed (Equation H–2 of § 98.83 and the method in § 98.84(d)).

(2) Quantity of raw kiln feed in month from kiln (tons) (Equation H–2 and the method in § 98.84(d)).

(3) Kiln-specific factor per kiln per month (ton clinker per ton raw feed) (Equation H–2 and the method in § 98.84(d)).

(4) Quantity of clinker produced in month from kiln (tons) (Equation H–2 and the method in § 98.84(d)).

(5) Cement kiln dust (CKD) not recycled to the kiln in quarter from kiln (tons) (Equation H–2 and the method in § 98.84(d)).

(6) Monthly total CaO content of clinker per kiln (weight fraction) (Equation H–3 of § 98.83).

(7) Monthly non-calcined CaO content of clinker per kiln (weight fraction) (Equation H–3).

(8) Monthly total MgO content of clinker per kiln (weight fraction) (Equation H–3).

(9) Monthly non-calcined MgO content of clinker per kiln (weight fraction) (Equation H–3).

(10) Quarterly total CaO content of cement kiln dust not recycled to each kiln (weight fraction) (Equation H–4 of § 98.83).

(11) Quarterly non-calcined CaO content of cement kiln dust not recycled to each kiln (weight fraction) (Equation H–4).

(12) Quarterly total MgO content of cement kiln dust not recycled to each kiln (weight fraction) (Equation H–4).

(13) Quarterly non-calcined MgO content of cement kiln dust not recycled to each kiln (weight fraction) (Equation H–4).

(14) The amount of each raw material consumed annually per kiln (tons/yr (dry basis)) (Equation H–5 of § 98.83).

(15) The amount of each raw kiln feed consumed annually per kiln (tons/yr (dry basis)) (Equation H–5).

(16) Organic carbon content of each raw material per kiln, as determined in § 98.84(c). Default value is 0.002 weight fraction (Equation H–5).

(17) Organic carbon content of combined raw kiln feed per kiln, as determined in § 98.84(c). Default value is 0.002 weight fraction (Equation H–5).

Subpart K—Ferroalloy Production

■ 15. Section 98.116 is amended by:

■ a. Revising paragraph (b).

■ b. Removing and reserving paragraphs (e)(4) and (5); and

■ c. Revising paragraph (e)(6).

The revisions read as follows:

§ 98.116 Data reporting requirements.

* * * * *

(b) If a CEMS is used to measure CO_2 emissions, report the annual production for each ferroalloy product identified in § 98.110, from each EAF (tons).

* * * * *

(e) * * *

(6) List the method used for the determination of carbon content for each material included for the calculation of annual process CO_2 emissions for each EAF (*e.g.,* supplier provided information, analyses of representative samples you collected).

* * * * *

■ 16. Section 98.117 is amended by revising the introductory text and adding paragraph (e) to read as follows:

§ 98.117 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) through (e) of this section for each EAF, as applicable.

* * * * *

(e) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (e)(1) through (13) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (e)(1) through (13) of this section.

(1) Carbon content in reducing agent (percent by weight, expressed as a decimal fraction) (Equation K–1 of § 98.113).

(2) Annual mass of reducing agent fed, charged, or otherwise introduced into the EAF (tons) (Equation K–1).

(3) Carbon content of carbon electrode (percent by weight, expressed as a decimal fraction) (Equation K–1).

(4) Annual mass of carbon electrode consumed in the EAF (tons) (Equation K–1).

(5) Carbon content in ore (percent by weight, expressed as a decimal fraction) (Equation K–1).

(6) Annual mass of ore charged to the EAF (tons) (Equation K–1).

(7) Carbon content in flux material (percent by weight, expressed as a decimal fraction) (Equation K–1).

(8) Annual mass of flux material fed, charged, or otherwise introduced into the EAF to facilitate slag formation (tons) (Equation K–1).

(9) Carbon content in alloy product (percent by weight, expressed as a decimal fraction) (Equation K–1).

(10) Annual mass of alloy product produced/tapped in the EAF (tons) (Equation K–1).

(11) Carbon content in non-product outgoing material (percent by weight, expressed as a decimal fraction) (Equation K–1).

(12) Annual mass of non-product outgoing material removed from EAF (tons) (Equation K–1).

(13) CH_4 emission factor selected from Table K–1 of this subpart for each product (kg of CH_4 emissions/metric ton of alloy product) (Equation K–3 of § 98.113).

Subpart N—Glass Production

■ 17. Section 98.146 is amended by revising paragraph (b)(2) and removing and reserving paragraphs (b)(4) and (6) to read as follows:

§ 98.146 Data reporting requirements.

* * * * *

(b) * * *

(2) Annual quantity of each carbonate-based raw material charged (tons) to all furnaces combined.

* * * * *

■ 18. Section 98.147 is amended by revising the introductory text and adding paragraph (d) to read as follows:

§ 98.147 Records that must be retained.

In addition to the information required by § 98.3(g), you must retain the records listed in paragraphs (a) through (d) of this section.

* * * * *

(d) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (d)(1) through (3) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (d)(1) through (3) of this section.

(1) Annual average decimal mass fraction of carbonate-based mineral in each carbonate-based raw material for each continuous glass melting furnace (specify the default value, if used, or the value determined according to § 98.144) (percentage, expressed as a decimal) (Equation N–1 of § 98.143).

(2) Annual amount of each carbonate-based raw material charged to each continuous glass melting furnace (tons) (Equation N–1).

(3) Decimal fraction of each calcination achieved for carbonate-based raw material for each continuous glass melting furnace (specify the default value, if used, or the value determined according to § 98.144) (percentage, expressed as a decimal) (Equation N–1).

Subpart O—HCFC–22 Production and HFC–23 Destruction

■ 19. Section 98.156 is amended by:

■ a. Removing and reserving paragraphs (a)(2), (a)(7) through (10), and (b)(1) and (2);

■ b. Revising paragraph (d) introductory text; and

■ c. Removing and reserving paragraphs (d)(1) and (5) and (e)(1).

The revisions read as follows:

§ 98.156 Data reporting requirements.

* * * * *

(d) If the HFC–23 concentration measured pursuant to § 98.154(l) is greater than that measured during the performance test that is the basis for the destruction efficiency (DE), the facility shall report the following:

* * * * *

■ 20. Section 98.157 is amended by adding paragraph (c) to read as follows:

§ 98.157 Records that must be retained.

* * * * *

(c) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (c)(1) through (16) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (c)(1) through (16) of this section.

(1) Factor to account for the loss of HCFC–22 upstream of the measurement over the period, determined pursuant to § 98.154(e) (Equation O–3 of § 98.153).

(2) Mass of HCFC–22 that is measured coming out of the production process over the period. A period can be one year (kg) (Equation O–3).

(3) Mass of used HCFC–22 that is added to the production process upstream of the output measurement over the period. A period can be one year (kg) (Equation O–3).

(4) Mass of HFC–23 generated annually per HCFC–22 production process (metric tons) (Equation O–4 of § 98.153).

(5) Mass of HFC–23 sent off site for sale annually per HCFC–22 production process (metric tons) (Equation O–4).

(6) Mass of HFC–23 sent off site for destruction annually per HCFC–22 production process (metric tons) (Equation O–4).

(7) Mass of HFC–23 destroyed on site per HCFC–22 production process (metric tons) (Equation O–4).

(8) HFC–23 in storage at end of year per HCFC–22 production process (metric tons) (Equation O–4).

(9) HFC–23 in storage at beginning of year per HCFC–22 production process (metric tons) (Equation O–4).

(10) Mass of HFC–23 fed into each destruction device annually per HCFC–22 production process (metric tons) (Equation O–9 of § 98.153 and the calculation method in either § 98.154(l)(1) or (2)).

(11) Identify if each destruction efficiency for each HCFC-22 production process is entered directly, or is calculated using § 98.154(l)(1), or is calculated using § 98.154(l)(2) (Equation O–9 and the calculation method in either § 98.154(l)(1) or (2)).

(12) Destruction efficiency of each destruction device for each HCFC-22 production process (decimal fraction) (Equation O–9 and the calculation method in either § 98.154(l)(1) or (2)).

(13) Volumetric flow rate at the inlet of each destruction device for each HCFC-22 production process from previous test (kg/hr) (Equation O–9 and the calculation method in either § 98.154(l)(1) or (2)).

(14) Volumetric flow rate at the inlet of destruction device during test for each HCFC-22 production process (kg/hr) (Equation O–9 and the calculation method in either § 98.154(l)(1) or (2)).

(15) Concentration of HFC-23 at the inlet of destruction device for each HCFC-22 production process from previous test (weight fraction) (Equation O–9 and the calculation method in either § 98.154(l)(1) or (2)).

(16) Concentration of HFC-23 at the inlet of destruction device for each HCFC-22 production process during test (weight fraction) (Equation O–9 and the calculation method in either § 98.154(l)(1) or (2)).

Subpart P—Hydrogen Production

■ 21. Section 98.166 is amended by:
■ a. Revising the introductory text;
■ b. Removing and reserving paragraphs (b)(2), (5), and (6); and
■ c. Adding paragraphs (b)(7) and (e).

The revisions and additions read as follows:

§ 98.166 Data reporting requirements.

In addition to the information required by § 98.3(c), each annual report must contain the information specified in paragraphs (a) or (b) of this section, as appropriate, and paragraphs (c) through (e) of this section:

* * * * *

(b) * * *

(7) Name and annual quantity (metric tons) of each carbon-containing fuel and feedstock.

* * * * *

(e) Annual methanol production (metric tons) for each process unit.

■ 22. Section 98.167 is amended by revising the introductory text and adding paragraph (e) to read as follows:

§ 98.167 Records that must be retained.

In addition to the information required by § 98.3(g), you must retain the records specified in paragraphs (a) through (e) of this section for each hydrogen production facility.

* * * * *

(e) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (e)(1) through (12) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (e)(1) through (12) of this section.

(1) Indicate whether the monthly consumption of each gaseous fuel or feedstock is measured as mass or volume (Equation P–1 of § 98.163).

(2) Monthly volume of the gaseous fuel or feedstock (scf at standard conditions of 68 °F and atmospheric pressure) (Equation P–1).

(3) Monthly mass of the gaseous fuel or feedstock (kg of fuel or feedstock) (Equation P–1).

(4) Average monthly carbon content of the gaseous fuel or feedstock (kg C per kg of fuel or feedstock) (Equation P–1).

(5) Average monthly molecular weight of the gaseous fuel or feedstock (kg/kg-mole) (Equation P–1).

(6) Indicate whether the monthly consumption of each liquid fuel or feedstock is measured as mass or volume (Equation P–2 of § 98.163).

(7) Monthly volume of the liquid fuel or feedstock (gallons of fuel or feedstock) (Equation P–2).

(8) Monthly mass of the liquid fuel or feedstock (kg of fuel or feedstock) (Equation P–2).

(9) Average monthly carbon content of the liquid fuel or feedstock (kg C per gallon of fuel or feedstock) (Equation P–2).

(10) Average monthly carbon content of the liquid fuel or feedstock (kg C per kg of fuel or feedstock) (Equation P–2).

(11) Monthly mass of solid fuel or feedstock (kg of fuel and feedstock) (Equation P–3 of § 98.163).

(12) Average monthly carbon content of the solid fuel or feedstock (kg C per kg of fuel and feedstock) (Equation P–3).

Subpart Q—Iron and Steel Production

■ 23. Section 98.176 is amended by:
■ a. Revising paragraph (b);
■ b. Removing and reserving paragraphs (e)(1), (3), and (4);
■ c. Adding paragraph (e)(6); and
■ c. Removing and reserving paragraphs (f)(2) through (4) and (g).

The revisions and additions read as follows:

§ 98.176 Data reporting requirements.

* * * * *

(b) If a CEMS is used to measure CO_2 emissions, then you must report the annual production quantity for the production unit (in metric tons) for taconite pellets, coke, sinter, iron, and raw steel.

* * * * *

(e) * * *

(6) The information specified in paragraphs (e)(6)(i) through (vi) of this section aggregated for all process units for which CO_2 emissions were determined using the mass balance method in § 98.173(b)(1), except as provided in § 98.174(b)(4).

(i) The annual mass (metric tons) of all gaseous, liquid, and solid fuels (combined) used in process units for which CO_2 emissions were determined using Equations Q–1 through Q–7 of § 98.173, calculated as specified in Equation Q–9 of this section.

$$Fuel = \sum_{i=1}^{n} \left(F_{g,i} * \frac{MW_i}{MVC} * 0.001 + F_{l,i} * \rho_{l,i} * 0.001 + F_{s,i} \right) \qquad \text{(Eq. Q-9)}$$

Where:

Fuel = Annual mass of all gaseous, liquid, and solid fuels used in process units (metric tons).

n = Number of process units where fuel is used.

$F_{g,i}$ = Annual volume of gaseous fuel combusted (''(F_g)'' in Equations Q–1, Q–4 and Q–7 of § 98.173) for each process (scf).

MW_i = Molecular weight of gaseous fuel used in each process (kg/kg-mole).

MVC = Molar volume conversion factor at standard conditions, as defined in § 98.6. Use 849.5 scf per kg mole if you select 68°F as standard temperature and 836.6 scf per kg mole if you select 60°F as standard temperature.

$F_{l,i}$ = Annual volume of the liquid fuel combusted (''(F_l)'' included in Equation Q–1) for each process unit (gallons).

$F_{s,i}$ = Annual mass of the solid fuel combusted (''(F_s)'' in Equation Q–1) for each process unit (metric tons).

$\rho_{l,i}$ = Density of the liquid fuel (kg/gallon).

0.001 = Conversion factor from kg to metric tons.

(ii) The annual mass (metric tons) of all non-fuel material inputs (combined) specified in Equations Q–1 through Q–7 of § 98.173, calculated as specified in Equation Q–10 of this section.

$$NFI = \sum_{i=1}^{n} \left(\begin{array}{c} O + Iron + Scrap + lux + Carbon + Coal + Feed \\ + Electrode + Steel_{in} + Ore + Other \end{array} \right) \qquad \text{(Eq. Q-10)}$$

Where:

NFI = Annual mass of all non-fuel inputs (to all process unit types) specified in Equations Q–1 through Q–7 of § 98.173 (metric tons).

n = Number of process units, all process types.

O = Annual mass of greenball (taconite) pellets fed to the taconite furnace(s) (metric tons).

Iron = Annual mass of molten iron charged to the basic oxygen furnace(s) plus annual mass of direct reduced iron charged to the EAF(s) (metric tons).

Scrap = Annual mass of ferrous scrap charged to the basic oxygen furnace(s) and EAF(s) (metric tons).
Flux = Annual mass of flux materials charged to the basic oxygen furnace(s) and EAF(s) (metric tons).
Carbon = Annual mass of carbonaceous materials (e.g., coal, coke) charged to the basic oxygen furnace(s), EAF(s), and direct reduction furnace(s) (metric tons).
Coal = Annual mass of coal charged to the coke oven battery(s) (metric tons).
Feed = Annual mass of sinter feed material charged to the sinter process(es) (metric tons).
Electrode = Annual mass of carbon electrode consumed in the EAF(s) (metric tons).
$Steel_{in}$ = Annual mass of molten steel charged to the decarburization vessels (metric tons).
Ore = Annual mass of iron ore or iron ore pellets fed to the direct reduction furnace(s) (metric tons).
Other = Annual mass of other materials charged to the direction reduction furnace(s) (metric tons).

(iii) The annual mass (metric tons) of all solid and liquid products and byproducts (combined) specified in Equations Q–1 through Q–7 of § 98.173, calculated as specified in Equation Q–11 of this section.

$$Products = \sum_{i=1}^{n} (P + R + I + Steel_{out} + Slag + Coke + Sinter + Iron + NM) \quad \text{(Eq. Q-11)}$$

Where:
Products = Annual mass of all solid and liquid products and by-products (from all process units) specified in Equations Q–1 through Q–7 of § 98.173 (metric tons).
n = Number of process units, all types.
P = Annual mass of fired pellets produced by the taconite furnace (metric tons).
R = Annual mass of air pollution control residue from all process units (metric tons).
$Steel_{out}$ = Annual mass of steel produced by the basic oxygen furnace(s), EAF(s) and decarburization vessel(s) (metric tons).
Slag = Annual mass of slag produced by the basic oxygen furnace(s) and EAF(s) (metric tons).
Coke = Annual mass of coke produced by the non-recovery coke batteries (metric tons).
Sinter = Annual mass of sinter produced from the sinter process(es) (metric tons).
Iron = Annual mass of iron produced from the direct reduction furnace (metric tons).
NM = Annual mass of non-metallic materials produced by the direct reduction furnace (metric tons).

(iv) The weighted average carbon content of all gaseous, liquid, and solid fuels (combined) included in Equation Q–9 of this section, calculated as specified in Equation Q–12 of this section.

$$CF_{avg} = \frac{\sum_{i=1}^{n}(F_{g,i} * \frac{MW_i}{MVC} * C_{g,f,i} * 0.001 + F_{l,i} * C_{lf,i} * 0.001 + F_{s,i} * C_{sf})}{Fuel} \quad \text{(Eq. Q-12)}$$

Where:
CF_{avg} = Weighted average carbon content of all gaseous, liquid, and solid fuels included in Equation Q–9 of this section (weight fraction).
n = Number of gaseous, liquid, and solid fuel input to each process unit as used in Equation Q–9.
$C_{gf,i}$ = Average carbon content of the gaseous fuel used in each process, from the fuel analysis results (kg C per kg of fuel).
$C_{lf,i}$ = Carbon content of the liquid fuel used in each process, from the fuel analysis results (kg C per gallon of fuel.
C_{sf} = Carbon content of the solid fuel used in each process, from the fuel analysis (expressed as a decimal fraction, e.g., 95% = 0.95).
Fuel = Annual mass of all gaseous, liquid, and solid fuels used in process units (metric tons), as calculated in Equation Q–9.

(v) The weighted average carbon content of all non-fuel inputs to all process units (combined) included in Equation Q–10 of this section, calculated as specified in Equation Q–13 of this section.

$$CI_{avg} = \frac{(\sum_{i=1}^{n} NFI_i * C_{NFIi})}{NFI} \quad \text{(Eq. Q-13)}$$

Where:
CI_{avg} = Weighted average carbon content of all non-fuel inputs to all process units included in Equation Q–10 of this section (weight fraction).
n = Number of non-fuel inputs to all process units as used in Equation Q–10.
NFI_i = Annual mass of each non-fuel input used in Equation Q–10 (metric tons).
C_{NFIi} = Average carbon content of each non-fuel input used in Equation Q–10 (expressed as a decimal fraction).
NFI = Total of all non-fuel inputs to all process units (metric tons).

(vi) The weighted average carbon content of all solid and liquid products and byproducts from all process units (combined) included in Equation Q–11 of this section, calculated as specified in Equation Q–14 of this section.

$$CP_{avg} = \frac{(\sum_{i=1}^{n} Product_i * C_{Pi})}{Products} \quad \text{(Eq. Q-14)}$$

Where:
CP_{avg} = Weighted average carbon content of all solid and liquid products and byproducts from all process units (weight fraction).
n = Number of products and byproducts from each process unit as used in Equation Q–11 of this section.
$Product_i$ = Annual mass of each product or byproduct used in Equation Q–11 (metric tons).
$C_{p,i}$ = Average carbon content of each product or byproduct used in Equation Q–11 (expressed as a decimal fraction).
Products = Mass of all products and byproducts from all process units, calculated in Equation Q–11 (metric tons).

* * * * *

■ 24. Section 98.177 is amended by revising the introductory text and adding paragraph (f) to read as follows:

§ 98.177 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) through (f) of this section, as applicable. Facilities that use CEMS to measure emissions must also retain records of the verification data required for the Tier 4 Calculating Methodology in § 98.36(e).

* * * * *

(f) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (f)(1) through (9) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (f)(1) through (9) of this section.

(1) The data in paragraphs (f)(1)(i) through (xxv) of this section for each applicable taconite indurating furnace for which the carbon mass balance method of reporting is used.

(i) Annual mass of each solid fuel (metric tons) (Equation Q–1 of § 98.173).

(ii) Carbon content of each solid fuel, from the fuel analysis (expressed as a decimal fraction) (Equation Q–1).

(iii) Annual volume of each gaseous fuel (scf) (Equation Q–1).

(iv) Average carbon content of each gaseous fuel, from the fuel analysis results (kg C per kg of fuel) (Equation Q–1).

(v) Molecular weight of each gaseous fuel (kg/kg-mole) (Equation Q–1).

(vi) Annual volume of each liquid fuel (gallons) (Equation Q–1).

(vii) Carbon content of each liquid fuel, from the fuel analysis results (kg C per gallon of fuel) (Equation Q–1).

(viii) Annual mass of the greenball (taconite) pellets fed to the furnace (metric tons) (Equation Q–1).

(ix) Carbon content of the greenball (taconite) pellets, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–1).

(x) Annual mass of fired pellets produced by the furnace (metric tons) (Equation Q–1).

(xi) Carbon content of the fired pellets, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–1).

(xii) Annual mass of air pollution control residue collected (metric tons) (Equation Q–1).

(xiii) Carbon content of the air pollution control residue, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–1).

(xiv) Annual mass of each other solid input containing carbon fed to each furnace (metric tons) (Equation Q–1).

(xv) Carbon content of each other solid input containing carbon fed to each furnace (expressed as a decimal fraction) (Equation Q–1).

(xvi) Annual mass of each other solid output containing carbon produced by each furnace (metric tons) (Equation Q–1).

(xvii) Carbon content of each other solid output containing carbon (expressed as a decimal fraction) (Equation Q–1).

(xviii) Annual mass of each other gaseous input containing carbon fed to each furnace (metric tons) (Equation Q–1).

(xix) Carbon content of each other gaseous input containing carbon fed to each furnace (expressed as a decimal fraction) (Equation Q–1).

(xx) Annual mass of each other gaseous output containing carbon produced by each furnace (metric tons) (Equation Q–1).

(xxi) Carbon content of each other gaseous output containing carbon produced by each furnace (expressed as a decimal fraction) (Equation Q–1).

(xxii) Annual mass of each other liquid input containing carbon fed to each furnace (metric tons) (Equation Q–1).

(xxiii) Carbon content of each other liquid input containing carbon fed to each furnace (expressed as a decimal fraction) (Equation Q–1).

(xxiv) Annual mass of each other liquid output containing carbon produced by each furnace (metric tons) (Equation Q–1).

(xxv) Carbon content of each other liquid output containing carbon produced by each furnace (expressed as a decimal fraction) (Equation Q–1).

(2) The data in paragraphs (f)(2)(i) through (xxvi) of this section for each applicable basic oxygen process furnace for which the carbon mass balance method of reporting is used.

(i) Annual mass of molten iron charged to the furnace (metric tons) (Equation Q–2 of § 98.173).

(ii) Carbon content of the molten iron charged to the furnace, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–2).

(iii) Annual mass of ferrous scrap charged to the furnace (metric tons) (Equation Q–2).

(iv) Carbon content of the ferrous scrap charged to the furnace, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–2).

(v) Annual mass of the flux materials (e.g., limestone, dolomite) charged to the furnace (metric tons) (Equation Q–2).

(vi) Carbon content of the flux materials charged to the furnace, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–2).

(vii) Annual mass of the carbonaceous materials (e.g., coal, coke) charged to the furnace (metric tons) (Equation Q–2).

(viii) Carbon content of the carbonaceous materials charged to the furnace, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–2).

(ix) Annual mass of molten raw steel produced by the furnace (metric tons) (Equation Q–2).

(x) Carbon content of the steel produced by the furnace, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–2).

(xi) Annual mass of slag produced by the furnace (metric tons) (Equation Q–2).

(xii) Carbon content of the slag produced by the furnace, from the carbon analysis (expressed as a decimal fraction) (Equation Q–2).

(xiii) Annual mass of air pollution control residue collected for the furnace (metric tons) (Equation Q–2).

(xiv) Carbon content of the air pollution control residue collected for the furnace, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–2).

(xv) Annual mass of each other solid input containing carbon fed to each furnace (metric tons) (Equation Q–2).

(xvi) Carbon content of each other solid input containing carbon fed to each furnace (expressed as a decimal fraction) (Equation Q–2).

(xvii) Annual mass of each other solid output containing carbon produced by each furnace (metric tons) (Equation Q–2).

(xviii) Carbon content of each other solid output containing carbon (expressed as a decimal fraction) (Equation Q–2).

(xix) Annual mass of each other gaseous input containing carbon fed to each furnace (metric tons) (Equation Q–2).

(xx) Carbon content of each other gaseous input containing carbon fed to each furnace (expressed as a decimal fraction) (Equation Q–2).

(xxi) Annual mass of each other gaseous output containing carbon produced by each furnace (metric tons) (Equation Q–2).

(xxii) Carbon content of each other gaseous output containing carbon produced by each furnace (expressed as a decimal fraction) (Equation Q–2).

(xxiii) Annual mass of each other liquid input containing carbon fed to each furnace (metric tons) (Equation Q–2).

(xxiv) Carbon content of each other liquid input containing carbon fed to each furnace (expressed as a decimal fraction) (Equation Q–2).

(xxv) Annual mass of each other liquid output containing carbon produced by each furnace (metric tons) (Equation Q–2).

(xxvi) Carbon content of each other liquid output containing carbon produced by each furnace (expressed as a decimal fraction) (Equation Q–2).

(3) The data in paragraphs (f)(3)(i) through (xviii) of this section for each applicable non-recovery coke oven battery for which the carbon mass balance method of reporting is used.

(i) Annual mass of coal charged to the battery (metric tons) (Equation Q–3 of § 98.173).

(ii) Carbon content of the coal, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–3).

(iii) Annual mass of coke produced by the battery (metric tons) (Equation Q–3).

(iv) Carbon content of the coke, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–3).

(v) Annual mass of air pollution control residue collected (metric tons) (Equation Q–3).

(vi) Carbon content of the air pollution control residue, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–3).

(vii) Annual mass of each other solid input containing carbon fed to each battery (metric tons) (Equation Q–3).

(viii) Carbon content of each other solid input containing carbon fed to each battery (expressed as a decimal fraction) (Equation Q–3).

(ix) Annual mass of each other solid output containing carbon produced by each battery (metric tons) (Equation Q–3).

(x) Carbon content of each other solid output containing carbon (expressed as a decimal fraction) (Equation Q–3).

(xi) Annual mass of each other gaseous input containing carbon fed to each battery (metric tons) (Equation Q–3).

(xii) Carbon content of each other gaseous input containing carbon fed to each battery (expressed as a decimal fraction) (Equation Q–3).

(xiii) Annual mass of each other gaseous output containing carbon produced by each battery (metric tons) (Equation Q–3).

(xiv) Carbon content of each other gaseous output containing carbon produced by each battery (expressed as a decimal fraction) (Equation Q–3).

(xv) Annual mass of each other liquid input containing carbon fed to each battery (metric tons) (Equation Q–3).

(xvi) Carbon content of each other liquid input containing carbon fed to each battery (expressed as a decimal fraction) (Equation Q–3).

(xvii) Annual mass of each other liquid output containing carbon produced by each battery (metric tons) (Equation Q–3).

(xviii) Carbon content of each other liquid output containing carbon produced by each battery (expressed as a decimal fraction) (Equation Q–3).

(4) The data in paragraphs (f)(4)(i) through (xxi) of this section for each applicable sinter process for which the carbon mass balance method of reporting is used.

(i) Annual volume of the gaseous fuel (scf) (Equation Q–4 of § 98.173).

(ii) Carbon content of the gaseous fuel, from the fuel analysis results (kg C per kg of fuel) (Equation Q–4).

(iii) Molecular weight of the gaseous fuel (kg/kg-mole) (Equation Q–4).

(iv) Annual mass of sinter feed material (metric tons) (Equation Q–4).

(v) Carbon content of the mixed sinter feed materials that form the bed entering the sintering machine, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–4).

(vi) Annual mass of sinter produced (metric tons) (Equation Q–4).

(vii) Carbon content of the sinter pellets, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–4).

(viii) Annual mass of air pollution control residue collected (metric tons) (Equation Q–4).

(ix) Carbon content of the air pollution control residue, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–4).

(x) Annual mass of each other solid input containing carbon fed to each sinter process (metric tons) (Equation Q–4).

(xi) Carbon content of each other solid input containing carbon fed to each sinter process (expressed as a decimal fraction) (Equation Q–4).

(xii) Annual mass of each other solid output containing carbon produced by each sinter process (metric tons) (Equation Q–4).

(xiii) Carbon content of each other solid output containing carbon (expressed as a decimal fraction) (Equation Q–4).

(xiv) Annual mass of each other gaseous input containing carbon fed to each sinter process (metric tons) (Equation Q–4).

(xv) Carbon content of each other gaseous input containing carbon fed to each sinter process (expressed as a decimal fraction) (Equation Q–4).

(xvi) Annual mass of each other gaseous output containing carbon produced by each sinter process (metric tons) (Equation Q–4).

(xvii) Carbon content of each other gaseous output containing carbon produced by each sinter process (expressed as a decimal fraction) (Equation Q–4).

(xviii) Annual mass of each other liquid input containing carbon fed to each sinter process (metric tons) (Equation Q–4).

(xix) Carbon content of each other liquid input containing carbon fed to each sinter process (expressed as a decimal fraction) (Equation Q–4).

(xx) Annual mass of each other liquid output containing carbon produced by each sinter process (metric tons) (Equation Q–4).

(xxi) Carbon content of each other liquid output containing carbon produced by each sinter process (expressed as a decimal fraction) (Equation Q–4).

(5) The data in paragraphs (f)(5)(i) through (xxxi) of this section for each applicable electric arc furnace for which the carbon mass balance method of reporting is used.

(i) Annual mass of direct reduced iron (if any) charged to the furnace (metric tons) (Equation Q–5 of § 98.173).

(ii) Carbon content of the direct reduced iron, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–5)

(iii) Annual mass of ferrous scrap charged to the furnace (metric tons) (Equation Q–5).

(iv) Carbon content of the ferrous scrap, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–5).

(v) Annual mass of flux materials (e.g., limestone, dolomite) charged to the furnace (metric tons) (Equation Q–5).

(vi) Carbon content of the flux materials, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–5).

(vii) Annual mass of carbon electrode consumed (metric tons) (Equation Q–5).

(viii) Carbon content of the carbon electrode, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–5).

(ix) Annual mass of carbonaceous materials (e.g., coal, coke) charged to the furnace (metric tons) (Equation Q–5).

(x) Carbon content of the carbonaceous materials, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–5).

(xi) Annual mass of molten raw steel produced by the furnace (metric tons) (Equation Q–5).

(xii) Carbon content of the steel, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–5).

(xiii) Annual volume of the gaseous fuel (scf at 60F and 1 atm) (Equation Q–5).

(xiv) Average carbon content of the gaseous fuel, from the fuel analysis

results (kg C per kg of fuel) (Equation Q–5).

(xv) Molecular weight of the gaseous fuel (kg/kg-mole) (Equation Q–5).

(xvi) Annual mass of slag produced by the furnace (metric tons) (Equation Q–5).

(xvii) Carbon content of the slag, from the carbon analysis (expressed as a decimal fraction) (Equation Q–5).

(xviii) Annual mass of air pollution control residue collected (metric tons) (Equation Q–5).

(xix) Carbon content of the air pollution control residue, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–5).

(xx) Annual mass of each other solid input containing carbon fed to each furnace (metric tons) (Equation Q–5).

(xxi) Carbon content of each other solid input containing carbon fed to each furnace (expressed as a decimal fraction) (Equation Q–5).

(xxii) Annual mass of each other solid output containing carbon produced by each furnace (metric tons) (Equation Q–5).

(xxiii) Carbon content of each other solid output containing carbon (expressed as a decimal fraction) (Equation Q–5).

(xxiv) Annual mass of each other gaseous input containing carbon fed to each furnace (metric tons) (Equation Q–5).

(xxv) Carbon content of each other gaseous input containing carbon fed to each furnace (expressed as a decimal fraction) (Equation Q–5).

(xxvi) Annual mass of each other gaseous output containing carbon produced by each furnace (metric tons) (Equation Q–5).

(xxvii) Carbon content of each other gaseous output containing carbon produced by each furnace (expressed as a decimal fraction) (Equation Q–5).

(xxviii) Annual mass of each other liquid input containing carbon fed to each furnace (metric tons) (Equation Q–5).

(xxix) Carbon content of each other liquid input containing carbon fed to each furnace (expressed as a decimal fraction) (Equation Q–5).

(xxx) Annual mass of each other liquid output containing carbon produced by each furnace (metric tons) (Equation Q–5).

(xxxi) Carbon content of each other liquid output containing carbon produced by each furnace (expressed as a decimal fraction) (Equation Q–5).

(6) The data in paragraphs (f)(6)(i) through (xvii) of this section for each applicable decarburization vessel for which the carbon mass balance method of reporting is used.

(i) Annual mass of molten steel charged to the vessel (metric tons) (Equation Q–6 of § 98.173).

(ii) Carbon content of the molten steel before decarburization, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–6).

(iii) Carbon content of the molten steel after decarburization, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–6).

(iv) Annual mass of air pollution control residue collected (metric tons) (Equation Q–6).

(v) Carbon content of the air pollution control residue, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–6).

(vi) Annual mass of each other solid input containing carbon fed to each decarburization vessel (metric tons) (Equation Q–6).

(vii) Carbon content of each other solid input containing carbon fed to each decarburization vessel (expressed as a decimal fraction) (Equation Q–6).

(viii) Annual mass of each other solid output containing carbon produced by each decarburization vessel (metric tons) (Equation Q–6).

(ix) Carbon content of each other solid output containing carbon (expressed as a decimal fraction) (Equation Q–6).

(x) Annual mass of each other gaseous input containing carbon fed to each decarburization vessel (metric tons) (Equation Q–6).

(xi) Carbon content of each other gaseous input containing carbon fed to each decarburization vessel (expressed as a decimal fraction) (Equation Q–6).

(xii) Annual mass of each other gaseous output containing carbon produced by each decarburization vessel (metric tons) (Equation Q–6).

(xiii) Carbon content of each other gaseous output containing carbon produced by each decarburization vessel (expressed as a decimal fraction) (Equation Q–6).

(xiv) Annual mass of each other liquid input containing carbon fed to each decarburization vessel (metric tons) (Equation Q–6).

(xv) Carbon content of each other liquid input containing carbon fed to each decarburization vessel (expressed as a decimal fraction) (Equation Q–6).

(xvi) Annual mass of each other liquid output containing carbon produced by each decarburization vessel (metric tons) (Equation Q–6).

(xvii) Carbon content of each other liquid output containing carbon produced by each decarburization vessel (expressed as a decimal fraction) (Equation Q–6).

(7) The data in paragraphs (f)(7)(i) through (xxvii) of this section for each applicable direct reduction furnace for which the carbon mass balance method of reporting is used.

(i) Annual volume of the gaseous fuel (scf at 68F and 1 atm) (Equation Q–7 of § 98.173).

(ii) Average carbon content of the gaseous fuel, from the fuel analysis results (kg C per kg of fuel) (Equation Q–7).

(iii) Molecular weight of the gaseous fuel (kg/kg-mole) (Equation Q–7).

(iv) Annual mass of iron ore or iron pellets fed to the furnace (metric tons) (Equation Q–7).

(v) Carbon content of the iron ore or iron pellets, from the carbon analysis (expressed as a decimal fraction) (Equation Q–7).

(vi) Annual mass of carbonaceous materials (e.g., coal, coke) charged to the furnace (metric tons) (Equation Q–7).

(vii) Carbon content of the carbonaceous materials, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–7).

(viii) Annual mass of each other material charged to the furnace (metric tons) (Equation Q–7).

(ix) Average carbon content of each other material charged to the furnace, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–7).

(x) Annual mass of iron produced (metric tons) (Equation Q–7).

(xi) Carbon content of the iron produced, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–7).

(xii) Annual mass of non-metallic materials produced by the furnace (metric tons) (Equation Q–7).

(xiii) Carbon content of the non-metallic materials produced, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–7).

(xiv) Annual mass of air pollution control residue collected (metric tons) (Equation Q–7).

(xv) Carbon content of the air pollution control residue collected, from the carbon analysis results (expressed as a decimal fraction) (Equation Q–7).

(xvi) Annual mass of each other solid input containing carbon fed to each furnace (metric tons) (Equation Q–7).

(xvii) Carbon content of each other solid input containing carbon fed to each furnace (expressed as a decimal fraction) (Equation Q–7).

(xviii) Annual mass of each other solid output containing carbon produced by each furnace (metric tons) (Equation Q–7).

(xix) Carbon content of each other solid output containing carbon (expressed as a decimal fraction) (Equation Q–7).

(xx) Annual mass of each other gaseous input containing carbon fed to each furnace (metric tons) (Equation Q–7).

(xxi) Carbon content of each other gaseous input containing carbon fed to each furnace (expressed as a decimal fraction) (Equation Q–7).

(xxii) Annual mass of each other gaseous output containing carbon produced by each furnace (metric tons) (Equation Q–7).

(xxiii) Carbon content of each other gaseous output containing carbon produced by each furnace (expressed as a decimal fraction) (Equation Q–7).

(xxiv) Annual mass of each other liquid input containing carbon fed to each furnace (metric tons) (Equation Q–7).

(xxv) Carbon content of each other liquid input containing carbon fed to each furnace (expressed as a decimal fraction) (Equation Q–7).

(xxvi) Annual mass of each other liquid output containing carbon produced by each furnace (metric tons) (Equation Q–7).

(xxvii) Carbon content of each other liquid output containing carbon produced by each furnace (expressed as a decimal fraction) (Equation Q–7).

(8) The data in paragraphs (f)(8)(i) and (ii) of this section for each process unit for which the site-specific emission factor method was used.

(i) Average hourly feed or production rate, as applicable, during the test (metric tons/hour) (as used in § 98.173(b)(2)(iii)).

(ii) Annual total feed or production, as applicable (metric tons) (as used in § 98.173(b)(2)(iv)).

(9) Total coal charged to the coke ovens for each process (metric tons/year)(as used in § 98.173(c)).

Subpart R—Lead Production

■ 25. Section 98.186 is amended by removing and reserving paragraphs (b)(6) and (7) and revising paragraph (b)(8) to read as follows:

§ 98.186 Data reporting procedures.

* * * * *

(b) * * *

(8) List the method used for the determination of carbon content for each material used for the calculation of annual process CO_2 emissions using Equation R–1 of § 98.183 for each smelting furnace (e.g., supplier provided information, analyses of representative samples you collected).

* * * * *

■ 26. Section 98.187 is amended by revising the introductory text and adding paragraph (d) to read as follows:

§ 98.187 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records of the information specified in paragraphs (a) through (d) of this section, as applicable to the smelting furnaces at your facility.

* * * * *

(d) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (d)(1) through (10) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (d)(1) through (10) of this section.

(1) Annual mass of lead ore charged to each smelting furnace (tons) (Equation R–1 of § 98.183).

(2) Carbon content of the lead ore per furnace, from the carbon analysis results (percent by weight, expressed as a decimal fraction) (Equation R–1).

(3) Annual mass of lead scrap charged to each smelting furnace (tons) (Equation R–1).

(4) Carbon content of the lead scrap per furnace, from the carbon analysis (percent by weight, expressed as a decimal fraction) (Equation R–1).

(5) Annual mass of flux materials (e.g., limestone, dolomite) charged to each smelting furnace (tons) (Equation R–1).

(6) Carbon content of the flux materials per furnace, from the carbon analysis (percent by weight, expressed as a decimal fraction) (Equation R–1).

(7) Annual mass of carbonaceous materials (e.g., coal, coke) charged to each smelting furnace (tons) (Equation R–1).

(8) Carbon content of the carbonaceous materials per furnace, from the carbon analysis (percent by weight, expressed as a decimal fraction) (Equation R–1).

(9) Annual mass of each other material containing carbon, other than fuel, fed, charged, or otherwise introduced into the smelting furnace (tons) (Equation R–1).

(10) Carbon content of each other material, from the carbon analysis results per furnace (percent by weight, expressed as a decimal fraction) (Equation R–1).

Subpart S—Lime Manufacturing

■ 27. Section 98.196 is amended by:

■ a. Revising paragraph (b) introductory text;

■ b. Removing and reserving paragraphs (b)(2), (3), (5), (6), (8), (10), (11), and (12); and

■ c. Adding paragraph (b)(18).

The revisions and addition read as follows:

§ 98.196 Data reporting requirements.

* * * * *

(b) If a CEMS is not used to measure CO_2 emissions, then you must report the information listed in paragraphs (b)(1) through (18) of this section.

* * * * *

(18) Annual quantity (tons) of lime product sold, by type.

■ 28. Section 98.197 is amended by revising the introductory text and adding paragraph (c) to read as follows:

§ 98.197 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) through (c) of this section.

* * * * *

(c) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (c)(1) through (9) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (c)(1) through (9) of this section.

(1) Monthly calcium oxide content for each lime type, determined according to § 98.194(c) (metric tons CaO/metric ton lime) (Equation S–1 of § 98.193).

(2) Monthly magnesium oxide content for each lime type, determined according to § 98.194(c) (metric tons MgO/metric ton lime) (Equation S–1).

(3) Monthly calcium oxide content for each calcined lime byproduct or waste type sold (metric tons CaO/metric ton lime) (Equation S–2 of § 98.193).

(4) Monthly magnesium oxide content for each calcined lime byproduct or waste type sold (metric tons MgO/metric ton lime) (Equation S–2).

(5) Calcium oxide content for each calcined lime byproduct or waste type that is not sold (metric tons CaO/metric ton lime) (Equation S–3 of § 98.193).

(6) Magnesium oxide content for each calcined lime byproduct or waste type that is not sold (metric tons MgO/metric ton lime) (Equation S–3).

(7) Annual weight or mass of calcined byproducts or wastes for lime type that is not sold (tons) (Equation S–3).

(8) Monthly weight or mass of each lime type produced (tons) (Equation S–4 of § 98.193).

(9) Monthly weight or mass of each calcined byproducts or wastes sold (tons) (Equation S–4).

Subpart U—Miscellaneous Uses of Carbonate

§ 98.216 [Amended]

■ 29. Section 98.216 is amended by removing and reserving paragraphs (b), (e)(1) and (2), and (f).

■ 30. Section 98.217 is amended by revising the introductory text and adding paragraph (e) to read as follows:

§ 98.217 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) through (e) of this section:

* * * * *

(e) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (e)(1) through (4) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (e)(1) through (4) of this section.

(1) Fraction calcination achieved for each particular carbonate type. As an alternative to measuring the calcination fraction, a value of 1.0 can be used (decimal fraction) (Equation U–1 of § 98.213).

(2) Annual mass of each carbonate type consumed (tons) (Equation U–1).

(3) Annual mass of each input carbonate type (tons) (Equation U–2 of § 98.213).

(4) Annual mass of each output carbonate type (tons) (Equation U–2).

Subpart V—Nitric Acid Production

■ 31. Section 98.226 is amended by:

■ a. Revising the introductory text;

■ b. Removing and reserving paragraphs (c), (d), (i), (j), (m)(1), (m)(3), (m)(4), (m)(5), (m)(6), and (p); and

■ c. Adding paragraph (q).

The revisions and addition read as follows:

§ 98.226 Data reporting requirements.

In addition to the information required by § 98.3(c), each annual report must contain the information specified in paragraphs (a) through (q) of this section.

* * * * *

(q) Annual percent N_2O emission reduction for all nitric acid trains combined.

■ 32. Section 98.227 is amended by revising the introductory text and adding paragraph (h) to read as follows:

§ 98.227 Records that must be retained.

In addition to the information required by § 98.3(g), you must retain the records specified in paragraphs (a) through (h) of this section for each nitric acid production facility:

* * * * *

(h) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (h)(1) through (10) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (h)(1) through (10) of this section.

(1) Annual nitric acid produced from each nitric acid train (tons nitric acid produced, 100% acid basis).

(2) Indicate which equation was used to calculate emissions for each nitric acid train.

(3) N_2O concentration per test run during the performance test (ppm N_2O) (Equation V–1 of § 98.223).

(4) Volumetric flow rate of effluent gas per test run during the performance test (dscf/hr) (Equation V–1).

(5) Production rate per test run during the performance test (tons nitric acid produced per hour, 100 percent acid basis) (Equation V–1).

(6) Annual nitric acid production from each nitric acid train during which each N_2O abatement technology was operational (tons nitric acid produced, 100 percent acid basis) (Equation V–2 of § 98.223).

(7) Destruction efficiency of N_2O abatement technology that is used on each nitric acid train (decimal fraction of N_2O removed from vent stream) (Equation V–3a of § 98.223).

(8) Destruction efficiency of each N_2O abatement technology that is used on each nitric acid train (decimal fraction of N_2O removed from vent stream) (Equation V–3b of § 98.223).

(9) Destruction efficiency of each N_2O abatement technology that is used on each nitric acid train (decimal fraction of N_2O removed from vent stream) (Equation V–3c of § 98.223).

(10) Fraction control factor of each N_2O abatement technology that is used on each nitric acid train (decimal fraction of total emissions from nitric acid train ''t'' that are sent to abatement technology ''n'') (Equation V–3c).

Subpart W—Petroleum and Natural Gas Systems

■ 33. Section 98.236 is amended by revising paragraphs (c)(6)(i)(B), (D), (E), and (F), (c)(8)(i)(F), and (c)(8)(ii)(A) and adding paragraph (c)(20) to read as follows:

§ 98.236 Data reporting requirements.

* * * * *

(c) * * *

(6) * * *

(i) * * *

(B) When using Equation W–10A of § 98.233, measured flow rate of backflow during well completion in standard cubic feet per hour. You may delay the reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells that can be used for the measurement. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(c)(20) the measured flow rate of backflow during well completion and the API Well Number(s) for the wells included in the measurement.

* * * * *

(D) When using Equation W–10A, measured flow rate of backflow during well workover in standard cubic feet per hour. You may delay the reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells that can be used for the measurement. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(c)(20) the flow rate of backflow during well workover and the API Well Number(s) for the well(s) included in the measurement.

(E) When using Equation W–10A, total number of days of backflow from all wells during completions. You may delay the reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells included in this number. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(c)(20) the total number of days of backflow from all wells during completions and the API Well Number(s) for the well(s) included in the number.

(F) When using Equation W–10A, total number of days of backflow from all wells during workovers. You may delay the reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells included in this number. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(c)(20) the total number of days of backflow from all wells during workovers and the API Well Number(s) for the well(s) included in the number.

* * * * *

(8) * * *

(i) * * *

(F) Total volume of oil from all wellhead separators sent to tank(s) in barrels per year. You may delay the reporting of this data element if you indicate in the annual report that only wildcat and delineation wells in the sub-basin have wellhead separators. If you elect to delay reporting the this data element, you must report by the date specified in § 98.236(c)(20) the total volume of oil from all wellhead separators sent to tank(s) and the API

Well Number(s) for the well(s) included in this volume.

* * * * *

(ii) * * *

(A) Total volume of sales oil from all wells in barrels per year. You may delay the reporting of this data element if you indicate in the annual report that wildcat wells and delineation wells are the only wells in the sub-basin with oil production greater than or equal to 10 barrels per day. If you elect to delay reporting of this data element, you must report by the date specified in § 98.3236(c)(20) the total volume of sales oil from all wells and the API Well Number(s) for the well(s) included in this volume.

* * * * *

(20) If you elect to delay reporting the information in paragraph (c)(6)(i)(B), (D), (E), (F), (c)(8)(i)(F), or (c)(8)(ii)(A) of this section, you must report the information required in that paragraph no later than the date specified in paragraphs (c)(20)(i) through (iii) of this section, as applicable.

(i) March 31, 2016, for reporting year 2013.

(ii) March 31, 2017, for reporting year 2014.

(iii) The date 2 years following the date specified in § 98.3(b) introductory text, for reporting year 2015 and thereafter.

■ 34. Section 98.238 is amended by adding definitions for ''Delineation well'' and ''Wildcat well'' in alphabetical order to read as follows:

§ 98.238 Definitions.

* * * * *

Delineation well means a well drilled in order to determine the boundary of a field or producing reservoir.

* * * * *

Wildcat well means a well outside known fields or the first well drilled in an oil or gas field where no other oil and gas production exists.

Subpart X—Petrochemical Production

■ 35. Section 98.246 is amended by:

■ a. Revising paragraph (a) introductory text and paragraphs (a)(2) and (4);

■ b. Adding paragraphs (a)(12) and (13);

■ c. Revising paragraph (b) introductory text; and

■ d. Adding paragraphs (b)(9) and (10).

The revisions and additions read as follows:

§ 98.246 Data reporting requirements.

* * * * *

(a) If you use the mass balance methodology in § 98.243(c), you must report the information specified in paragraphs (a)(1) through (13) of this section for each type of petrochemical produced, reported by process unit.

* * * * *

(2) The type of petrochemical produced, names of products, and names of carbon-containing feedstocks.

* * * * *

(4) The temperature (in °F) at which the gaseous feedstock and product volumes used in Equation X–1 of § 98.243 were determined.

* * * * *

(12) Name and annual quantity (in metric tons) of each carbon-containing feedstock included in Equations X–1, X–2, and X–3 of § 98.243.

(13) Name and annual quantity (in metric tons) of each product included in Equations X–1, X–2, and X–3.

(b) If you measure emissions in accordance with § 98.243(b), then you must report the information listed in paragraphs (b)(1) through (10) of this section.

* * * * *

(9) Name and annual quantity (in metric tons) of each carbon-containing feedstock.

(10) Name and annual quantity (in metric tons) of each product.

* * * * *

■ 36. Section 98.247 is amended by revising the introductory text and adding paragraph (d) to read as follows:

§ 98.247 Records that must be retained.

In addition to the recordkeeping requirements in § 98.3(g), you must retain the records specified in paragraphs (a) through (d) of this section, as applicable.

* * * * *

(d) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (d)(1) through (30) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (d)(1) through (30) of this section.

(1) Indicate whether the feedstock is measured as mass or volume (Equation X–1 of § 98.243).

(2) Indicate whether you used the alternative to sampling and analysis specified in § 98.243(c)(4) (Equation X–1).

(3) Volume of gaseous feedstock introduced per month (scf) (Equation X–1).

(4) Mass of gaseous feedstock introduced per month (kg) (Equation X–1).

(5) Average carbon content of the gaseous feedstock per month (kg C per kg of feedstock) (Equation X–1).

(6) Molecular weight of gaseous feedstock per month (kg per kg-mole) (Equation X–1).

(7) Indicate whether the gaseous product is measured as mass or volume (Equation X–1).

(8) Volume of gaseous product produced per month (scf) (Equation X–1).

(9) Mass of gaseous product produced per month (kg) (Equation X–1).

(10) Average carbon content of gaseous product (including streams containing CO_2 recovered for sale or use in another process) per month (kg C per kg of product) (Equation X–1).

(11) Molecular weight of gaseous product per month (kg per kg-mole) (Equation X–1).

(12) Molar volume conversion factor of product (scf per kg-mole) (Equation X–1).

(13) Indicate whether feedstock is measured as mass or volume (Equation X–2 of § 98.243).

(14) Indicate whether you used the alternative to sampling and analysis specified in § 98.243(c)(4) (Equation X–2).

(15) Volume of liquid feedstock introduced per month (gallons) (Equation X–2).

(16) Mass of liquid feedstock introduced per month (kg) (Equation X–2).

(17) Average carbon content of liquid feedstock per month (kg C per gallon) (Equation X–2).

(18) Average carbon content of liquid feedstock per month (kg C per kg of feedstock) (Equation X–2).

(19) Indicate whether product is measured as mass or volume per month (Equation X–2).

(20) Volume of liquid product produced per month (gallons) (Equation X–2).

(21) Mass of liquid product produced per month (kg) (Equation X–2).

(22) Average carbon content of liquid product per month, including organic liquid wastes (kg C per gallon) (Equation X–2).

(23) Average carbon content of liquid product, including organic liquid wastes (kg C per kg of product) (Equation X–2).

(24) Indicate whether you used the alternative to sampling and analysis specified in § 98.243(c)(4) (Equation X–3 of § 98.243).

(25) Mass of solid feedstock introduced per month (kg) (Equation X–3).

(26) Average carbon content of solid feedstock per month (kg C per kg of feedstock) (Equation X–3).

(27) Mass of solid product produced per month (kg) (Equation X–3).

(28) Average carbon content of solid product per month (kg C per kg of product) (Equation X–3).

(29) Records required in § 98.257(b)(1) through (8) of this section for each flare that burns ethylene process off-gas.

(30) Records required in § 98.37 for each stationary fuel combustion unit (or group of stationary sources with a common pipe) that burns ethylene process off-gas, except flares.

Subpart Y—Petroleum Refineries

■ 37. Section 98.256 is amended by:
■ a. Revising paragraph (e)(6) and paragraph (e)(7) introductory text;
■ b. Removing and reserving paragraph (e)(7)(ii);
■ c. Revising paragraphs (e)(9) and (10);
■ d. Revising paragraphs (f)(7) and (f)(10) through (13);
■ e. Removing and reserving paragraph (h)(4);
■ f. Revising paragraphs (h)(5) and (i)(5), (7), and (8);
■ g. Removing and reserving paragraph (j)(2);
■ h. Revising paragraphs (j)(5) through (9), (k)(3) and (4), (l)(5), and (m)(3);
■ i. Removing and reserving paragraphs (o)(2)(ii) and (o)(4)(ii) through (iv);
■ j. Revising paragraph (o)(4)(v);
■ k. Removing and reserving paragraphs (o)(6) and (7); and
■ l. Revising paragraph (p)(2).

The revisions read as follows:

§ 98.256 Data reporting requirements.

* * * * *

(e) * * *

(6) If you use Equation Y–1a of § 98.253, an indication of whether daily or weekly measurement periods are used, the annual volume of flare gas combusted (in scf/year) and the annual average molecular weight (in kg/kg-mole), and annual average carbon content of the flare gas (in kg carbon per kg flare gas).

(7) If you use Equation Y–1b of § 98.253, an indication of whether daily or weekly measurement periods are used, the annual volume of flare gas combusted (in scf/year), the annual average CO_2 concentration (volume or mole percent), the number of carbon containing compounds other than CO_2 in the flare gas stream, and for each of the carbon containing compounds other than CO_2 in the flare gas stream:

* * * * *

(9) If you use Equation Y–3 of § 98.253, the number of SSM events exceeding 500,000 scf/day.

(10) The basis for the value of the fraction of carbon in the flare gas contributed by methane used in Equation Y–4 of § 98.253.

(f) * * *

(7) If you use Equation Y–6 of § 98.253, the annual average exhaust gas flow rate, %CO_2, and %CO.

* * * * *

(10) If you use Equation Y–8 of § 98.253, the basis for the value of the average carbon content of coke.

(11) Indicate whether you use a measured value, a unit-specific emission factor, or a default for CH_4 emissions. If you use a unit-specific emission factor for CH_4, report the basis for the factor.

(12) Indicate whether you use a measured value, a unit-specific emission factor, or a default emission factor for N_2O emissions. If you use a unit-specific emission factor for N_2O, report the basis for the factor.

(13) If you use Equation Y–11 of § 98.253, the number of regeneration cycles or measurement periods during the reporting year and the average coke burn-off quantity per cycle or measurement period.

* * * * *

(h) * * *

(5) If you recycle tail gas to the front of the sulfur recovery plant, indicate whether the recycled flow rate and carbon content are included in the measured data under § 98.253(f)(2) and (3). Indicate whether a correction for CO_2 emissions in the tail gas was used in Equation Y–12 of § 98.253. If so, then report:

(i) Indicate whether you used the default (95 percent) or a unit specific correction, and if a unit-specific correction was used, report the value of the correction and the approach used.

(ii) If the following data are not used to calculate the recycling correction factor, report the information specified in paragraphs (h)(5)(ii)(A) through (B) of this section.

(A) The annual volume of recycled tail gas (in scf/year) only.

(B) The annual average mole fraction of carbon in the tail gas (in kg-mole C/kg-mole gas).

* * * * *

(i) * * *

(5) If you use Equation Y–13 of § 98.253, an indication of whether coke dust is recycled to the unit (e.g., all dust is recycled, a portion of the dust is recycled, or none of the dust is recycled).

* * * * *

(7) Indicate whether you use a measured value, a unit-specific emission factor or a default emission factor for CH_4 emissions. If you use a unit-specific emission factor for CH_4, report the basis for the factor.

(8) Indicate whether you use a measured value, a unit-specific emission factor, or a default emission factor for N_2O emissions. If you use a unit-specific emission factor for N_2O, report the basis for the factor.

(j) * * *

(5) If you use Equation Y–14 of § 98.253, the basis for the CO_2 emission factor used.

(6) If you use Equation Y–15 of § 98.253, the basis for the CH_4 emission factor used.

(7) If you use Equation Y–16a of § 98.253, the basis for the carbon emission factor used.

(8) If you use Equation Y–16b of § 98.253, the basis for the CO_2 emission factor used and the basis for the carbon emission factor used.

(9) If you use Equation Y–17 of § 98.253, the basis for the CH_4 emission factor used.

* * * * *

(k) * * *

(3) The total number of delayed coking units at the facility; the total number of delayed coking drums at the facility; and, for each coke drum or vessel, the typical drum outage (*i.e.* the unfilled distance from the top of the drum, in feet).

(4) For each set of coking drums that are the same dimensions, the number of coking drums in the set, and the mole fraction of methane in coking gas (in kg-mole CH_4/kg-mole gas, wet basis).

* * * * *

(l) * * *

(5) The annual volumetric flow discharged to the atmosphere (in scf), and an indication of the measurement or estimation method, annual average mole fraction of each GHG above the concentration threshold or otherwise required to be reported and an indication of the measurement or estimation method, and for intermittent vents, the number of venting events and the cumulative venting time.

* * * * *

(m) * * *

(3) For uncontrolled blowdown systems reporting under § 98.253(k), the basis for the value of the methane emission factor used for uncontrolled blowdown systems.

* * * * *

(o) * * *

(4) * * *

(v) The basis for the mole fraction of CH_4 in vent gas from unstabilized crude oil storage tanks.

* * * * *

(p) * * *

(2) The types of materials loaded that have an equilibrium vapor-phase concentration of methane of 0.5 volume percent or greater, and the type of vessel

(barge, tanker, marine vessel, etc.) in which each type of material is loaded.

* * * * *

■ 38. Section 98.257 is amended to read as follows:

§ 98.257 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) and (b) of this section.

(a) The records of all parameters monitored under § 98.255. If you comply with the combustion methodology in § 98.252(a), then you must retain under this subpart the records required for the Tier 3 and/or Tier 4 Calculation Methodologies in § 98.37 and you must keep records of the annual average flow calculations.

(b) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (b)(1) through (67) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (b)(1) through (67) of this section.

(1) Volume of flare gas combusted during measurement period (scf) (Equation Y–1b of § 98.253).

(2) Mole percent CO_2 concentration in the flare gas stream during the measurement period (mole percent) (Equation Y–1b).

(3) Mole percent concentration of compound ''x'' in the flare gas stream during the measurement period (mole percent) (Equation Y–1b).

(4) Carbon mole number of compound ''x'' in the flare gas stream during the measurement period (mole carbon atoms per mole compound) (Equation Y–1b).

(5) Molar volume conversion factor (scf per kg-mole) (Equation Y–1b).

(6) Annual volume of flare gas combusted for each flare during normal operations from company records (million (MM) standard cubic feet per year, MMscf/year) (Equation Y–3 of § 98.253).

(7) Higher heating value for fuel gas or flare gas for each flare from company records (British thermal units per scf, Btu/scf = MMBtu/MMscf) (Equation Y–3).

(8) Volume of flare gas combusted during indexed start-up, shutdown, or malfunction event from engineering calculations (scf) (Equation Y–3).

(9) Average molecular weight of the flare gas, from the analysis results or engineering calculations for the event (kg/kg-mole) (Equation Y–3).

(10) Molar volume conversion factor (scf per kg-mole) (Equation Y–3).

(11) Average carbon content of the flare gas, from analysis results or engineering calculations for the event (kg C per kg flare gas) (Equation Y–3).

(12) Weight fraction of carbon in the flare gas prior to combustion in each flare that is contributed by methane from measurement values or engineering calculations (kg C in methane in flare gas/kg C in flare gas) (Equation Y–4 of § 98.253).

(13) Annual throughput of unit from company records for each catalytic cracking unit or fluid coking unit (barrels/year) (Equation Y–8 of § 98.253).

(14) Coke burn-off factor from engineering calculations (default for catalytic cracking units = 7.3; default for fluid coking units = 11) (kg coke per barrel of feed) (Equation Y–8).

(15) Carbon content of coke based on measurement or engineering estimate (kg C per kg coke) (Equation Y–8).

(16) Value of unit-specific CH_4 emission factor, including the units of measure, for each catalytic cracking unit, traditional fluid coking unit, catalytic reforming unit, and coke calcining unit (calculation method in § 98.253(c)(4)).

(17) Annual activity data (e.g., input or product rate), including the units of measure, in units of measure consistent with the emission factor, for each catalytic cracking unit, traditional fluid coking unit, catalytic reforming unit, and coke calcining unit (calculation method in § 98.253(c)(4)).

(18) Value of unit-specific N_2O emission factor, including the units of measure, for each catalytic cracking unit, traditional fluid coking unit, catalytic reforming unit, and coke calcining unit (calculation method in § 98.253(c)(5)).

(19) Annual activity data (e.g., input or product rate), including the units of measure, in units of measure consistent with the emission factor, for each catalytic cracking unit, traditional fluid coking unit, catalytic reforming unit, and coke calcining unit (calculation method in § 98.253(c)(5)).

(20) Carbon content of coke based on measurement or engineering estimate (default = 0.94) (kg C per kg coke) (Equation Y–11 of § 98.253).

(21) Volumetric flow rate of sour gas (including sour water stripper gas) feed sent off site for sulfur recovery in the year (scf/year) (Equation Y–12 of § 98.253).

(22) Mole fraction of carbon in the sour gas feed sent off site for sulfur recovery (kg-mole C/kg-mole gas) (Equation Y–12).

(23) Molar volume conversion factor for sour gas sent off site (scf per kg-mole) (Equation Y–12).

(24) Volumetric flow rate of sour gas (including sour water stripper gas) fed to the onsite sulfur recovery plant (scf/year) (Equation Y–12).

(25) Mole fraction of carbon in the sour gas fed to the onsite sulfur recovery plant (kg-mole C/kg-mole gas) (Equation Y–12).

(26) Molar volume conversion factor for onsite sulfur recovery plant (scf per kg-mole) (Equation Y–12).

(27) Annual mass of green coke fed to the coke calcining unit from facility records (metric tons/year) (Equation Y–13 of § 98.253).

(28) Annual mass of marketable petroleum coke produced by the coke calcining unit from facility records (metric tons/year) (Equation Y–13).

(29) Annual mass of petroleum coke dust removed from the process through the dust collection system of the coke calcining unit from facility records. For coke calcining units that recycle the collected dust, the mass of coke dust removed from the process is the mass of coke dust collected less the mass of coke dust recycled to the process (metric tons/year) (Equation Y–13).

(30) Average mass fraction carbon content of green coke from facility measurement data (metric tons C per metric ton green coke) (Equation Y–13).

(31) Average mass fraction carbon content of marketable petroleum coke produced by the coke calcining unit from facility measurement data (metric tons C per metric ton petroleum coke (Equation Y–13).

(32) Quantity of asphalt blown for each asphalt blowing unit (million barrels per year (MMbbl/year)) (Equation Y–14 of § 98.253).

(33) Emission factor for CO_2 from uncontrolled asphalt blowing from facility-specific test data for each asphalt blowing unit (metric tons CO_2/MMbbl asphalt blown) (Equation Y–14).

(34) Emission factor for CH_4 from uncontrolled asphalt blowing from facility-specific test data for each asphalt blowing unit (metric tons CH_4/MMbbl asphalt blown) (Equation Y–15 of § 98.253).

(35) Quantity of asphalt blown (million barrels/year (MMbbl/year)) (Equation Y–16a of § 98.253).

(36) Carbon emission factor from asphalt blowing from facility-specific test data (metric tons C/MMbbl asphalt blown) (Equation Y–16a).

(37) Quantity of asphalt blown for each asphalt blowing unit (million barrels per year (MMbbl/year)) (Equation Y–16b of § 98.253).

(38) Emission factor for CO_2 from uncontrolled asphalt blowing from facility-specific test data for each asphalt blowing unit (metric tons CO_2/MMbbl asphalt blown) (Equation Y–16b).

(39) Carbon emission factor from asphalt blowing from facility-specific test data for each asphalt blowing unit (metric tons C/MMbbl asphalt blown) (Equation Y–16b).

(40) Emission factor for CH_4 from uncontrolled asphalt blowing from facility-specific test data for each asphalt blowing unit (metric tons CH_4/MMbbl asphalt blown) (Equation Y–17 of § 98.253).

(41) Cumulative number of vessel openings for all delayed coking unit vessels of the same dimensions during the year (Equation Y–18 of § 98.253).

(42) Height of coking unit vessel for each set of coke drums or vessels of the same size (feet) (Equation Y–18).

(43) Gauge pressure of the coking vessel when opened to the atmosphere prior to coke cutting or, if the alternative method provided in § 98.253(i)(2) is used, gauge pressure of the coking vessel when depressurization gases are first routed to the atmosphere for each set of coke drums or vessels of the same size (pounds per square inch gauge (psig)) (Equation Y–18).

(44) Volumetric void fraction of coking vessel prior to steaming for each set of coke drums or vessels of the same size (cf gas/cf of vessel) (Equation Y–18).

(45) Diameter of coking unit vessel for each set of coke drums or vessels of the same size (feet) (Equation Y–18).

(46) Molar volume conversion factor for each set of coke drums or vessels of the same size (scf per kg-mole) (Equation Y–18).

(47) Average volumetric flow rate of process gas during the event from measurement data, process knowledge, or engineering estimates for each set of coke drums or vessels of the same size (scf per hour) (Equation Y–19 of § 98.253).

(48) Mole fraction of methane in process vent during the event from measurement data, process knowledge, or engineering estimates for each set of coke drums or vessels of the same size (kg-mole CH_4/kg-mole gas) (Equation Y–19).

(49) Venting time for the event for each set of coke drums or vessels of the same size (hours) (Equation Y–19).

(50) Molar volume conversion factor for each set of coke drums or vessels of the same size (scf per kg-mole) (Equation Y–19).

(51) Quantity of crude oil plus the quantity of intermediate products received from off site that are processed at the facility (MMbbl/year) (Equation Y–20 of § 98.253).

(52) Molar volume conversion factor (scf per kg-mole) (Equation Y–20).

(53) Methane emission factor for uncontrolled blown systems (scf CH_4/MMbbl) (Equation Y–20).

(54) Quantity of crude oil plus the quantity of intermediate products received from off site that are processed at the facility (MMbbl/year) (Equation Y–22 of § 98.253).

(55) Quantity of unstabilized crude oil received at the facility (MMbbl/year) (Equation Y–23 of § 98.253).

(56) Pressure differential from the previous storage pressure to atmospheric pressure (psi) (Equation Y–23).

(57) Average mole fraction of CH_4 in vent gas from the unstabilized crude oil storage tanks from facility measurements (kg-mole CH_4/kg-mole gas) (Equation Y–23).

(58) Molar volume conversion factor (scf per kg-mole) (Equation Y–23).

(59) Specify whether the calculated or default loading factor L specified in § 98.253(n) is entered, for each liquid loaded to each (methods specified in § 98.253(n)).

(60) Saturation factor specified in § 98.253(n), for each liquid loaded to each vessel (methods specified in § 98.253(n)).

(61) True vapor pressure of liquid loaded, for each liquid loaded to each vessel (psia) (methods specified in § 98.253(n)).

(62) Molecular weight of vapors (lb per lb-mole), for each liquid loaded to each vessel (methods specified in § 98.253(n)).

(63) Temperature of bulk liquid loaded, for each liquid loaded to each vessel (°R, degrees Rankine) (methods specified in § 98.253(n)).

(64) Total loading loss (without efficiency correction), for each liquid loaded to each vessel (pounds per 1000 gallons loaded) (methods specified in § 98.253(n)).

(65) Overall emission control system reduction efficiency, including the vapor collection system efficiency and the vapor recovery or destruction efficiency (enter zero if no emission controls), for each liquid loaded to each vessel (percent) (methods specified § 98.253(n)).

(66) Vapor phase concentration of methane in liquid loaded, for each liquid loaded to each vessel (percent by volume) (methods specified in § 98.253(n)).

(67) Quantity of material loaded, for each liquid loaded to each vessel (thousand gallon per year) (methods specified in § 98.253(n)).

Subpart Z—Phosphoric Acid Production

§ 98.266 [Amended]

■ 39. Section 98.266 is amended by removing and reserving paragraphs (f)(5) and (6).

■ 40. Section 98.267 is amended by revising the introductory text and adding paragraph (d) to read as follows:

§ 98.267 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) through (d) of this section for each wet-process phosphoric acid production facility.

* * * * *

(d) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (d)(1) through (4) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (d)(1) through (4) of this section.

(1) Inorganic carbon content of a grab sample batch of phosphate rock by origin obtained during month by wet-process phosphoric acid process line, from the carbon analysis results (percent by weight, expressed as a decimal fraction) (Equation Z–1a of § 98.263).

(2) Mass of phosphate rock by origin consumed in month by wet-process phosphoric acid process line (tons) (Equation Z–1a).

(3) Carbon dioxide content of a grab sample batch of phosphate rock by origin obtained during month by wet-process phosphoric acid process line (percent by weight, expressed as a decimal fraction) (Equation Z–1b of § 98.263).

(4) Mass of phosphate rock by origin consumed in month by wet-process phosphoric acid process line (tons) (Equation Z–1b).

Subpart AA—Pulp and Paper Manufacturing

■ 41. Section 98.276 is amended by:

■ a. Revising the introductory paragraph;

■ b. Removing and reserving paragraph (b);

■ c. Revising paragraph (c);

■ d. Removing and reserving paragraphs (d), (f), (g), (h) and (i); and

■ e. Adding paragraph (l).

The revisions and addition read as follows:

§ 98.276 Data reporting requirements.

In addition to the information required by § 98.3(c) and the applicable information required by § 98.36, each

annual report must contain the information in paragraphs (a) through (l) of this section as applicable:

* * * * *

(c) Basis for determining the annual mass of the spent liquor solids combusted (whether based on T650 om-05 Solids Content of Black Liquor, TAPPI (incorporated by reference, *see* § 98.7) or an online measurement system).

* * * * *

(l) For each pulp mill lime kiln, report the information specified in paragraphs (l)(1) and (2) of this section.

(1) The quantity of calcium oxide (CaO) produced (metric tons).

(2) The percent of annual heat input, individually for each fossil fuel type.

■ 42. Section 98.277 is amended by revising the introductory text and adding paragraph (g) to read as follows:

§ 98.277 Records that must be retained.

In addition to the information required by § 98.3(g), you must retain the records in paragraphs (a) through (g) of this section.

* * * * *

(g) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (g)(1) through (27) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (g)(1) through (27) of this section.

(1) Mass of the solid fuel combusted (tons/year) (Equation C–1 of § 98.33).

(2) Volume of the liquid fuel combusted (gallons/year) (Equation C–1).

(3) Volume of the gaseous fuel combusted (scf/year) (Equation C–1).

(4) Annual natural gas usage (therms/year) (Equation C–1a of § 98.33).

(5) Annual natural gas usage (mmBtu/year) (Equation C–1b of § 98.33).

(6) Mass of the solid fuel combusted (tons/year) (Equation C–2a of § 98.33).

(7) Volume of the liquid fuel combusted (gallons/year) (Equation C–2a).

(8) Volume of the gaseous fuel combusted (scf/year) (Equation C–2a).

(9) Annual mass of the solid fuel combusted (short tons/year) (Equation C–3 of § 98.33).

(10) Annual average carbon content of the solid fuel (percent by weight, expressed as a decimal fraction) (Equation C–3).

(11) Annual volume of the liquid fuel combusted (gallons/year) (Equation C–4 of § 98.33).

(12) Annual average carbon content of the liquid fuel (kg C per gallon of fuel) (Equation C–4).

(13) Annual volume of the gaseous fuel combusted (scf/year) (Equation C–5 of § 98.33).

(14) Annual average carbon content of the gaseous fuel (kg C per kg of fuel) (Equation C–5).

(15) Annual average molecular weight of the gaseous fuel (kg/kg-mole) (Equation C–5).

(16) Molar volume conversion factor at standard conditions, as defined in § 98.6 (scf per kg-mole) (Equation C–5).

(17) Identify if you will use the default high heat value from Table C–1 of subpart C of this part, or actual HHV data (Equation C–8 of § 98.33).

(18) High heat value of the fuel (mmBTU/tons) (Equation C–8).

(19) High heat value of the fuel (mmBTU/gallons) (Equation C–8).

(20) High heat value of the fuel (mmBTU/scf) (Equation C–8).

(21) Mass of spent liquor solids combusted from each chemical recovery furnace located at a kraft or soda facility, in short tons in year, determined according to § 98.274(b) (tons/year) (Equation AA–1 of § 98.273).

(22) Annual high heat value of the spent liquor solids from each chemical recovery furnace located at a kraft or soda facility determined according to § 98.274(b) (mmBtu per kilogram) (Equation AA–1).

(23) Annual high heat value of the spent liquor solids from each chemical recovery combustion unit located at a sulfite or stand-alone semichemical facility, determined according to § 98.274(b) (mmBtu per kilogram) (Equation AA–1).

(24) Mass of the spent liquor solids combusted in short tons per year determined according to § 98.274(b) (tons/year) (Equation AA–2 of § 98.273).

(25) Annual carbon content of the spent liquor solids, determined according to § 98.274(b) (percent by weight, expressed as a decimal fraction (e.g., 95% = 0.95)) (Equation AA–2).

(26) Make-up quantity of $CaCO_3$ used for the reporting year (metric tons/year) (Equation AA–3 of § 98.273).

(27) Make-up quantity of Na_2CO_3 used for the reporting year metric tons/year) (Equation AA–3).

Subpart BB—Silicon Carbide Production

§ 98.286 [Amended]

■ 43. Section 98.286 is amended by removing and reserving paragraphs (b)(1), (4), and (6).

■ 44. Section 98.287 is amended by revising the introductory text and adding paragraph (c) to read as follows:

§ 98.287 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) through (c) of this section for each silicon carbide production facility.

* * * * *

(c) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (c)(1) and (2) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (c)(1) and (2) of this section.

(1) Carbon content factor for petroleum coke consumed in month from the supplier or as measured by the applicable method (percent by weight expressed as a decimal fraction) (Equation BB–1 of § 98.283).

(2) Petroleum coke consumption in month (tons) (Equation BB–2 of § 98.283).

Subpart CC—Soda Ash Manufacturing

■ 45. Section 98.296 is amended by removing and reserving paragraphs (b)(5) through (7) and adding paragraphs (b)(10)(v) and (vi) to read as follows:

§ 98.296 Data reporting requirements.

* * * * *

(b) * * *

(10) * * *

(v) Average process vent flow from mine water stripper/evaporator during performance test (pounds/hour).

(vi) Annual process vent flow rate from mine water stripper/evaporator (thousand pounds/hour).

* * * * *

■ 46. Section 98.297 is amended by revising the introductory text and adding paragraph (c) to read as follows:

§ 98.297 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) through (c) of this section for each soda ash manufacturing line.

* * * * *

(c) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (c)(1) through (4) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (c)(1) through (4) of this section

(1) Inorganic carbon content in trona input, from the carbon analysis results for month (percent by weight, expressed as a decimal fraction) (Equation CC–1 of § 98.293).

(2) Mass of trona input in month (tons) (Equation CC–1).

(3) Inorganic carbon content in soda ash output, from the carbon analysis results for month (percent by weight, expressed as a decimal fraction) (Equation CC–2 of § 98.293).

(4) Mass of soda ash output in month (tons) (Equation CC–2).

Subpart EE—Titanium Dioxide Production

§ 98.316 [Amended]

■ 47. Section 98.316 is amended by removing and reserving paragraphs (b)(6) and (9).

■ 48. Section 98.317 is amended by revising the introductory text and adding paragraph (c) to read as follows:

§ 98.317 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) through (c) of this section for each titanium dioxide production facility.

* * * * *

(c) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (c)(1) and (2) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (c)(1) and (2) of this section.

(1) Carbon content factor for petroleum coke consumed in month from the supplier or as measured by the applicable method incorporated by reference in § 98.7 according to § 98.314(c) (percent by weight, expressed as a decimal fraction) (Equation EE–2 of § 98.313).

(2) Calcined petroleum coke consumption for process line in month (tons) (Equation EE–2).

Subpart GG—Zinc Production

§ 98.336 [Amended]

■ 49. Section 98.336 is amended by removing and reserving paragraphs (b)(6), (7), and (10).

■ 50. Section 98.337 is amended by revising the introductory text and adding paragraph (c) to read as follows:

§ 98.337 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) through (c) of this section for each zinc production facility.

* * * * *

(c) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (c)(1) through (9) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (c)(1) through (9) of this section.

(1) Annual mass of zinc bearing material charged to kiln or furnace (tons) (Equation GG–1 of § 98.333).

(2) Carbon content of the zinc bearing material, from the annual carbon analysis for kiln or furnace (percent by weight, expressed as a decimal fraction) (Equation GG–1).

(3) Annual mass of flux materials (e.g., limestone, dolomite) charged to each kiln or furnace (tons) (Equation GG–1).

(4) Carbon content of the flux materials charged to each kiln or furnace, from the annual carbon analysis (percent by weight, expressed as a decimal fraction) (Equation GG–1).

(5) Annual mass of carbon electrode consumed in each furnace (tons) (Equation GG–1).

(6) Carbon content of the carbon electrode consumed in each furnace, from the annual carbon analysis (percent by weight, expressed as a decimal fraction) (Equation GG–1).

(7) Annual mass of carbonaceous materials (e.g., coal, coke) charged to each kiln or furnace (tons) (Equation GG–1).

(8) Carbon content of the carbonaceous materials charged to each kiln or furnace, from the annual carbon analysis (percent by weight, expressed as a decimal fraction) (Equation GG–1).

(9) Identify whether each unit is a Waelz kiln or an electrothermic furnace.

Subpart TT—Industrial Waste Landfills

■ 51. Section 98.466 is amended by:

■ a. Removing and reserving paragraph (c)(3)(i);

■ b. Revising paragraph (c)(3)(ii); and

■ c. Removing and reserving paragraph (c)(3)(iii).

The revisions read as follows:

§ 98.466 Data reporting requirements.

* * * * *

(c) * * *

(3) * * *

(ii) The year of the data used in Equation TT–2 of § 98.463 for the waste disposal quantity and production quantity, for each year used in Equation TT–2 to calculate the average waste disposal factor (WDF).

* * * * *

■ 52. Section 98.467 is amended to read as follows:

§ 98.467 Records that must be retained.

In addition to the information required by § 98.3(g), you must retain:

(a) The calibration records for all monitoring equipment, including the method or manufacturer's specification used for calibration, and all measurement data used for the purposes of § 98.460(c)(2)(xii) or (xiii) or used to determine waste stream-specific DOC_X values for use in Equation TT–1 of § 98.463.

(b) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (b)(1) and (2) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (b)(1) and (2) of this section.

(1) Quantity of each product produced or feedstock entering the process or facility per waste stream per year, from measurement data and/or other company records. You must use the same basis for all years in the calculation (i.e., based on production or based on quantity of feedstock) (metric tons) (Equation TT–2 of § 98.463).

(2) [Reserved]

[FR Doc. 2014–23780 Filed 10–23–14; 8:45 am]

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FEDERAL REGISTER

Vol. 79 Friday,

No. 206 October 24, 2014

Part IV

The President

Memorandum of October 17, 2014—Providing an Order of Succession Within the Federal Mediation and Conciliation Service

Memorandum of October 17, 2014—Providing an Order of Succession Within the Social Security Administration

Federal Register
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Presidential Documents

Title 3—

The President

Memorandum of October 17, 2014

Providing an Order of Succession Within the Federal Mediation and Conciliation Service

Memorandum for the Director of the Federal Mediation and Conciliation Service

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.* (the ''Act''), it is hereby ordered that:

Section 1. *Order of Succession.* Subject to the provisions of section 2 of this memorandum, and to the limitations set forth in the Act, the following officials of the Federal Mediation and Conciliation Service, in the order listed, shall act as and perform the functions and duties of the office of the Director of the Federal Mediation and Conciliation Service (Director), during any period in which the Director has died, resigned, or otherwise become unable to perform the functions and duties of the office of Director:

(a) Deputy Director, Mediation Services and Field Programs;

(b) Deputy Director, National and International Programs;

(c) Director of Field Operations; and

(d) Most senior Director of Mediation Services (seniority being defined as the individual with the longest tenure in the position of Director of Mediation Services).

Sec. 2. *Exceptions.* (a) No individual who is serving in an office listed in section 1 of this memorandum in an acting capacity, by virtue of so serving, shall act as Director pursuant to this memorandum.

(b) No individual listed in section 1 of this memorandum shall act as Director unless that individual is otherwise eligible to so serve under the Act.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this memorandum in designating an acting Director.

Sec. 3. *General Provisions.* (a) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(b) You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, October 17, 2014.

[FR Doc. 2014–25564
Filed 10–23–14; 11:15 am]
Billing code 6732–01

Presidential Documents

Memorandum of October 17, 2014

Providing an Order of Succession Within the Social Security Administration

Memorandum for the Commissioner of the Social Security Administration

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.* (the ''Act''), it is hereby ordered that:

Section 1. *Order of Succession.* Subject to the provisions of section 2 of this memorandum, and to the limitations set forth in the Act, the following officials of the Social Security Administration, in the order listed, shall act as and perform the functions and duties of the office of the Commissioner of Social Security (Commissioner), during any period in which both the Commissioner and Deputy Commissioner of Social Security have died, resigned, or become otherwise unable to perform the functions and duties of the office of Commissioner:

(a) Deputy Commissioner for Operations;

(b) Deputy Commissioner for Budget, Finance, Quality, and Management;

(c) Deputy Commissioner for Systems;

(d) Regional Commissioner, Atlanta; and

(e) Regional Commissioner, Dallas.

Sec. 2. *Exceptions.* (a) No individual who is serving in an office listed in section 1 of this memorandum in an acting capacity, by virtue of so serving, shall act as Commissioner pursuant to this memorandum.

(b) No individual listed in section 1 of this memorandum shall act as Commissioner unless that individual is otherwise eligible to so serve under the Act.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this memorandum in designating an acting Commissioner.

Sec. 3. *Revocation.* The Presidential Memorandum of October 17, 2008 (Designation of Officers of the Social Security Administration to Act as the Commissioner of Social Security), is hereby revoked.

Sec. 4. *General Provisions.* (a) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(b) You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, October 17, 2014.

[FR Doc. 2014–25568
Filed 10–23–14; 11:15 am]
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