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## DEPARTMENT OF AGRICULTURE

### 7 CFR Part 15

**[OES–2014–0002]**

**RIN 051–AA70**

## Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency

**AGENCY:** Office of the Assistant Secretary for Civil Rights, USDA.

**ACTION:** Significant final guidance.

**SUMMARY:** The U.S. Department of Agriculture (USDA) is publishing the final guidance on the Title VI prohibition against national origin discrimination as it affects limited English proficient persons. Consistent with Title VI of the Civil Rights Act of 1964, as amended, Title VI regulations, and Executive Order 13166, ''Improving Access to Services for Persons with Limited English Proficiency (LEP),'' the guidance clarifies the obligations of entities that receive Federal financial assistance from USDA. The guidance does not create new obligations, but, rather, provides guidance for USDA recipients in meeting their existing obligations to provide meaningful access for LEP persons.

**DATES:** This final guidance is effective November 28, 2014.

**FOR FURTHER INFORMATION CONTACT:** For further information contact Anna G. Stroman, Chief, Policy Division, Telephone (202) 205–5953; Fax (202) 690–2345.

**SUPPLEMENTARY INFORMATION:** Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d–2000d–6 and the USDA implementing regulations at 7 CFR part 15, subpart A, ''Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture Effectuation of Title VI of the Civil Rights Act of 1964,'' provide that no person shall be discriminated against on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of an applicant or recipient receiving Federal financial assistance from the Department of Agriculture or any Agency thereof. The purpose of this guidance is to clarify the responsibilities of recipients and subrecipients (recipients) who receive financial assistance from USDA and to assist them in fulfilling their responsibilities to LEP persons under Title VI of the Civil Rights Act of 1964, as amended, and the implementing regulations. This guidance does not impose any new requirements, but reiterates longstanding Title VI and regulatory principles and clarifies USDA's position that, in order to avoid discrimination against LEP persons on the ground of national origin, recipients must take reasonable steps to ensure that LEP persons receive the language assistance necessary to afford them meaningful access to USDA programs and activities, free of charge.

On March 14, 2002, the Office of Management and Budget (OMB) issued a Report to Congress entitled, ''Assessment of the Total Benefits and Costs of Implementing Executive Order No. 13166: Improving Access to Services for Persons with Limited English Proficiency.'' Among other things, the Report recommended the adoption of uniform guidance across all Federal agencies, with flexibility to permit tailoring to each agency's specific recipients. Consistent with this OMB recommendation, the Department of Justice (DOJ) published LEP Guidance for DOJ recipients, which was drafted and organized to function as a model for similar guidance by other Federal agencies. See 67 FR 41455 (June 18, 2002). Consistent with this directive, USDA has developed this final guidance, which is designed to reflect the application of the DOJ Guidance standards to the programs and activities of USDA recipients.

This guidance sets out the policies, procedures, and steps that USDA recipients may take to ensure that LEP persons have meaningful access to Federally assisted programs and activities and provides examples of policies and practices that USDA may find violative of Title VI and Title VI regulations.

It also sets out the general parameters for recipients in providing translations of written materials, provides examples that illustrate the importance of such translations, and describes the flexibility that recipients have in meeting this obligation. For recipients who desire greater specificity regarding *written* translations for LEP persons, the guidance contains population thresholds. Use of these population thresholds is not mandatory. The guidance explicitly states that the failure to meet these population thresholds will not result in a finding of noncompliance, but that USDA will review a number of other factors in determining compliance.

The guidance also describes some of the methods recipients may use to meet their obligation to provide, under certain circumstances, competent oral interpretative services to LEP persons. It has been determined that this guidance does not constitute a regulation subject to the rulemaking requirements of the Administrative Procedure Act.

### Comments on Proposed Guidance

On March 8, 2012, USDA published a proposed final Guidance in the **Federal Register** which resulted in 18 public interest groups/firms responding with over 160 comments and recommendations. The comments and/or the recommendations are addressed as follows:

*1. Recipient LEP Plan*

We received five comments recommending that the Guidance should require recipients to develop an LEP plan. USDA is cognizant of the value of written LEP plans in documenting a recipient's compliance with its obligation to ensure meaningful access by LEP persons, and in providing a framework for the provision of reasonable and necessary language assistance to LEP persons. USDA is also aware of the related training, operational, and planning benefits most recipients would derive from the generation and maintenance of an updated written language assistance plan for use by its employees. In the large majority of cases, the benefits flowing from a written language assistance plan have caused or will likely cause recipients to develop, with

varying degrees of detail, such written plans. Even small recipients with limited contact with LEP persons would likely benefit from having a plan in place to assure that, when the need arises, staff have a written plan to turn to even if it addresses only how to access a telephonic or community-based interpretation service when determining what language services to provide and how to provide them.

However, the fact that the vast majority of USDA's recipients already have or will likely develop a written LEP plan to reap its many benefits does not necessarily mean that every recipient, however small its staff, limited its resources, or focused its services, will realize the same benefits and thus must follow an identical path. Without clear evidence suggesting that the absence of written plans for every recipient is impeding accomplishment of the goal of meaningful access, USDA elects at this juncture to strongly recommend but not require written language assistance plans. USDA stresses in this regard that neither the absence of a requirement of written LEP plans in all cases nor the election by an individual recipient against drafting a plan obviates the underlying obligation on the part of each recipient to provide, consistent with Title VI, the Title VI regulations, and this Guidance, reasonable, timely, and appropriate language assistance to the LEP populations each serves.

One commentator recommended that the Guidance should require community involvement in developing the recipients' written LEP plans. The Guidance currently contains language to encourage recipients to involve the community in developing their written LEP plans. No additional language is being added to address this recommendation.

*2. USDA LEP Plan for Conducted Programs*

We received 10 comments recommending that USDA develop its own LEP Plan for Federally conducted programs to ensure that it is accessible in USDA operations. USDA issued its Departmental Regulation 4330–005, Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by U.S. Department of Agriculture effective June 4, 2013. This Departmental Regulation functions as USDA's LEP Plan and is publicly available at *http://www.ocio.usda.gov/document/* departmental-regulation-4330–005.

*3. Updating Automated Online Services*

We received seven comments recommending the expansion of online language assistance services. Some of the commenters specifically identified programs providing essential services like food and shelter to consumers, and cited the Social Security Web site as an example. In response to this comment, USDA added a new subparagraph under Section VI in the Guidance that recommends USDA recipients who provide online communications and services to customers include in their LEP plans their strategies for addressing language access needs. (See Section VI, No. 5 Ensuring Online Automation Services).

*4. Expansion of Language Beyond Spanish*

We received 10 comments recommending that recipients translate outreach material in non-English languages in addition to Spanish. We agree that recipients must take into account the language or languages of their LEP customers within their programs and specific locations. Part V (B) of the Guidance indicates that considering the four-factor analysis can be helpful for determining when to provide language services, including translating vital written materials into additional languages. Moreover, the Safe Harbor Provision in Part V (B) also supports translation into non-Spanish languages when the ''LEP language group constitutes 5 percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.'' Nevertheless, we have added additional recommendations that recipients post notices/links regarding the availability of language assistance services in the most commonly encountered languages for their programs and/or areas (See Section VI, Elements of Effective Plan on Language Assistance for LEP Persons, No. 4, Notice to LEP Persons).

*5. ''Reasonable'' Steps*

We received six comments stating that the Guidance standard that requires recipients to take ''reasonable'' steps in providing LEP persons with a meaningful opportunity to participate in Federally funded educational programs is vague. Rather than have recipients consider how to apply this standard, commenters recommended that the standard should clarify that if an individual is LEP, interpretation should always be deemed reasonable.

The Guidance provides criteria for recipients to consider when deciding to provide language assistance services to LEP individuals. Specifically, the Guidance provides specific steps that recipients may take to ensure that LEP persons have meaningful access by utilizing a balancing test as a starting point (See Section IV, ''How Does a Recipient Determine the Extent of Its Obligation to Provide LEP Services?''). The Guidance further defines the balancing test as an individualized assessment that balances the following four factors:

a. The number or proportion of LEP persons eligible to be served or likely to be encountered within the area serviced by the recipient;

b. The frequency with which LEP persons come in contact with the program or activity;

c. The nature and importance of the program, activity, or service to people's lives; and

d. The resources available to the recipient and costs.

The Guidance states that the four-factor analysis is a ''starting point'' to help a recipient determine when the recipient is ''required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.'' Given the flexibility of this standard and its context-specific nature, it is inherently flexible to adjust for the various populations, languages, programs, and activities served. Consequently, we recognize that there are some instances when interpreters constitute reasonable steps but we also acknowledge that different scenarios may yield different results, based on the four-factor analysis.

*6. Interpreter and Translation Services*

We received five comments on the use of interpreter and translation services. Specifically, the comments received indicated that the language in the Guidance should be changed or strengthened to clearly state that USDA-funded recipients must use qualified interpreters and provide free interpreter services to all LEP persons. The commenters also noted that vital documents must also be translated by qualified translators. We believe that the Guidance addresses the issue of qualifications adequately under ''Competence of Interpreters (See Section A ''Oral Language Services'') and that stronger language is not needed nor added. However, to guarantee that recipients ensure the competency of the language service provider, Office of the Assistant Secretary for Civil Rights (OASCR) shall recommend that all recipients include their strategy for utilizing competent and impartial interpreters and translators in the LEP plans.

Two commenters focused on the use of children as interpreters. Both commenters indicated that the use of children should not be allowed. The Guidance, in accordance with DOJ requirements, cautions that ''in many circumstances, family members, especially children, are not competent to provide quality and accurate interpretations, as issues of confidentiality, privacy, or conflict of interest may arise.'' This language makes clear that children may only be used under the most exigent of circumstances and only as a last-resort alternative. To provide further clarity on this issue, we have modified the Guidance's language to note that reliance on children is discouraged unless it is an emergency situation that is not reasonably foreseeable. (See Section V ''Selecting Language Assistance Services, Subsection, Use of Family Members, Friends or Others as Interpreters.'')

*7. Considering Low Literacy*

We received six comments recommending that written communication by the recipient (such as online translations and program applications) be written so as to be understood by individuals with low literacy (such as language directed to a 6th grade level). No change was made as USDA's current policy follows the Federal plain written language standards, which includes taking the audience's current level of knowledge into account. (See section V, ''Language Assistance Services and Competence of Translators'') to ensure that individuals with low literacy level can understand written material.

*8. Using Other Regulations To Set Minimum Thresholds for Translations and Interpretations*

We received nine comments recommending that the Department consider using regulations or sub-regulatory guidance to set specific minimum thresholds for translation and interpretation in particular programs such as the Supplemental Nutrition Assistance Program; the Special Supplemental Nutrition Program for Women, Infants, and Children; and the Child Nutrition Program. No changes were made since the Guidance offers a fact-dependent four-factor assessment to determine the extent of a recipient's obligation to provide LEP services. Moreover, with respect to translation, the Guidance outlines Safe Harbor Provisions, actions that are considered strong evidence of compliance with the recipient's written-translation obligation. (See section IV, ''How Does a Recipient Determine the Extent of Its Obligation to Provide LEP Services'' and section V ''Selecting Language Assistance Services.'') However, to ensure that this issue is taken into further consideration, OASCR will encourage USDA agencies to consider this recommendation in their work with recipients, since the recipient's LEP plan would be the proper vehicle to set specifics on the thresholds for translation and interpretation stated in the Guidance.

*9. Require Data Collection*

We received 10 comments from various organizations on the need for data collection, as well as the need to track and monitor receipt of translation requests. The commenters specifically recommended that recipients be required to collect language preference data on their LEP beneficiaries and report this data to USDA on at least an annual basis.

In response to the comments received, while language preference data is collected in connection with some assisted programs, making language preference data collection an assisted program requirement across-the-board would involve a mandatory requirement under a review process beyond the Agency. However, we do note that effective recipient LEP plans often incorporate a system for tracking and monitoring the number of LEP persons served, language preferences, translations provided, and other data points. But not mandating data collection for all programs does not mean that such data cannot be required as necessary. Federal regulations, such as 28 CFR 42.406, make clear that data collection requests made during the course of compliance reviews can be broad and provide ''for the collection of data and information from applicants for and recipients of federal assistance sufficient to permit effective enforcement of title VI.''

*10. ''Summarization'' as Appropriate Mode of Interpretation*

We received one comment on the use of ''summarization'' as an appropriate mode of interpretation. The commenter expressed concern for the competence of interpreters and their ability to summarize when performing interpretations. The commenter indicated that interpreters should refrain from summarizing because it allowed for the interpreter to decide or evaluate on what is and what is not relevant. After careful consideration of the comment received, no change will be made. However, we recognize that summarization may not always be the ideal mode of interpretation when complete and accurate renditions of the communication are necessary. In keeping with the DOJ LEP Guidance, we place summarization within the context of assessing the competency of an interpreter. The DOJ Guidance states that recipients should ensure that interpreters ''demonstrate[s] proficiency in an ability to communicate information accurately in both English and in the other languages and identify and employ the appropriate mode of interpreting (*e.g.,* consecutive, simultaneous, summarization, or sight translation).'' In situations where complete and accurate interpretation is necessary, a competent interpreter will assist the recipient in selecting the most appropriate mode of interpreting that will yield the most accurate information.

*11. Definition of LEP*

We received three comments recommending that we provide a clearer definition of LEP in the Guidance because the language contained in the 'Background' section of the Guidance states ''If these people have a limited ability to read, write, speak, or understand English, they 'are' limited English proficient or 'LEP.' '' The commenters believed that this language appears to contradict the definition of LEP in Section III, which states ''Persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English 'can be' limited English proficient, or 'LEP' (Who Is a Limited English Proficient Person?).'' In order to have consistent and valid language throughout both sections, the language in Section III, which defines LEP, has been revised to delete ''can be'' and inserted with 'are' limited English proficient, or 'LEP'.

*12. Require Meaningful Notice of Rights to Language Services*

We received three comments recommending that USDA and sub-agencies strengthen the Guidance's language in regards to informing LEP persons of their right to language services. Commenters recommended that using multilingual telephone voice mail prompts or menus would be one easy way of informing LEP persons of their right to language services.

The Guidance addresses this issue by recommending telephone voice mail menus, among other approaches, when providing notice to LEP persons about the availability of language assistance services (See Section VI, part 4 ''Providing Notice to LEP Persons''). Therefore, no change was made.

*13. Include Existing LEP Regulations in Legal Authority*

We received one comment recommending that the Guidance include existing regulations that establish mandatory legal requirements.

In response to this comment, no change was made as the Guidance includes reference to existing regulations. USDA makes its programs and subprograms aware of their obligations and requirements to comply with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, Title VI regulations, and program-specific regulations as noted in the Guidance in the Background on page 9 and in the Legal Authority on pages 11–15e.

*14. Require Adequate Signs Regarding Critical LEP Services*

We received one comment, which notes that the language in the guidance is inconsistent regarding posting notices in places that LEP individuals commonly encounter. According to the commenter, the current language should be made consistent with 7 CFR 272.6(f) and 7 CFR 272.4(b), which require adequate signs in the offices with respect to information critical to LEP services.

No change was made to the Guidance in reference to this comment. Both 7 CFR 272.6(f) and 7 CFR 272.4(b) regulations refer to requirements set forth for participating agencies in the Food and Nutrition Service Agency's programs, such as the Supplemental Nutrition Assistance Program (SNAP). Specifically, 7 CFR 272.6, paragraph (f) ''Public Notification'' requires State agencies to ensure that all offices involved in administering the SNAP program must publicly display the nondiscrimination poster. 7 CFR 272.4, paragraph (b) ''Bilingual Requirements'' requires State agencies to provide bilingual program information, certification materials, and staff or interpreters to households that speak the same non-English language and that do not have an adult(s) fluent in English as a second language. Both of these issues are adequately addressed in the Guidance. The Guidance specifically recommends that recipients (which, in this case, would be State agencies) ensure that adequate signage is posted in the offices and all information for the public be translated. The Guidance further defines the importance of these issues as stated in the following language contained in Section VI, Elements of an Effective Language Assistance Plan for LEP Persons:

Providing Notice to LEP Persons

Once a recipient has decided, based on the four factors that it will provide language services, it is important to let LEP persons know that those services are available and that they are free of charge. Recipients should provide this notice in a language that LEP persons will understand. Examples of notification that recipients should consider include posting signs in intake areas and other entry points and noting the availability of language assistance services on recipient Web sites. When language assistance is needed to ensure meaningful access to information and services, it is important to provide notice in appropriate languages in intake areas or initial points of contact (including Web sites) so that LEP persons can learn how to access those language services. This is particularly true in areas with high volumes of LEP persons seeking access to important programs, activities, services, or benefits provided by USDA recipients. For instance, signs in intake offices could state that free language assistance is available. The signs should be translated into the most common languages encountered and should explain how to get the language help.[1]

*15. Outreach to LEP Persons*

We received two comments recommending that in addition to developing procedures to serve LEP individuals, it is equally important that LEP community members be made aware of the policies that are in place to serve the LEP population through radio programs, ethnic media, and other news outlets.

USDA agrees with the importance of finding effective methods of disseminating this information and we believe this has been adequately addressed in the Guidance. The Guidance notes that an effective language access plan includes information about notifying LEP individuals about the availability of language assistance services. This can include ''providing notices on non-English language radio and television stations about the available language assistance services and benefits and how to get them.'' (See Section VI, Part 4.) Therefore, no change was made to the Guidance and USDA agencies are encouraged to work with recipients to ensure that this issue is addressed in recipient LEP plans.

[1] The Social Security Administration has made such signs available at *http://www.ssa.gov/multilanguage/langlist1.htm*. These signs could, for example, be modified for recipient use.

*16. Conduct Roundtable and Follow-up*

We received one comment recommending follow-up roundtable discussions to solicit further recommendations. USDA acknowledges the importance of gathering feedback and following up on recommendations gathered from roundtable discussions. However, no further roundtable discussions are warranted in advance of issuing this final Guidance. Instead, OASCR will encourage USDA agencies to conduct roundtable discussions with the community as a strategy to inform LEP individuals of the resources available to them, as a means to determine the most critical outreach material to translate, as well as a mechanism to obtain feedback on an LEP plan from the community. This is in keeping with our Guidance's emphasis on relying on community-based organizations to provide important feedback to ensure LEP individuals have meaningful access.

*17. Appoint a Language Access Coordinator*

We received one comment recommending that each recipient appoint a person to handle LEP issues as they arise, review the LEP plan annually, work toward a more effective implementation of the policy, organize necessary trainings, etc. We believe that an LEP Coordinator would be useful for recipients in ensuring that all aspects of the LEP Guidance are being carried out. However, the appointment of this position is based on the funding and hiring responsibilities of the recipients and not USDA. USDA is committed to ensuring that all aspects of the Guidance are carried out effectively and efficiently, and will, therefore, recommend to recipients the usefulness of designating a Language Access Coordinator; but we do not have the authority to require that they designate one. Therefore, no change was made. Nonetheless, the importance of designating a Language Access Coordinator cannot be emphasized enough, and such an appointment will greatly increase the likelihood of effective implementation and maintenance of a language access plan.

*18. Broaden Monitoring and Enforcement Activities*

We received three comments asking that USDA broaden its monitoring and enforcement activities to ensure that funding recipients meet their Title VI language access obligations. We agree that USDA should closely monitor the performance of recipients it funds and, where appropriate, take enforcement

action against those entities that fail to meet their language assistance obligations. This oversight responsibility is addressed in the LEP Guidance under Section VII, which states that ''the requirement to provide meaningful access to LEP persons is enforced and implemented by USDA through its regulations at 7 CFR'' In addition, USDA will monitor the effectiveness of recipients LEP programs through its compliance reviews. Therefore, no change was made.

**Background**

Most people living in the United States read, write, speak and understand English. There are many people, however, for whom English is not their primary language. For instance, based on the 2000 Census, over 26 million individuals speak Spanish, over 10 million speak another Indo-European language,[2] and almost 7 million speak an Asian or Pacific Island language at home. If these people have a limited ability to read, write, speak, or understand English, they are limited English proficient, or ''LEP.'' According to the 2000 Census data, 28.3 percent of all Spanish speakers, 27.2 percent of all Russian speakers, 28.2 percent of all Chinese speakers, and 32.4 percent of all Vietnamese speakers reported that they spoke English ''not well'' or ''not at all'' in response to the 2000 Census.[3]

Language for LEP persons can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by Federally funded programs and activities. The Federal Government funds an array of services that are available to otherwise eligible LEP persons. The Federal Government is committed to improving the accessibility of these programs and activities to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help people learn English. Recipients should not overlook the long-term positive impacts of incorporating or offering English as a Second Language (ESL) programs in parallel with language assistance services. ESL courses can serve as an important adjunct to a proper LEP plan. The fact that ESL classes are made available, however, does not obviate the statutory and regulatory requirements to provide meaningful access for those who are not yet English proficient. Recipients of Federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government services.[4]

In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from Federally assisted programs and activities may violate the prohibition under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and the USDA Title VI regulations against national origin discrimination, 7 CFR part 15. The purpose of this policy guidance is to assist recipients in fulfilling their responsibilities to provide meaningful access to LEP persons under existing law. This policy guidance clarifies existing legal requirements by providing a description of the factors recipients should consider in fulfilling their responsibilities to LEP persons.[5] These are the same criteria USDA has been using and will continue to use in evaluating whether recipients are in compliance with Title VI and Title VI regulations.

Under Executive Order 13166, DOJ is responsible for providing LEP guidance to all Federal agencies and for ensuring consistency among the agency-specific guidance documents issued by Federal agencies. Consistency among the agency-specific guidance documents issued by Federal agencies is particularly important. Inconsistency or contradictory guidance could confuse recipients of Federal funds and needlessly increase costs without rendering the meaningful access for LEP persons that this Guidance is designed to address. As with most government initiatives, this requires balancing several principles. While this Guidance discusses that balance in some detail, it is important to note the basic principles behind that balance. First, we must ensure that Federally assisted programs aimed at the American public do not leave some behind simply because those individuals face challenges communicating in English. This is of particular importance because, in many cases, LEP persons form a substantial portion of those encountered in Federally assisted programs. Second, we must achieve this goal while finding constructive methods to reduce the costs of LEP requirements on small businesses, small local governments, or small nonprofits that receive Federal financial assistance.

There are many productive steps the Federal Government, either collectively or as individual agencies, can take to help recipients reduce the costs of language services without sacrificing meaningful access for LEP persons. Without these steps, certain smaller potential recipients may well choose not to participate in Federally assisted programs, threatening the critical functions that the programs strive to provide. To that end, USDA plans to continue to provide assistance and guidance in this important area. In addition, USDA plans to work with potential and actual recipients, other Federal agencies, and LEP persons to identify and share model plans, examples of best practices, and cost-saving approaches.

Moreover, USDA intends to explore how language assistance measures, resources, and cost-containment approaches developed with respect to its own Federally-conducted programs and activities can be effectively shared or otherwise made available to recipients, particularly small businesses, local governments, and small nonprofit organizations. An interagency working group on LEP has developed a Web site, *http://www.lep.gov,* to assist in disseminating this information to recipients, other Federal agencies, and the communities being served.

Some have interpreted the case of *Alexander* v. *Sandoval,* 532 U.S. 275 (2001), as impliedly striking down the regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to Federally-assisted programs and activities. We do not believe this is an accurate reading of the decision as the Supreme Court, in *Sandoval,* addressed whether a private right of action existed to enforce a DOJ regulation promulgated pursuant to Title VI, not the validity of those regulations themselves. The

[2] Other Indo-European languages include most languages of Europe and the Indic languages of India, such as German, Yiddish, Dutch, Swedish, Norwegian, French, Italian, Portuguese, Russian, Polish, Serbo-Croatian, Hindi, Gujarathi, Punjabi, Urdu, Greek, Baltic and Iranian languages.

[3] Other languages include Hungarian, Arabic, Hebrew, languages of Africa, native North American languages, including the American Indian and Alaska native languages; and some indigenous languages of Central and South America.

[4] USDA recognizes that many recipients had language assistance programs in place prior to the issuance of Executive Order 13166. This policy guidance provides a uniform framework for a recipient to integrate, formalize, and assess the continued vitality of these existing and possibly additional reasonable efforts based on the nature of its program or activity, the current needs of the LEP populations it encounters, and its prior experience in providing language services in the community it serves.

[5] The policy guidance is not a regulation but rather a guide. Title VI and implementing regulations require that recipients take reasonable steps to ensure meaningful access by LEP persons. This guidance provides an analytical framework that recipients may use to determine how best to comply with statutory and regulatory obligations to provide meaningful access to the benefits, services, information, and other important portions of their programs and activities for persons who are limited English proficient.

regulation at issue, 28 CFR 42.104(b)(2), prohibited recipients of federal funding from utilizing criteria which had a discriminatory effect. The plaintiffs, who were non-English speakers, challenged a State policy of administering driver's license examinations exclusively in English on the ground that the policy had a discriminatory effect on non-English speakers and, consequently, violated 28 CFR 42.104(b)(2). The Court concluded that the regulation was not enforceable through a private right of action and, thus, held that the disparate-impact regulation at issue, promulgated under Title VI, did not give rise to private rights of action. *See Sandoval,* 532 U.S. at 293. The Court, however, did not undermine the substance of other regulatory requirements and we will continue to follow the Court's approach. Accordingly, we will strive to ensure that Federally-assisted programs and activities work in a way that is effective for all eligible beneficiaries, including those with limited English proficiency.

**I. Legal Authority**

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d, states that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Section 602 authorizes and directs Federal agencies that are empowered to extend Federal financial assistance to any program or activity ''to effectuate the provisions of [section 601] by issuing rules, regulations, or orders of general applicability.'' 42 U.S.C. 2000d–1.

In addition to Title VI, some USDA recipients must implement a statutory provision of the Food Stamp Act of 1977, 7 U.S.C. 2011 *et seq.,* which requires them to use appropriate bilingual personnel and printed materials in the administration of SNAP, formerly the Food Stamp Program, in areas where a substantial number of potentially eligible households speak a language other than English. The Food Stamp Act also requires recipients to establish procedures governing the operation of SNAP offices that best serve households in each State, including households in areas where a substantial number of potentially eligible households speak a language other than English.

USDA regulations prohibit discrimination in all of its federally assisted and conducted programs. Recipients may not, on the grounds of race, color, or national origin, deny an individual any service, financial aid or other benefit provided under the program, deny an opportunity to participate in the program through the provisions of services, or subject or restrict an individual to segregation or separate treatment in any matter related to their receipt of service, financial aid, or other benefit under the program. Please see 7 CFR 15.3(b)(1)–(2) for additional information.

In addition, USDA regulations implementing the Food Stamp Act of 1977 require that the State agency shall provide bilingual program information and certification materials, and staff or interpreters. See 7 CFR 15.3(b)(6)(i)–(ii), for additional information.

In *Lau* v. *Nichols,* 414 U.S. 563 (1974), the Supreme Court concluded that Title VI and its implementing regulations required a federally funded school district to ensure that LEP students were provided with meaningful access to the district's educational programs. That case involved a group of approximately 1,800 public school students of Chinese origin who did not speak English, and to whom the school system provided the same services—an education solely in English—that it provided to students who spoke English. The Court held that by failing to provide LEP Chinese-speaking students meaningful access to educational programs, the school's practices violated Title VI's prohibition against national origin discrimination.

On August 11, 2000, Executive Order 13166, ''Improving Access to Services for Persons with Limited English Proficiency,'' was issued; 65 FR 50121 (August 16, 2000). Under that Order, every Federal agency that provides financial assistance to non-Federal entities must publish guidance on how their recipients can provide meaningful access to LEP persons and thus comply with Title VI regulations forbidding funding recipients from ''restrict[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program'' or from ''utilize[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.''

On that same day, DOJ issued a general guidance document addressed to ''Executive Agency Civil Rights Officers'' setting forth general principles for agencies to apply in developing guidance documents for their recipients pursuant to the Executive Order, ''Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination against Persons with Limited English Proficiency'' 65 FR 50123 (August 16, 2000), (DOJ LEP Guidance).

Subsequently, Federal agencies raised questions regarding the requirements of the Executive Order, especially in light of the Supreme Court's decision in *Alexander* v. *Sandoval,* 532 U.S. 275 (2001). On October 26, 2001, Ralph F. Boyd, Jr., Assistant Attorney General for the Civil Rights Division issued a memorandum for ''Heads of Departments and Agencies, General Counsels and Civil Rights Directors.'' This memorandum clarified and reaffirmed the DOJ LEP Guidance in light of *Sandoval.*[6] The Assistant Attorney General stated that because Sandoval did not invalidate any Title VI regulations that proscribe conduct that has a disparate impact on covered groups—the types of regulations that form the legal basis for the part of Executive Order 13166 that applies to federally assisted programs and activities—the Executive Order remains in force.

This guidance clarifies the responsibilities of recipients and will assist them in fulfilling their responsibilities to LEP persons under Title VI of the Civil Rights Act of 1964, as amended, and Title VI regulations. It is consistent with Executive Order 13166, and DOJ LEP guidance. To avoid discrimination against LEP persons on the ground of national origin, USDA recipients should take reasonable steps to ensure that such persons receive the language assistance necessary to afford them meaningful access to recipient programs or activities, free of charge.

[6] The memorandum noted that some commentators have interpreted *Sandoval* as impliedly striking down the disparate impact regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to Federally assisted programs and activities. See, *e.g., Sandoval,* 532 U.S. at 286, 286 n.6 (''[We] assume for purposes of this decision that section 602 confers the authority to promulgate disparate-impact regulations; **** We cannot help observing, however, how strange it is to say that disparate-impact regulations are inspired by, at the service of, and inseparably intertwined with Sec. 601, when Sec. 601 permits the very behavior that the regulations forbid.'') The memorandum, however, made clear that DOJ disagreed with the commentators' interpretation. *Sandoval* holds principally that there is no private right of action to enforce Title VI disparate impact regulations. It did not address the validity of those regulations or Executive Order 13166 or otherwise limit the authority and responsibility of Federal agencies to enforce their own implementing regulations.

## II. Who is covered?

USDA regulations require all recipients of Federal financial assistance from USDA to provide meaningful access to LEP persons.[7] Federal financial assistance includes grants, below-market loans, training, and use of equipment, donations of surplus property, and other assistance. Covered entities include, but are not limited to:

— State and County agencies, offices, and their subdivisions;
— Private vendors, agents, contractors, associations, and corporations;
— Colleges, universities, and elementary and secondary schools;
— County, district, and regional committees/councils;
— Nursing homes, summer camps, food banks, and housing authorities;
— Research and promotion boards; and
— Other entities receiving, directly or indirectly, Federal financial assistance provided by USDA.

Subrecipients likewise are covered when Federal funds are passed through from a recipient to a subrecipient.

Coverage extends to a recipient's entire program or activity, *i.e.,* to all parts of a recipient's operations.[8] This is true even if only one part of the recipient receives the Federal financial assistance.[9] For example, USDA provides assistance to a University's outreach department to provide business development services to local farmers and ranchers. In such a case, all operations of the University, not just those of the University's outreach department are covered.

Some recipients operate in jurisdictions in which English has been declared the official language. These recipients continue to be subject to Federal nondiscrimination requirements, including those applicable to the provision of Federally assisted services and benefits to persons with limited English proficiency.[10]

## III. Who is a limited English proficient person?

Persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English are limited English proficient or ''LEP'' and entitled to language assistance with respect to a particular type of benefit, service, or encounter. Examples of populations likely to include LEP persons who are encountered and/or served by USDA recipients and should be considered when planning language services include, but are not limited to, for example:

— Persons seeking access to or needing assistance to obtain food stamps or other food assistance from a recipient;
— Persons seeking information, seeking to enforce rights, or seeking benefits or services from recipient State and County agencies, offices, and their subdivision;
— Persons encountering recipient private vendors, agents, contractors, associations, and corporations;
— Students, community members, and others encountering recipient extension programs, colleges, universities, and elementary and secondary schools;
— Persons seeking to participate in public meetings or otherwise participate in the activities of county, district, and regional committees/councils;
— Persons seeking access to, or services or information from nursing homes, summer camps, food banks, and housing authorities;
— Persons subject to the work of research and promotion boards;
— Persons encountering other entities or persons who receive, directly or indirectly, Federal financial assistance provided by USDA; and
— Parents and family members of the above.

## IV. How does a recipient determine the extent of its obligation to provide LEP services?

In order to ensure compliance with Title VI and Title VI regulations, recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs and activities. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors:

(1) The number or proportion of LEP persons eligible to be served or likely to be encountered within the area serviced by the recipient;

(2) The frequency with which LEP persons come in contact with the program or activity;

(3) The nature and importance of the program, activity, or service to people's lives; and

(4) The resources available to the recipient and costs.

As indicated above, the intent of this Guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while avoiding undue burdens on small business, small local governments, or small nonprofits.

After applying the above four-factor analysis, a recipient may conclude that different language assistance measures are sufficient for the different types of programs or activities in which it engages. For instance, some of a recipient's activities will be more relevant to the public than others and/or have greater impact on or contact with LEP persons, and thus may require more in the way of language assistance. However, the flexibility that recipients have to address the needs of the LEP populations they serve does not diminish and should not be used to minimize their obligation to address those needs. USDA recipients should apply the four factors to the various kinds of contacts that they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons.

(1) *The Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Population.*

One factor in determining what language services recipients should provide is the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population. The greater the number or proportion of LEP persons within the eligible service population, the more likely language services are needed.

Ordinarily, persons ''eligible to be served or likely to be directly affected by'' a recipient's program or activity are those who are served or encountered in the eligible service population. The eligible service population is program/activity-specific, and includes persons who are in the recipient's geographic service area as established by USDA, State or local authorities, or the recipient, as appropriate, provided that those designations do not themselves discriminatorily exclude certain populations. For instance, if a statewide

[7] Pursuant to Executive Order 13166, the meaningful access requirement of the Title VI regulations and the four-factor analysis set forth in the DOJ LEP Guidance are to additionally apply to USDA federally conducted programs and activities.

[8] What constitutes a program or activity covered by Title VI was clarified by Congress in 1988, when the Civil Rights Restoration Act of 1987 (CRRA) was enacted. The CRRA provides that, in most cases, when a recipient receives Federal Financial assistance for a particular program or activity, all operations of the recipient are covered by Title VI, not just the part of the program or activity that uses the Federal assistance.

[9] However, if a Federal agency were to decide to terminate Federal funds based on noncompliance with Title VI or its regulations, only funds directed to the particular program or activity that is out of compliance would be terminated. 42 U.S.C. 2000d–1.

[10] Recipients should also be mindful of their responsibilities under the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 in meeting their obligation to ensure access to LEP individuals with disabilities.

conservation district serves a large LEP population within a particular county, the appropriate service area will be the county, and not the entire population eligible to participate in the program or activity within the State. Below are additional examples of how USDA would determine the relevant service areas when assessing who is eligible to be served or likely to be directly affected.

*Example A:* A complaint filed with USDA alleges that a local food stamp certification office discriminates against Hispanic and Chinese LEP applicants by failing to provide such persons with language assistance in connection with its programs and activities, including written translations. The certification office identifies its service area as the geographic area identified in its plan of operations. USDA determines that a substantial number of the recipient's food stamp applicants and beneficiaries are drawn from the area identified in the plan of operations and that no area with concentrations of racial, ethnic, or other minorities is discriminatorily excluded from the plan. USDA is likely to accept the area identified in the plan of operations as the relevant service area.

*Example B:* A privately owned limited-profit housing corporation enters into an agreement with USDA to provide low-income rural rental housing that will serve beneficiaries in three counties. The agreement is reviewed and approved by USDA. In determining the persons eligible to be served or likely to be affected, the relevant service area would generally be that designated in the agreement. However, if one of the counties has a significant population of LEP persons, and the others do not, consideration of that particular county as a service population for purposes of determining the proportion of LEP persons in the population served by that portion of the recipient's program or activity would be appropriate.

When considering the number or proportion of LEP individuals in a service area, recipients should consider LEP parent(s) when their English-proficient or LEP minor children and dependents encounter or participate in a portion of a recipient's program or activity.

Recipients should first examine their prior experiences with LEP encounters and determine the breadth and scope of language services that were needed. In conducting this analysis, it is important to include language minority populations that are eligible for their programs or activities but may be underserved because of existing language barriers.

Other data should be consulted to refine or validate a recipient's prior experience, including the latest Census data for the area served, data from school and from community organizations, and data from State and local governments.[11] Community agencies, school systems, religious organizations, legal aid entities, and others can often assist in identifying populations for whom outreach is needed and who would benefit from the recipients' programs and activities were language services provided.

(2) *The Frequency With Which LEP Persons Come Into Contact With the Program or Activity.*

Recipients should assess, as accurately as possible, the frequency with which they have or should have contact with an LEP person from different language groups seeking assistance. The more frequent the contact with a particular language group, the more likely that enhanced language services in that language are needed. The steps that are reasonable for a recipient that serves an LEP person on a one-time basis will be very different than those expected from a recipient that serves LEP persons daily. It is also advisable to consider the frequency of different types of language contacts. For example, frequent contact with Spanish-speaking people who are LEP may require certain assistance in Spanish. Less frequent contact with different language groups may suggest a different and less intensified solution. If an LEP person accesses a program or service on a daily basis, recipient has greater duties than if the same person's program or activity contact is unpredictable or infrequent. But even recipients that serve LEP persons on an unpredictable or infrequent basis should use this balancing analysis to determine what to do if an LEP person seeks services under the program in question. This plan needs not be intricate; it may be as simple as being prepared to use one of the commercially available telephonic interpretation services to obtain immediate interpreter services. In applying this standard, recipients should take care to consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.

(3) *The Nature and Importance of the Program or Activity or Service by the Program.*

The more important the information, service, or benefit provided in a program or activity, or the greater the possible consequences of the contact to LEP persons, the more likely language services are needed. For instance, in determining importance, the obligation to communicate information on the availability of emergency food assistance in a designated disaster area may differ significantly from the obligation to communicate information on the opportunity to attend a one-time free luncheon at a community recreation center. A recipient needs to determine whether denial or delay of access to services, benefits or information could have serious or even life-threatening implications for an LEP person. For example, the failure to translate consent forms and applications for important benefits or services could have serious or life-threatening implications for LEP persons in need of food, shelter, emergency services, and many other important benefits. In the same vein, to avoid serious, negative consequences to an LEP person, a recipient must also determine the appropriate media or format that will reach the target LEP population and does not result in a delay in providing information on a program, service, or benefit. Further, decisions by a Federal, State, or local entity, or by the recipient, to make an activity compulsory, such as educational programs and notifications of the right to a hearing or appeal, can serve as strong evidence of the program's importance.

(4) *The Resources Available to the Recipient and Costs.*

A recipient's level of resources and the costs that would be imposed on it may have an impact on the nature of the steps it should take. Smaller recipients with more limited budgets are not expected to provide the same level of language services as those with larger budgets. In addition, ''reasonable steps'' may cease to be reasonable where the costs imposed substantially exceed the benefits. Resource and cost issues, however, can often be reduced by technological advances; the sharing of language assistance materials and services among and between recipients, advocacy groups, and Federal agencies; and reasonable business practices. Where appropriate, training bilingual staff to act as interpreters and translators, information sharing through industry groups, telephonic and video conferencing interpretation services, pooling resources and standardizing documents to reduce translation needs, using qualified translators and interpreters to ensure that documents need not be ''fixed'' later and that inaccurate interpretations do not cause delay or other costs, centralizing interpreter and translator services to achieve economies of scale, or the

[11] The focus of the analysis is on the lack of English proficiency, not the ability to speak more than one language. Note that demographic data may indicate the most frequently spoken languages other than English and the percentage of people who speak that language who speak or understand English less than well. Some of the most commonly spoken languages other than English may be spoken by people who are also overwhelmingly proficient in English. Thus, they may not be the languages spoken most frequently by limited English proficient persons. When using demographic data, it is important to focus in on the languages spoken by those who are not proficient in English.

formalized use of qualified community volunteers, for example, may help reduce costs.[12] Recipients should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns. Large entities and those entities serving a significant number or proportion of LEP persons should ensure that their resource limitations are well-substantiated before using this factor as a reason to limit language assistance. Such recipients may find it useful to be able to articulate, through documentation or in some other reasonable manner, their process for determining that language services would be limited based on resources or costs. This is not to suggest that smaller entities are immune from the requirement to provide meaningful access. Any recipient of federal financial assistance must be sure that any claim of resource limitations is well substantiated.

The four-factor analysis necessarily implicates the ''mix'' of LEP services required. Recipients have two main ways to provide language services: Oral interpretation either in person or via telephone interpretation service (hereinafter ''interpretation'') and written translation (hereinafter ''translation''). Oral interpretation can range from on-site interpreters for critical services provided to a high volume of LEP persons to access through commercially available telephonic interpretation services. Written translation, likewise, can range from translation of an entire document to translation of a short description of the document. In some cases, language services should be made available on an expedited basis while in others the LEP person may be referred to another office of the recipient for language assistance.

The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. For instance, a social service recipient having a service area with a significant Hispanic LEP population may need immediate oral interpreters available and should give serious consideration to hiring some bilingual staff. (Of course, many social services have already made such arrangements.) In contrast, there may be circumstances where the importance and nature of the activity and number or proportion and frequency of contact with LEP persons may be low and the costs and resources needed to provide language services may be high—such as in the case of a voluntary general public tour of a recreational facility in which pre-arranged language services for the particular service may not be necessary. All recipients must provide meaningful access to all their programs. However, the four-factor analysis recognizes that there may be gradations of import concerning certain activities that will lessen the burden on a recipient in certain unique situations. Regardless of the type of language service provided, quality and accuracy of those services can be critical in order to avoid serious consequences to LEP persons and to recipients. Recipients have substantial flexibility in determining the appropriate mix.

## V. Selecting Language Assistance Services

Recipients have two main ways to provide language assistance to LEP persons—oral interpretation and written translations. Quality and accuracy of the language service is critical in order to avoid serious consequences to LEP persons and to recipients.

### *A. Oral Language Services (Interpretation)*

Interpretation is the act of listening to something in one language (source language) and orally translating it into another language (target language). Where interpretation is needed and is reasonable, recipients should consider some or all of the following options for providing competent interpreters in a timely manner.

*Competence of Interpreters.* When providing oral assistance, recipients should ensure competency of the language service provider, no matter which of the strategies outlined below are used. Competency requires more than self-identification as bilingual. Some bilingual staff and community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but not be competent to interpret in and out of English. Likewise, they may not be able to do written translations.

Competency to interpret, however, does not necessarily mean formal certification as an interpreter, although certification is helpful. When using interpreters, recipients should ensure that they:

— Demonstrate proficiency in and ability to communicate information accurately in both English and in the other language and identify and employ the appropriate mode of interpreting (*e.g.,* consecutive, simultaneous, summarization, or sight translation);
— Have knowledge in both languages of any specialized terms or concepts peculiar to the recipient's program or activity and of any particularized vocabulary and phraseology used by the LEP person who is being assisted;[13]
— Understand and follow confidentiality and impartiality rules to the same extent as the recipient for whom he or she is interpreting; and
— Understand and adhere to their role as interpreters, without deviating into a role as counselor, advisor, or other inappropriate roles.

Some recipients may have additional self-imposed requirements for interpreters.

Where individual rights depend on precise, complete, and accurate interpretation or translations, particularly where ambiguous, incomplete, or inaccurate information may result in the denial or reduction of services or benefits, the use of certified interpreters is strongly encouraged.[14] Where such proceedings are lengthy, the interpreter will likely need breaks and team interpreting may be appropriate to ensure accuracy and to prevent errors caused by mental fatigue of interpreters.

While quality and accuracy of language services is critical, the quality and accuracy of language services is nonetheless part of the appropriate mix of LEP services required. The quality and accuracy of language services in a hearing regarding the reduction of benefits, for example, must be extraordinarily high, while the quality and accuracy of language services in a voluntary recreational program may not need to meet the same exacting standards.

Finally, when interpretation is needed, it should be provided in a timely manner. While there is no single definition for ''timely'' applicable to all types of interactions at all times by all types of recipients, one clear guide is that the language assistance should be

[12] Small recipients with limited resources may find that entering into a bulk telephonic interpretation service contract will prove cost effective.

[13] Many languages have ''regionalisms,'' or differences in usage. For instance a word that may be understood to mean something in Spanish for someone from Cuba may not be so understood by someone from Mexico. In addition, because there may be languages that do not have an appropriate direct interpretation of some programmatic terms, the interpreter should be so aware and be able to provide the most appropriate interpretation. The interpreter should likely make the recipient aware of the issue and the interpreter and recipient can then work to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate.

[14] For those languages in which no formal accreditation or certification exists, recipients should consider a formal process for establishing the credentials of the interpreter.

provided at a time and place that avoids the effective denial of the service or benefit at issue or the imposition of an undue burden on or delay in the provision of important information rights, benefits, or services to the LEP person. For example, when the timelines of information, benefits, or services is important, such as with certain activities related to various types of emergency assistance by way of nutrition or housing services, or emergency loans, grants, etc., a recipient would likely not be providing meaningful access if it had one bilingual staffer available one day a week to provide language assistance. Such conduct would likely result in delays for LEP persons that would be significantly greater than those for English proficient persons. Conversely, where access to information, service, or benefit is not effectively precluded by a reasonable delay, language assistance can likely be delayed for a reasonable period.

*Hiring Bilingual Staff.* When particular languages are encountered often, hiring bilingual staff offers one of the best, and often most economical, options. Recipients can, for example, fill public contact positions, such as receptionists, secretaries, program specialists, and/or program aides, with staff who are bilingual and competent to communicate directly with LEP persons in their language. If bilingual staff are also used to interpret between English speakers and LEP persons, or to orally interpret written documents from English into another language, they should be competent in the skill of interpreting. Being bilingual does not necessarily mean that a person has the ability to interpret. In addition, there may be times when the role of the bilingual employee may conflict with the role of an interpreter (for instance, a bilingual program specialist would probably not be able to perform effectively the role of an interpreter in a benefits hearing and also carry out his or her duties to administer requirements of the program or activity at the same time, even if the program specialist were a qualified interpreter). Effective management strategies, including any appropriate adjustments in assignments and protocols for using bilingual staff, can ensure that bilingual staff are fully and appropriately utilized. When bilingual staff cannot meet all of the language service obligations of the recipient, the recipient should turn to other options.

*Hiring Staff Interpreters.* Hiring interpreters may be most helpful where there is a frequent need for interpreting services in one or more languages. Depending on the facts, sometimes it may be necessary and reasonable to provide on-site interpreters to provide accurate and meaningful communication with an LEP person.

*Contracting for Interpreters.* Contract interpreters may be a cost-effective option when there is no regular need for a particular language skill. In addition to commercial and other private providers, many community-based organizations and mutual assistance associations provide interpretation services for particular languages. Contracting with and providing training regarding the recipient's programs and processes to these organizations can be a cost-effective option for providing language services to LEP persons from those language groups.

*Using Telephone Interpreter Lines.* Telephone interpreter service lines often offer speedy interpreting assistance in many different languages. They may be particularly appropriate where the mode of communicating with an English proficient person would also be over the phone. Although telephonic interpretation services are useful in many situations, it is important to ensure that, when using such services, the interpreters used are competent to interpret any technical or legal terms specific to a particular program or activity that may be important parts of the conversation. Nuances in language and non-verbal communication can often assist an interpreter and cannot be recognized over the phone. Video teleconferencing may sometimes help to resolve this issue where necessary. In addition, where documents are being discussed, it is important to give telephonic interpreters adequate opportunity to review the documents prior to the discussion and any logistical problems should be addressed.

*Using Community Volunteers.* In addition to consideration of bilingual staff, staff interpreters, or contract interpreters (either in-person or by telephone) as options to ensure meaningful access by LEP persons, use of recipient-coordinated community volunteers working with, for instance, community-based organizations may provide a cost-effective supplemental language assistance strategy under appropriate circumstances. They may be particularly useful in providing language access for a recipient's less critical programs and activities. To the extent the recipient relies on community volunteers, it is often best to use volunteers who are trained in the information, services, or benefits of the program or activity and can communicate directly with LEP persons in their language. Just as with all interpreters, community volunteers used to interpret between English speakers and LEP persons, or to orally translate documents, should be competent in the skill of interpreting and knowledgeable about applicable confidentiality and impartiality rules. Recipients should consider formal arrangements with community-based organizations that provide volunteers to address these concerns and to help ensure that services are readily available.

*Use of Family Members, Friends, or Others as Interpreters.* Although recipients should not plan to rely on an LEP person's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities, where LEP persons so desire, they should be permitted to use, at their own expense, an interpreter of their own choosing (whether a professional interpreter, family member, friend, or other person of their choosing) in place of or as a supplement to the free language services expressly offered by the recipient. LEP persons may feel more comfortable when a trusted family member, friend, or other person acts as an interpreter. In addition, in exigent circumstances that are not reasonably foreseeable, temporary use of interpreters not provided by the recipient may be necessary. However, with proper planning and implementation, recipients should be able to avoid most such situations.

Recipients, however, should take special care to ensure that family members, friends, legal guardians, caretakers, and other informal interpreters are appropriate in light of the circumstances and subject matter of the program, service, or activity, including protection of the recipient's own administrative or regulatory interest in accurate interpretation.

In many circumstances, family members (especially children), friends, or others identified by LEP persons, are not competent to provide quality and accurate interpretations. Issues of confidentiality, privacy, or conflict of interest may also arise. LEP persons may feel uncomfortable revealing or describing sensitive, confidential, or potentially embarrassing family, medical, or financial information to a family member, friend, or member of the local community. In addition, such informal interpreters may have a personal connection to the LEP person or an undisclosed conflict of interest. For these reasons, when oral language services are necessary, recipients should generally offer competent interpreter services free of cost to the LEP person.

For USDA recipient programs and activities, this is particularly true in an administrative hearing or in situations in which health, safety, or access to sustenance or important benefits and services are at stake, or when credibility and accuracy are important to protect an LEP person's rights or access to important benefits and services. An example of such a case is when an LEP recipient applies for food stamps or a low-interest farm loan. The recipient should not rely on friends or family members of the LEP recipient or other informal interpreters.

While issues of competency, confidentiality, and conflict of interest in the use of family members (especially children), friends, or other informal interpreters often make their use inappropriate, their use as interpreters may be an appropriate option where proper application of the four factors would lead to a rare conclusion that recipient-provided services are not necessary. An example of this is a voluntary tour of a recipient's farmland offered to the public. There, the importance and nature of the activity may be relatively low and unlikely to implicate issues of confidentiality, conflict of interest, or the need for accuracy. In addition, the resources needed and costs of providing language services may be high. In such a setting, an LEP person's use of family, friends, or others may be appropriate.

If the LEP person voluntarily chooses to provide his or her own interpreter, a recipient should consider whether a record of that choice and of the recipient's offer of assistance is appropriate. Where precise, complete, and accurate interpretations or translations of information are critical for adjudicatory or legal reasons, or where the competency of the LEP person's interpreter is not established, a recipient might decide to provide its own, independent interpreter, even if an LEP person wants to use his or her own interpreter as well. Extra caution should be exercised when the LEP person chooses to use a minor as the interpreter. While the LEP person's decision should be respected, using children/minors as interpreters may create additional issues of competency, confidentiality, or conflict of interest. Reliance on children is especially discouraged unless there is an extreme emergency and no preferable qualified interpreters are available.

The recipient should ensure that the LEP person's choice is voluntary, the LEP person is aware of the possible problems if the preferred interpreter is a minor child, and that the LEP person knows that the recipient could provide a competent interpreter at no cost (to the LEP person).

*B. Written Language Services (Translation)*

Translation is the replacement of a written text from one language (source language) into an equivalent written text in another language (target language).

*What Documents Should Be Translated*? After applying the four-factor analysis, a recipient may determine that an effective LEP plan for its particular program or activity includes the translation of vital written materials into the language of each frequently encountered LEP group eligible to be served and/or likely to be affected by the recipient's program.

Such written materials could include, but are not limited to:

—Applications to participate in a recipient's program or activity or to receive recipient benefits or services;
—Consent forms, complaint forms, intake forms, letters containing important information related to participation (such as cover letters outlining conditions of participation in a loan program or committee election);
—Written notices pertaining to eligibility requirements, rights, losses, denials, decreases in benefits or services, foreclosures, or terminations of services or benefits and/or the right to appeal such actions;
—Notices advising LEP persons of the availability of free language assistance;
—Written tests that do not assess English language proficiency, but test competency for a particular license, job, or skill for which knowing English is not required;
—Outreach materials; and
—Any documents that require a response from applicants, beneficiaries, and other participants.

Whether or not a document (or the information it solicits) is ''vital'' may depend upon the importance of the program or activity, information, encounter, service, or benefit involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner. For instance, applications for voluntary credit management courses are not necessarily vital (so long as they are not a prerequisite to obtaining or maintaining better credit), whereas, applications for rural rental housing would be considered vital. Where appropriate, recipients are encouraged to create a plan for consistently determining, over time and across its various activities, what documents are ''vital'' to the meaningful access of the LEP populations they serve. Note, however, that even when a document is not vital, the recipient still must provide meaningful access, which may require sight translation or other language assistance services.

Classifying a document as vital or non-vital is sometimes difficult, especially in the case of outreach materials like brochures or other information on rights and services. Awareness of rights or services is an important part of ''meaningful access.'' Lack of awareness that a particular program, right, or service exists may effectively deny LEP persons meaningful access. Thus, where a recipient is engaged in community outreach activities in furtherance of its activities, it should regularly assess the needs of the populations frequently encountered or affected by the program or activity to determine whether certain critical outreach materials should be translated. Community organizations may be helpful in determining what outreach materials may be most helpful to translate. In addition, the recipient should consider whether translations of outreach material may be made more effective when done in tandem with other outreach methods, including utilizing the ethnic media, schools, and religious or community organizations to spread a message.

Sometimes a document includes both vital and non-vital information. This may be the case when the document is very large. It may also be the case when the title and a phone number for obtaining more information on the contents of the document in frequently-encountered languages other than English is critical, but the document is sent out to the general public and cannot reasonably be translated into many languages. Thus, vital information may include, for instance, the provision of information in appropriate languages other than English regarding where a LEP person might obtain an interpretation or more information about the document.

*Into What Languages Should Documents Be Translated*? The languages spoken by the LEP persons with whom the recipient has contact determine the languages into which vital documents should be translated. A distinction should be made, however, between languages that are frequently encountered by a recipient and less commonly encountered languages. Many recipients serve communities in large cities or across the country. They regularly serve LEP persons who speak dozens and sometimes over 100 different languages. To translate all

written materials into all of those languages is unrealistic. Although recent technological advances have made it easier for recipients to store and share translated documents, such an undertaking would incur substantial costs and require substantial resources. Nevertheless, well-substantiated claims of lack of resources to translate all vital documents into dozens of languages do not necessarily relieve the recipient of the obligation to translate those documents into at least several of the more frequently encountered languages and to set benchmarks for continued translations into the remaining languages over time. As a result, the extent of the recipient's obligation to provide written translations of documents should be determined by the recipient on a case-by-case basis, looking at the totality of the circumstances in light of the four-factor analysis. Because translation is a one-time expense, consideration should be given to whether the up-front costs of translating a document (as opposed to oral interpretation) should be amortized over the likely life span of the document when applying this four-factor analysis.

*Safe Harbor.* Many recipients would like to ensure with greater certainty that they comply with their obligations to provide written translations in languages other than English. Paragraphs (a) and (b) below outline the circumstances that can provide a ''safe harbor,'' which means that if a recipient provides written translations under these circumstances, such action will be considered strong evidence of compliance with the recipient's written-translation obligations.

The failure to provide written translations under the circumstances outlined in paragraphs (a) and (b) does not mean there is non-compliance. Rather, they provide a common starting point for recipients to consider whether and at what point the importance of the service, benefit, or activity involved; the nature of the information sought; and the number or proportion of LEP persons served call for written translations of commonly-used forms into frequently encountered languages other than English. Thus, these paragraphs merely provide a guide for recipients that would like greater certainty of compliance than can be provided by a fact-intensive, four-factor analysis.

*Example:* Even if the safe harbors are not used, if written translation of a certain document(s) would be so burdensome as to defeat the legitimate objectives of a recipient's program or activity, the translation of the written materials is not necessary. Other ways of providing meaningful access, such as effective oral interpretation of certain vital documents, might be acceptable under such circumstances.

*Safe Harbor Provisions.* The following actions will be considered strong evidence of compliance with the recipient's written-translation obligations:

a. The USDA recipient provides written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents if needed, can be provided orally; or

b. If there are fewer than 50 persons in a language group that reaches the 5 percent trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

These Safe Harbor Provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP persons through competent oral interpreters where oral language services are needed and are reasonable. The four factor analysis must always be used in evaluating the need for, and extent of use of, oral interpreters.

For example, recipients should, where appropriate, ensure that program rules have been explained to LEP program participants prior to taking adverse action against them.

*Competence of Translators.* As with oral interpreters, translators of written documents should be competent. Many of the same considerations apply. However, the skill of translating is very different from the skill of interpreting, and a person who is a competent interpreter may or may not be competent to translate.

Particularly where legal or other vital documents are being translated, competence can often be achieved by use of certified translators, though certification or accreditation may not always be possible or necessary.[15] Competence can often be ensured by having a second, independent translator ''check'' the work of the primary translator. Alternatively, one translator can translate the document, and a second, independent translator could translate it back into English to check that the appropriate meaning has been conveyed. This is called ''back translation.''

Recipients should ensure that translators understand the expected reading level of their audiences and, where appropriate, have fundamental knowledge about the target language group's vocabulary and phraseology. Sometimes direct translation of materials results in a translation that is written at a much more difficult level than the English language version or has no relevant equivalent meaning.[16] Community organizations may be able to help consider whether a document is written at a good level for the audience. Likewise, consistency in the words and phrases used to translate terms of art, or technical concepts helps avoid confusion by LEP persons and may reduce costs. Providing translators with examples of previous accurate translations of similar material by the recipient, other recipients, or Federal agencies may be helpful.

While quality and accuracy of translation services is critical, the quality and accuracy of translation services is nonetheless part of assessing the appropriate mix of LEP services required. For instance, documents that are simple and have no legal or other negative consequence for LEP persons may be translated by individuals who are less skilled than those who translate documents with legal or other important consequences. The permanent nature of written translations, however, imposes additional responsibility on the recipient to ensure that the quality and accuracy permit meaningful access by LEP persons.

## VI. Elements of Effective Plan on Language Assistance for LEP Persons

After completing the four-factor analysis and deciding what language assistance services are appropriate, a recipient should develop an implementation plan to address the identified needs of the LEP populations it serves. Recipients have considerable

[15] For those languages in which no formal accreditation currently exists, a particular level of membership in a professional translation association can provide some indicator of professionalism.

[16] For instance, there may be languages that do not have an appropriate direct translation of some program-specific terms of art or technical concepts and the translator should be able to provide an appropriate translation. The translator also should likely make the recipient aware of this. Recipients can work with translators to develop a consistent and appropriate set of descriptions of these terms. Recipients will find it more effective and less costly if they try to maintain consistency in the words and phrases used to translate terms of art and technical concepts. Creating or using already-created glossaries of commonly used terms may be useful for LEP persons and translators and cost-effective for the recipient. Providing translators with examples of previous translations of similar material by the recipient, other recipients, or Federal agencies may be helpful.

flexibility in developing this plan. The development and maintenance of a periodically updated written plan on language assistance for LEP persons (''LEP plan'') for use by recipient employees serving the public will likely be the most appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance. Moreover, such written plans would likely provide additional benefits to a recipient's managers in the areas of training, administration, planning, and budgeting. These benefits should lead most recipients to document in a written LEP plan their language assistance services, and how staff and LEP persons can access those services. Despite these benefits, certain USDA recipients, such as recipients serving very few LEP persons and recipients with very limited resources, may choose not to develop a written LEP plan. However, the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a recipient's program or activities. Accordingly, in the event that a recipient elects not to develop a written plan, it should consider alternative ways to articulate in some other reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, religious organizations, community groups, and groups working with new immigrants can be very helpful in providing important input into this planning process from the beginning.

The following six steps may be helpful in designing an LEP plan and are typically part of effective implementation plans:

*(1) Identifying LEP Persons Who Need Language Assistance*

The first two factors in the four-factor analysis require an assessment of the number of proportion of LEP persons eligible to be served or encountered and the frequency of encounters. This requires recipients to identify LEP persons with whom they have contact.

One way to determine the language of communication is to use language identification cards (or ''I speak cards''), which invite LEP persons to identify their language needs to staff. Such cards, for instance, might say ''I speak Spanish'' in both Spanish and English, ''I speak Vietnamese'' in both English and Vietnamese, etc. To reduce costs of compliance, the Federal Government has made a set of these cards available on the Internet. The Census Bureau ''I speak card'' can be found and downloaded at *www.justice.gov/crt/about/cor/Pubs/ISpeakCards.pdf.* When records are normally kept of past interactions with members of the public, the language of the LEP person can be included as part of the record. In addition to helping employees identify the language of LEP persons they encounter, this process will help in future applications of the first two factors of the four-factor analysis. In addition, posting notices in commonly encountered languages notifying LEP persons of language assistance will encourage them to self-identify.

*(2) Language Assistance Measures*

An effective LEP plan would likely include information about the ways in which language assistance will be provided. For instance, recipients may want to include information on at least the following:

—Types of language services available;
—How staff can obtain those services;
—How to respond to LEP callers;
—How to respond to written communications from LEP persons;
—How to respond to LEP persons who have in-person contact with recipient staff; and
—How to ensure competency of interpreters and translation services.

*(3) Training Staff*

Staff should know their obligations to provide meaningful access to information and services for LEP persons. An effective LEP plan would likely include training to ensure that:

—Staff know about LEP policies and procedures; and
—Staff having contact with the public is trained to work effectively with in-person and telephone interpreters.

Recipients may want to include this training as part of the orientation for new employees. It is important to ensure that all employees in public contact positions are properly trained. Recipients have flexibility in deciding the manner in which the training is provided. The more frequent the contact with LEP persons, the greater the need will be for in-depth training. Staff with little or no contact with LEP persons may only have to be aware of an LEP plan. However, management staff, even if they do not interact regularly with LEP persons, should be fully aware of and understand the plan so they can reinforce its importance and ensure its implementation by staff.

*(4) Providing Notice to LEP Persons*

Once a recipient has decided, based on the four factors, that it will provide language services, it is important to let LEP persons know that those services are available and they are free of charge. Recipients should provide this notice in a language that LEP persons will understand. Examples of notification that recipients should consider include:

—Posting signs in intake areas and other entry points and adequate posting on Web sites. When language assistance is needed to ensure meaningful access to information and services, it is important to provide notice in appropriate languages in intake areas or initial points of contact (including Web sites) so that LEP persons can learn how to access those language services. This is particularly true in areas with high volumes of LEP persons seeking access to important programs, activities, services, or benefits provided by USDA recipients. For instance, signs in intake offices could state that free language assistance is available. The signs should be translated into the most common languages encountered and should explain how to get the language help; [17]
—Stating in outreach documents that language services are available from the recipient. Announcements could be in, for instance, brochures, booklets, and in outreach and recruitment information. These statements should be translated into the most common languages and ''tagged'' onto the front of common documents;
—Working with community-based organizations and other stakeholders to inform LEP persons of the recipients' services, including the availability of language assistance services;
—Using a telephone voice mail menu. The menu could be in the most common languages encountered. It should provide information about available language assistance services and how to get them;
—Including notices in local newspapers in languages other than English. Providing notices on non-English-language radio and television stations about the available language assistance services and benefits and how to get them;
—Presentations and/or notices at schools and religious organizations; and
—Posting notices/links for language assistance on recipient agency Web sites. These should be translated into the most commonly encountered

[17] The Social Security Administration has made such signs available at *http://www.ssa.gov/multilanguage/langlist1.htm.* These signs could, for example, be modified for recipient use.

languages and tagged on the agency home pages.

*(5) Ensuring Online Automation Services*

USDA recipients who provide online communications and services to customers, including but not limited to online applications, forms and brochures, must include in their LEP plan their strategy for ensuring that LEP individuals have meaningful access to online automation services.

*(6) Monitoring and Updating the LEP Plan*

Recipients should, where appropriate, have a process for determining, on an ongoing basis, whether new documents, programs, activities, services, and benefits need to be made accessible for LEP persons, and they may want to provide notice of any changes in services to the LEP public and to employees. In addition, recipients should consider whether changes in demographics, types of services, or other needs require annual reevaluation of their LEP plan. Less frequent reevaluation may be more appropriate where demographics, services, and needs are more static. One good way to evaluate the LEP plan is to seek feedback from the community.

In their reviews, recipients may want to consider assessing changes in:

—Current LEP populations in service area or population affected or encountered;
—Frequency of encounters with LEP language groups;
—Nature and importance of activities to LEP persons;
—Availability of resources, including technological advances and sources of additional resources, and the costs imposed;
—Whether existing assistance is meeting the needs of LEP persons;
—Whether staff know and understand the LEP plan and how to implement it; and
—Whether identified sources for assistance are still available and viable.

In addition to these six elements, effective plans set clear goals, management accountability, and opportunities for community input and planning throughout the process.

## VII. Voluntary Compliance Effort

The goal for Title VI and Title VI regulatory enforcement is to achieve voluntary compliance. The requirement to provide meaningful access to LEP persons is enforced and implemented by USDA through its regulations at 7 CFR part 15, Departmental Regulation 4330–2, ''Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance From USDA,'' and Departmental Manual 4330–2, ''Procedures for Processing Discrimination Complaints and Conducting Civil Rights Compliance Reviews in USDA Assisted Programs and Activities.'' These documents contain USDA requirements and procedures for discrimination complaints processing, complaint investigations, compliance reviews, efforts to secure voluntary compliance, and technical assistance.

USDA will investigate whenever it receives a complaint, report, or other information that alleges or indicates possible noncompliance with Title VI or its regulations. If the investigation results in a finding of compliance, USDA will inform the recipient in writing of this determination, including the basis for the determination. USDA uses voluntary mediation to resolve most complaints. However, if a case is fully investigated and results in a finding of noncompliance, USDA must inform the recipient of the noncompliance through a Letter of Findings that sets out the areas of noncompliance and the steps that must be taken to correct the noncompliance. It must attempt to secure voluntary compliance through informal means, if necessary. If the matter cannot be resolved informally, USDA must secure compliance either through the termination of Federal assistance after the USDA recipient has been given an opportunity for an administrative hearing and/or by referring the matter to DOJ to seek injunctive relief or pursue other enforcement proceedings. USDA engages in voluntary compliance efforts and provides technical assistance to recipients at all stages of an investigation. During these efforts, USDA proposes reasonable timetables for achieving compliance and consults with and assists recipients in exploring cost-effective ways of coming into compliance. In determining a recipient's compliance with the Title VI regulations, USDA's primary concern is to ensure that the recipient's policies and procedures provide meaningful access for LEP persons to the recipient's programs and activities.

While all recipients must work toward building systems that will ensure access for LEP persons, USDA acknowledges that the implementation of a comprehensive system to serve LEP persons is a process and that a system will evolve over time as it is implemented and periodically reevaluated. As recipients take reasonable steps to provide meaningful access to Federally-assisted programs and activities for LEP persons, USDA will look favorably on intermediate steps recipients take that are consistent with this guidance, and that, as part of a broader implementation plan or schedule, move their service delivery system toward providing full access to LEP persons. This does not excuse noncompliance but instead recognizes that full compliance in all areas of a recipient's activities and for all potential language minority groups may reasonably require a series of implementing actions over a period of time. However, in developing any phased implementation schedule, USDA recipients should ensure that the provision of appropriate assistance for significant LEP populations or with respect to programs or activities having a significant impact on important benefits, and services, are addressed first. Recipients are encouraged to document their efforts to provide LEP persons with meaningful access to Federally assisted programs and activities.

## VIII. Effect on State and Local Laws

Some State and local laws may identify language access obligations/requirements. Recipients may meet these obligations, so long as they do not conflict with or set a lower standard than is required under Title VI and Title VI regulations. Moreover, recipients must also comply as a matter of state law with higher requirements if those requirements exist under state laws. Finally, as noted above, some recipients operate in a jurisdiction in which English has been declared the official language. Nonetheless, these recipients continue to be subject to Federal non-discrimination requirements, including those applicable to the provision of Federally assisted benefits and services to persons with limited English proficiency.

Dated: November 17, 2014.

**Thomas J. Vilsack,**

*Secretary.*

[FR Doc. 2014–27960 Filed 11–26–14; 8:45 am]

BILLING CODE 3410–9R–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2014–0971; Directorate Identifier 2014–SW–055–AD; Amendment 39–18035; AD 2014–24–02]**

**RIN 2120–AA64**

## Airworthiness Directives; Agusta S.p.A. Helicopters

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2014–07–51 for AgustaWestland S.p.A. Model AB139 and AW139 helicopters with certain main rotor (M/R) rotating scissors installed. AD 2014–07–51 required repetitively inspecting the M/R rotating scissors for play of the lower half scissor spherical bearing (bearing) and removing the bearing if there was play beyond allowable limits. AD 2014–07–51 also required removing all affected bearings. AD 2014–07–51 was prompted by reports of certain bearings dislodging from certain M/R rotating scissors. This new AD retains the requirements of AD 2014–07–51, expands the applicability, and requires installing a special nut. These actions are intended to detect excessive play of the bearing and prevent failure of the M/R rotating scissors and subsequent loss of control of the helicopter.

**DATES:** This AD becomes effective December 15, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 15, 2014.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of August 20, 2014 (79 FR 45329, August 5, 2014).

We must receive comments on this AD by January 27, 2015.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, any incorporated by reference service information, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this AD, contact AgustaWestland, Product Support Engineering, Via del Gregge, 100, 21015 Lonate Pozzolo (VA) Italy, ATTN: Maurizio D'Angelo; telephone 39–0331–664757; fax 39 0331–664680; or at *http://www.agustawestland.com/technical-bulletins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**FOR FURTHER INFORMATION CONTACT:** Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *robert.grant@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### 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 prior to it becoming effective. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time. We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

### Discussion

On March 27, 2014, we issued Emergency AD (AD) 2014–07–51. AD 2014–07–51 was published in the **Federal Register** as a Final rule; request for comments on August 5, 2014, at 79 FR 45329. AD 2014–07–51 applied to Agusta Model AB139 and AW139 helicopters with certain serial-numbered M/R rotating scissors or with a M/R rotating scissors with certain serial-numbered bearings. AD 2014–07–51 required repetitively inspecting the M/R rotating scissors for play of the bearing every 5 hours time-in-service (TIS) and, if there was play beyond allowable limits, removing the affected bearing. AD 2014–07–51 also required removing all affected bearings within 50 hours TIS. AD 2014–07–51 was prompted by reports of certain bearings dislodging from certain M/R rotating scissors, as advised by EASA in its Emergency AD No. 2014–0073–E, dated March 20, 2014.

### Actions Since AD 2014–07–51 Was Issued

After we issued AD 2014–07–51, AgustaWestland issued Bollettino Tecnico No. 139–392, dated September 23, 2014 (BT 139–392), for Model AB139 and AW139 helicopters. BT 139–392 specifies installing a ''special'' nut to prevent the bearing from dislodging and performing an interim inspection to monitor the bearing in service.

EASA subsequently issued Emergency AD No. 2014–0215–E, dated September 24, 2014, which supersedes EASA Emergency AD No. 2014–0073–E, to correct an unsafe condition for AgustaWestland S.p.A and AgustaWestland Philadelphia Corporation Model AB139 and AW139 helicopters. EASA advises of additional reports of early excessive play in the bearings and a report of a chipped bearing liner. These additional reports involve bearings that were not part of the specific bearings referenced in EASA AD No. 2014–0073–E. As a result, EASA AD No. 2014–0215–E expands the applicability to all M/R rotating scissors with the applicable part number, requires repetitive inspections, and requires installation of a ''special'' nut in accordance with BT 139–392.

### FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are

approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs.

**Related Service Information**

AgustaWestland issued AW139 Document Code 39–C–62–31–00–00A–286C–A, issue 001, dated August 6, 2012, for Model AB139 and AW139 helicopters to specify a detailed inspection of the fixed swashplate and rotating scissors.

AgustaWestland also issued Bollettino Tecnico No. 139–368, dated March 19, 2014 (BT 139–368), for Model AB139 and AW139 helicopters with M/R rotating scissors, part number (P/N) 3G6230A00733 either with certain serial numbers or which have been repaired with the installation of certain serial-numbered bearings, P/N 3G6230V00654. BT 139–368 also applies to affected parts kept in stock. BT 139–368 was issued to identify and replace potentially defective bearings caused by a supplier quality issue.

AgustaWestland later issued BT 139–392 for Model AB139 and AW139 helicopters with M/R rotating scissors P/N 3G6230A00733 installed. BT 139–392 specifies inspections to monitor the bearings and provides procedures for the installation of special nut, P/N 3G6230A06851, to reinforce the installation of each bearing.

**AD Requirements**

This AD retains and clarifies the inspections of the M/R rotating scissors for damage and play of the bearing, but changes the inspection interval. This AD requires replacing the nut with a special nut, which lengthens the time for repetitively inspecting the M/R rotating scissors for damage and play of the bearing. This AD also retains the requirement to remove certain serial-numbered rotating scissors and certain serial-numbered bearings from service. Lastly, this AD states the design holder's name as Agusta S.p.A. instead of AgustaWestland S.p.A. as specified by the current FAA type certificate.

**Differences Between This AD and the EASA AD**

The EASA AD does not retain all of the requirements of its superseded AD, while this AD does retain the prior AD requirements. The EASA AD specifies some compliance terms within calendar time, while this AD does not. The EASA AD requires contacting AW139 Product Support Engineering, and this AD does not.

**Interim Action**

We consider this AD to be an interim action. If final action is later identified, we might consider further rulemaking.

**Costs of Compliance**

We estimate that this AD affects 102 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour. Visually inspecting the M/R rotating scissors for damage and play requires a minimal amount of time, for a nominal cost per inspection. Performing the detailed inspection for bearing play requires about 1 work-hour for a cost of $85 per inspection. Removing a bearing requires about 2 work-hours and $808 in parts, for a total replacement cost of $978 per bearing. Installing the special nuts requires about 1 work-hour and $920 in parts, for a total modification cost of $1,005 per helicopter or $102,510 for the U.S. fleet.

According to AgustaWestland's service information, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by AgustaWestland. Accordingly, we have included all costs in our cost estimate.

**FAA's Justification and Determination of the Effective Date**

Providing an opportunity for public comments prior to adopting these AD requirements would delay implementing the safety actions needed to correct this known unsafe condition. Therefore, we find that the risk to the flying public justifies waiving notice and comment prior to the adoption of this rule because the unsafe condition can adversely affect the controllability of the helicopter and some of the required corrective actions must be accomplished within 5 hours TIS and thereafter every 24 hours for certain helicopters. Other required corrective actions in this AD must be accomplished within 25, 50, and 100 hours TIS; however, these helicopters are generally high-usage aircraft and could reach these compliance times within a very short calendar time.

Since an unsafe condition exists that requires the immediate adoption of this AD, we determined that notice and opportunity for public comment before issuing this AD are impracticable and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

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

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

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–07–51, Amendment 39–17902 (79 FR 45329, August 5, 2014), and adding the following new AD:

**2014–24–02 Agusta S.p.A. (Agusta):** Amendment 39–18035; Docket No. FAA–2014–0971; Directorate Identifier 2014–SW–055–AD.

**(a) Applicability**

This AD applies to Agusta Model AB139 and AW139 helicopters with main rotor (M/R) rotating scissors part number (P/N) 3G6230A00733, with a lower half scissors spherical bearing (bearing) P/N 3G6230V00654 installed, certificated in any category.

**(b) Unsafe Condition**

This AD defines the unsafe condition as excessive play of the bearing in the M/R rotating scissors. This condition could result in failure of the M/R rotating scissors and subsequent loss of control of the helicopter.

**(c) Affected ADs**

This AD supersedes AD 2014–07–51, Amendment 39–17902 (79 FR 45329, August 5, 2014).

**(d) Effective Date**

This AD becomes effective December 15, 2014.

**(e) Compliance**

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

**(f) Required Actions**

(1) For helicopters with the M/R rotating controls installed without special nut P/N 3G6230A06851, within 5 hours time-in-service (TIS), and thereafter before the first flight of each day or at intervals not exceeding 24 hours, whichever occurs later; and for helicopters with the M/R rotating controls installed with special nut P/N 3G6230A06851, within 25 hours TIS, and thereafter at intervals not exceeding 25 hours TIS:

(i) Visually inspect the M/R rotating scissors for damage using a light source and a magnifying glass, paying particular attention to the bearings. Some examples of damage are shown in Figures 4 through 8 of AgustaWestland Bollettino Tecnico No. 139–392, dated September 23, 2014 (BT 139–392). If there is damage, before further flight, remove the bearing.

(ii) Inspect the M/R rotating scissors for play of each bearing, paying particular attention to the bearing staking condition, by manually moving the lower half scissor along the axis of the spherical bearing. Refer to Figure 1 of BT 139–392. If there is play, before further flight, accomplish a detailed inspection of the M/R rotating scissors in accordance with steps 9.1 through 12.9 of AgustaWestland AW139 Document Code 39–C–62–31–00–00A–286C–A, Rotating control installation—Fixed swashplate and rotating scissors—Detailed inspection, issue 001, dated August 6, 2012. Any play beyond allowable limits requires removing the bearing before further flight.

(2) Within 50 hours TIS from August 20, 2014, remove any bearing from a M/R rotating scissors with serial numbers (S/N) listed in Table 1 of AgustaWestland Bolletino Tecnico No. 139–368, dated March 19, 2014 (BT 139–368), on which the bearing has never been replaced; or from a M/R rotating scissors on which the bearing was replaced with a bearing with a S/N listed in Table 2 of BT 139–368.

(3) Within 100 hours TIS, install special nut P/N 3G6230A06851 in accordance with steps 5.1. through 6., Part II, of the Compliance Instructions, of BT 139–392.

(4) Prior to installing a M/R rotating scissors with a S/N listed in Table 1 of BT 139–368, replace the bearing and re-identify the M/R rotating scissors in accordance with paragraphs 4.2 through 4.4., Part II, of the Compliance Instructions of BT 139–368.

(5) Do not install a bearing with a S/N listed in Table 2 of BT 139–368 into any M/R rotating scissors.

**(g) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *robert.grant@faa.gov.*

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

**(h) Additional Information**

The subject of this AD is addressed in European Aviation Safety Agency (EASA) Emergency AD 2014–0215–E, dated September 24, 2014. You may view the EASA AD on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0971.

**(i) Subject**

Joint Aircraft Service Component (JASC) Code: 6200, M/R System.

**(j) Material Incorporated by Reference**

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

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

(3) The following service information was approved for IBR on December 15, 2014.

(i) AgustaWestland Bollettino Tecnico No. 139–392, dated September 23, 2014.

(ii) Reserved.

(4) The following service information was approved for IBR on August 20, 2014 (79 FR 45329, August 5, 2014).

(i) AgustaWestland Bollettino Tecnico No. 139–368, dated March 19, 2014.

(ii) AgustaWestland AW139 Document Code 39–C–62–31–00–00A–286C–A, Rotating control installation—Fixed swashplate and rotating scissors—Detailed inspection, issue 001, dated August 6, 2012.

(5) For AgustaWestland, Product Support Engineering, Via del Gregge, 100, 21015 Lonate Pozzolo (VA) Italy, ATTN: Maurizio D'Angelo; telephone 39 0331–664757; fax 39 0331–664680; or at *http://www.agustawestland.com/technical-bulletins.*

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

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

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

**Kim Smith,**

*Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2014–27995 Filed 11–26–14; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0235; Directorate Identifier 2013–NM–249–AD; Amendment 39–18015; AD 2014–22–10]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model DC–8–55, DC–8F–54, and DC–8F–55 airplanes, Model DC–8–60 series airplanes, Model DC–8–60F series airplanes, Model DC–8–70 series airplanes, and Model DC–8–70F series airplanes. This AD was prompted by multiple reports of cracking of the upper aft skin panel of

the fuselage. An evaluation by the design approval holder (DAH) indicates that the upper aft skin panel of the fuselage is subject to widespread fatigue damage (WFD). This AD requires removing any previously installed local repairs; installing a full-length improvement modification with or without finger doublers, or a full-length repair with or without finger doublers, as applicable; and doing repetitive inspections for cracking of the doublers, and repair if necessary. We are issuing this AD to detect and correct fatigue cracking of the upper aft skin panel of the fuselage, which could result in loss of structural integrity and consequent rapid decompression of the airplane.

**DATES:** This AD is effective January 2, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 2, 2015.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, CA 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0235; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Chandraduth Ramdoss, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Blvd., Suite 100, Lakewood, CA 90712–4137, phone: 562–627–5239; fax: 562–627–5210; email: *chandraduth.ramdoss@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model DC–8–55, DC–8F–54, and DC–8F–55 airplanes, Model DC–8–60 series airplanes, Model DC–8–60F series airplanes, Model DC–8–70 series airplanes, and Model DC–8–70F series airplanes. The NPRM published in the **Federal Register** on April 17, 2014 (79 FR 21648). The NPRM was prompted by multiple reports of cracking of the upper aft skin panel of the fuselage. An evaluation by the DAH indicates that the upper aft skin panel of the fuselage is subject to WFD. The NPRM proposed to require removing any previously installed local repairs; installing a full-length improvement modification with finger doublers or a full-length repair with finger doublers; and doing repetitive inspections for cracking of the doublers, and repair if necessary. We are issuing this AD to detect and correct fatigue cracking of the upper aft skin panel of the fuselage, which could result in loss of structural integrity and consequent rapid decompression of the airplane.

## Comment

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the NPRM (79 FR 21648, April 17, 2014), and the FAA's response to the comment.

## Request To Revise Repair or Modification Procedure

Boeing requested that we revise paragraph (g) of the NPRM (79 FR 21648, April 17, 2014) to allow operators the option to repair or modify without finger doublers. Boeing also requested that we revise the inspection requirements of paragraph (h) of the NPRM to address the option to repair or modify without finger doublers. Boeing stated that the service rework drawing that is referenced in Boeing Alert Service Bulletin DC8–53A080, Revision 2, dated September 18, 2013, includes two repair and preventive modification configurations, depending on whether finger doublers will be installed.

We agree with the commenter's request to allow the procedure to repair or modify without finger doublers as an approved option for repair or modification. We have revised paragraphs (g) and (h)(1) of this final rule accordingly.

## Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 21648, April 17, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 21648, April 17, 2014).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

## Costs of Compliance

We estimate that this AD affects 18 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Full-length modification or repair | Up to 184 work-hours × $85 per hour = $15,640. | Up to $14,720 | Up to $30,360 | Up to $546,480. |
| Inspection | 9 work-hours × $85 per hour = $765 per inspection cycle. | $0 | $765 per inspection cycle. | $13,770 per inspection cycle. |

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2014–22–10 The Boeing Company:** Amendment 39–18015; Docket No. FAA–2014–0235; Directorate Identifier 2013–MN–249–AD.

**(a) Effective Date**

This AD is effective January 2, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company airplanes identified in paragraphs (c)(1) through (c)(6) of this AD, certificated in any category, as identified in Boeing Alert Service Bulletin DC8–53A080, Revision 2, dated September 18, 2013.

(1) The Boeing Company Model DC–8–55 airplanes.

(2) The Boeing Company Model DC–8F–54 and DC–8F–55 airplanes.

(3) The Boeing Company Model DC–8–61, DC–8–62, and DC–8–63 airplanes.

(4) The Boeing Company Model DC–8–61F, DC–8–62F, and DC–8–63F airplanes.

(5) The Boeing Company Model DC–8–71, DC–8–72, and DC–8–73 airplanes.

(6) The Boeing Company Model DC–8–71F, DC–8–72F, and DC–8–73F airplanes.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by multiple reports of cracking of the upper aft skin panel of the fuselage. An evaluation by the design approval holder indicates that the upper aft skin panel of the fuselage is subject to widespread fatigue damage. We are issuing this AD to detect and correct fatigue cracking of the upper aft skin panel of the fuselage, which could result in loss of structural integrity and consequent rapid decompression of the airplane.

**(f) Compliance**

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

**(g) Modification or Repair**

Before the accumulation of 45,400 total flight cycles, or within 72 months after the effective date of this AD, whichever occurs later: Remove any previously installed local repairs and install a full-length improvement modification with or without finger doublers, or a full-length repair with or without finger doublers, as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin DC8–53A080, Revision 2, dated September 18, 2013. Installation of the full-length improvement modification or full-length repair, in accordance with paragraph (i) of AD 2008–06–23, Amendment 39–15435 (73 FR 14378, March 18, 2008), is a method of compliance with the requirements of this paragraph. Installation of a local repair as specified in paragraph (i) of AD 2008–06–23, does not comply with the requirements of this paragraph.

**(h) Post-Modification or Post-Repair Repetitive Inspections**

After accomplishing the actions required by paragraph (g) of this AD, at the applicable time and intervals specified in paragraph (h)(1) or (h)(2) of this AD: Do an external visual inspection or low frequency eddy current (LFEC) inspection for cracking along all four edges of each external doubler, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin DC8–53A080, Revision 2, dated September 18, 2013. Repeat the inspections thereafter at the applicable time and interval specified in paragraphs (h)(1) and (h)(2) of this AD. Accomplishment of the applicable repetitive inspection specified in paragraph (j)(1) or (j)(2)(ii) of AD 2008–06–23, Amendment 39–15435 (73 FR 14378, March 18, 2008), is a method of compliance with the applicable inspection requirements of this paragraph.

(1) For repair or modification with finger doublers: Within 30,000 flight cycles after doing the actions specified in paragraph (g) of this AD, do an external visual inspection. Repeat the external visual inspection thereafter at intervals not to exceed 5,000 flight cycles.

(2) For repair or modification without finger doublers: Within 15,000 flight cycles after doing the actions specified in paragraph (g) of this AD, do a LFEC inspection. Repeat the LFEC inspection thereafter at intervals not to exceed 10,000 flight cycles.

**(i) Cracking Repair**

If any cracking is found during any inspection required by paragraph (h) of this AD: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

**(j) Credit for Previous Actions**

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin DC8–53A080, dated June 22, 2004; or Boeing Alert Service Bulletin DC8–53A080, Revision 1, dated May 3, 2013. Boeing Alert Service Bulletin DC8–53A080, dated June 22, 2004, is incorporated by reference in AD 2008–06–23, Amendment 39–15435 (73 FR 14378, March 18, 2008). Boeing Alert Service Bulletin DC8–53A080, Revision 1, dated May 3, 2013, is not incorporated by reference in this AD.

**(k) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19,

send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (l)(1) of this AD. Information may be emailed to: *9–ANM–LAACO–AMOC–REQUESTS@faa.gov*.

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and 14 CFR 25.571, Amendment 45, and the approval must specifically refer to this AD.

**(l) Related Information**

(1) For more information about this AD, contact Chandraduth Ramdoss, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Blvd., Suite 100, Lakewood, CA 90712–4137, phone: 562–627–5239; fax: 562–627–5210; email: *chandraduth.ramdoss@faa.gov*.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3) and (m)(4) of this AD

**(m) Material Incorporated by Reference**

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

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

(i) Boeing Alert Service Bulletin DC8–53A080, Revision 2, dated September 18, 2013.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, CA 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; Internet *https://www.myboeingfleet.com*.

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

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

Issued in Renton, Washington, on October 28, 2014.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–26439 Filed 11–26–14; 8:45 am]

BILLING CODE 4910–13–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1 and 20

**[WT Docket No. 10–4; FCC 14–138]**

### The Commission's Rules To Improve Wireless Coverage Through the Use of Signal Boosters

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for reconsideration.

**SUMMARY:** In the *Order on Reconsideration,* the Commission addresses two Petitions for Reconsideration of the technical rules adopted in the Signal Boosters *Report and Order,* granting one petition and granting the other in part.

**DATES:** Effective December 29, 2014, except for the revision to 47 CFR 20.21(f)(1)(iv)(A)(*2*), which contains information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13, that are not effective until after approval by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing OMB approval and the effective date of this rule revision.

**FOR FURTHER INFORMATION CONTACT:** Amanda Huetinck of the Mobility Division, Wireless Telecommunications Bureau, at (202) 418–7090 or *Amanda.Huetinck@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at (202) 418–2918, or via the Internet at *PRA@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is the Federal Communications Commission's *Order on Reconsideration,* in WT Docket No. 10–4, FCC 14–138, adopted September 19, 2014, and released September 23, 2014. The *Further Notice of Proposed Rulemaking* that was adopted concurrently with the *Order on Reconsideration* is published elsewhere in this issue of the **Federal Register**.

The full text of that document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554, or by downloading the text from the Commission's Web site at *http://www.fcc.gov/document/signal-boosters-order-reconsideration-and-fnprm.* The complete text also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Suite CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *FCC504@fcc.gov* or calling the Consumer and Government Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

**Synopsis**

**I. Introduction and Background**

1. In the *Order on Reconsideration,* we address two Petitions for Reconsideration of the technical rules adopted in the Signal Boosters *Report and Order.*

2. As discussed below, we grant the Wi-Ex Petition and amend certain technical rules for Wideband Consumer Signal Boosters. These amendments will streamline the testing procedures for Wideband Consumer Signal Boosters and will benefit consumers by decreasing the costs and complexities associated with the manufacture and certification of such devices. We also grant in part, to the extent described below, and otherwise deny the Verizon Petition and amend certain technical rules for mobile Provider-Specific Consumer Signal Boosters. These amendments will ensure consumers have access to a wide variety of signal boosters while strengthening the technical protections for wireless networks.

**II. Order on Reconsideration**

*A. Background*

3. *Report and Order.* On February 20, 2013, the Commission adopted a new regulatory framework to allow consumers to realize the benefits of using signal boosters while preventing, controlling, and, if necessary, resolving interference to wireless networks. In the *Report and Order,* the Commission adopted new technical, operational, and registration requirements for signal boosters. The new rules created two classes of signal boosters—Consumer and Industrial—with distinct regulatory requirements for each. For Consumer Signal Boosters, the Commission adopted a Network Protection Standard (NPS)—a flexible set of requirements for the design and manufacture of Consumer Signal Boosters, which are intended to couple signal booster

innovation with sufficient safeguards to protect wireless networks from harmful interference. In addition, the Commission adopted two sets of technical parameters, which it deemed to satisfy the NPS—one for Wideband Consumer Signal Boosters and a second for Provider-Specific Consumer Signal Boosters. At issue in this *Order on Reconsideration* are certain technical requirements in the NPS for both Wideband and Provider-Specific Consumer Signal Boosters.

4. *Petitions for Reconsideration.* Three groups filed Petitions for Reconsideration seeking modifications to the *Report and Order.* Wilson Electronics, LLC, V–COMM, L.C.C., and Wireless Extenders, Inc. (Wi-Ex) (collectively ''Wi-Ex Petitioners'') ask the Commission to streamline the equipment certification process by amending certain technical requirements for Wideband Consumer Signal Boosters.

5. V–COMM, L.L.C., Verizon Wireless, and Wilson Electronics, LLC (collectively ''Verizon Petitioners''), ask the Commission to amend its Provider-Specific Consumer Signal Booster rules to protect wireless networks from interference stemming from mobile Provider-Specific Consumer Signal Boosters. Likewise, the Verizon Petitioners ask the Commission to amend its booster antenna kitting rules for Provider-Specific Consumer Signal Boosters accordingly. In addition, the Verizon Petitioners ask that Consumer Signal Boosters certified for fixed operation be labeled to notify consumers that such devices may only be used in fixed, in-building locations. The Enterprise Wireless Alliance also filed a Petition for Reconsideration, but it was subsequently withdrawn.

6. *Responsive Pleadings.* On June 6, 2013, the Commission released a Public Notice seeking comment on the Petitions. Oppositions to the Petitions were due on June 21, 2013, and Replies to Oppositions were due on July 1, 2013. Verizon filed in support of the Wi-Ex Petition; no parties opposed the Wi-Ex Petition.

7. AT&T supported the Verizon Petition, while Nextivity opposed it. Subsequently, however, Nextivity and the Verizon Petitioners reached an agreement on how to address the issues that Verizon raised in its petition and both parties jointly filed an *Ex Parte* Statement proposing revised, strengthened technical rules for the manufacture and operation of mobile Provider-Specific Consumer Signal Boosters. The Joint *Ex Parte* Statement recommends that the Commission:

- Require that mobile Provider-Specific Consumer Signal Boosters meet the same noise limits as mobile Wideband Consumer Signal Boosters;
- Require that mobile Provider-Specific Consumer Signal Boosters that are directly connected to the device or that use direct contact coupling (*e.g.,* cradle-type boosters) meet the same gain limits that apply to similarly connected Wideband Consumer Signal Boosters;
- Require that the maximum booster gain for mobile Provider-Specific Consumer Signal Boosters that use an inside antenna and that have both automatic gain adjustment based on isolation measurements between booster donor and server antenna and automatic feedback cancellation not exceed 58 dB and 65 dB for frequencies below and above 1 GHz, respectively;
- Amend the antenna kitting rule for all Provider-Specific Consumer Signal Boosters to be the same as the current antenna kitting rule applicable to Wideband Consumer Signal Boosters; and
- Amend the booster labeling requirements to require that all consumer boosters, both Provider-Specific and Wideband, certified for fixed, in-building use include language stating: ''This device may ONLY be operated in a fixed location for in-building use.''

*B. Discussion*

1. Wi-Ex Petition

8. For the reasons discussed below, we find that the Wi-Ex Petitioners' requested amendments to certain technical rules for Wideband Consumer Signal Boosters are warranted and amend our rules accordingly. As stated above, the Wi-Ex Petition is supported by Verizon and is unopposed by any party in the proceeding.

9. The Wi-Ex Petitioners explain that the development of testing procedures to certify Wideband Consumer Signal Boosters was complicated by the need for special test equipment to determine compliance with the downlink noise limit in the rules. Specifically, the Wi-Ex Petitioners state that, during the course of meetings between the Office of Engineering and Technology (OET) and the ANSI ASC C63® working group, it was determined that filtering equipment that includes variable tunable bandpass filtering and notches was necessary to measure the downlink noise in the presence of downlink signals through the booster. The Wi-Ex Petitioners state that the OET lab and most Telecommunications Certification Bodies (TCBs) do not have such equipment, thus complicating device testing.

10. The Wi-Ex Petitioners argue that their requested amendments will not affect the safeguards in our rules designed to protect wireless networks. The Wi-Ex Petitioners explain that, in order to satisfy the bidirectional capability requirements in our Wideband Consumer Signal Booster rules, the NPS included uplink and downlink noise limits. According to the Wi-Ex Petitioners, downlink transmitted noise power was included in § 20.21(e)(8)(i)(A)(*1*) of the Noise Limits technical requirement as a way to measure bidirectional capability, not specifically as a means to protect wireless networks. The Wi-Ex Petitioners contend that wireless networks are sufficiently protected with respect to downlink noise by the limitations in § 20.21(e)(8)(i)(A)(*2*) coupled with the operation of the ''Transmit Power Off Mode'' in § 20.21(e)(8)(i)(H).

11. The Wi-Ex Petitioners further argue that bidirectional capability can be effectively achieved and more easily measured by including downlink gain limits in §§ 20.21(e)(8)(i)(C)(*1*) (Booster Gain Limits) and 20.21(e)(8)(i)(H) (Transmit Power Off Mode). In addition, the Wi-Ex Petitioners maintain that including downlink gain in the Transmit Power Off Mode requirement will ''serve to provide relief for Wideband Boosters in very high received signal strength indication (RSSI) conditions that require very low downlink gain operation pursuant to § 20.21(e)(8)(i)(C)(*1*), and to clarify the limitation on downlink gain in the Transmit Power OFF Mode of operation.''

12. We agree with the Wi-Ex Petitioners and find that the requested amendments to our rules will facilitate the test procedures and equipment certification process for Wideband Consumer Signal Boosters without diminishing the safeguards in our rules designed to protect wireless networks. We also agree that the requested rule changes will benefit consumers by decreasing the costs and complexities associated with the manufacture and certification of Wideband Boosters while continuing to achieve the objectives of the NPS. We recognize that it is difficult to design a compliance test to measure downlink noise levels in the presence of an introduced signal (representing RSSI) within the same frequency band, particularly when RSSI is also assumed to be broadband noise. Moreover, we do not believe that it is necessary to limit downlink noise as a function of RSSI in this section of our

rules in order to protect base stations from interference as a signal booster approaches a base station. Downlink noise limits are included in other sections of our rules. Accordingly, we will remove the reference to downlink noise from § 20.21(e)(8)(i)(A)(*1*) of our Noise Limits technical requirement for Wideband Consumer Signal Boosters. As amended, § 20.21(e)(8)(i)(A)(*1*) now provides:

> The transmitted noise power in dBm/MHz of consumer boosters at their uplink port shall not exceed −103 dBm/MHz—RSSI. RSSI (received signal strength indication expressed in negative dB units relative to 1 mW) is the downlink composite received signal power in dBm at the booster donor port for all base stations in the band of operation.

13. We also agree that downlink gain limits should be added to § 20.21(e)(8)(i)(H) (Transmit Power Off Mode). Adding a downlink gain requirement to our Transmit Power Off Mode rule will ensure gain equivalency as required by our Bidirectional Capability rule without creating complications for our test procedures. In addition, it will benefit signal booster manufacturers by setting a floor on the permissible downlink gain when in proximity to one or more base station transmitters (*i.e.,* high RSSI levels). Accordingly, we will add a reference to downlink noise in § 20.21(e)(8)(i)(H) of our Transmit Power Off Mode requirement for Wideband Consumer Signal Boosters. As amended, § 20.21(e)(8)(i)(H) now provides:

> When the consumer booster cannot otherwise meet the noise and gain limits defined herein it must operate in ''Transmit Power Off Mode.'' In this mode of operation, the uplink and downlink noise power shall not exceed −70 dBm/MHz and both uplink and downlink gain shall not exceed the lesser of 23 dB or MSCL.

2. Verizon Petition

14. The Verizon Petitioners ask that we revise our rules regarding mobile Provider-Specific Consumer Signal Boosters. We conclude that the recommendations in the Verizon Petition coupled with those in the Joint *Ex Parte* Statement are in the public interest, striking the right balance between ensuring consumers continue to have access to a wide-variety of signal boosters to best suit their needs while still protecting wireless networks. We therefore grant in part, as described below, and otherwise deny the Verizon Petition, consistent with the recommendations in the Joint *Ex Parte* Statement, and amend our rules accordingly.

15. *Noise Limits for Provider-Specific Consumer Signal Boosters.* The current Provider-Specific Consumer Signal Booster rules are part of the NPS, which is largely based on the ''Consolidated Proposal''—a comprehensive, consensus-based technical proposal developed by wireless providers (Verizon, T-Mobile) and equipment manufacturers (Wilson, Nextivity). AT&T, Sprint, Wi-Ex, and more than 90 small rural providers endorsed the Consolidated Proposal. In addition, the Competitive Carriers Association supported many elements of the Consolidated Proposal, including ''affirmatively support[ing]'' the provider-specific aspects of the proposal. In light of the overwhelming support in the record for the Consolidated Proposal, the Commission adopted the NPS. Although the Consolidated Proposal did not include a technical specification for mobile Provider-Specific Consumer Signal Boosters, in an effort to provide manufactures with optimal flexibility, the Commission made such an option available in the NPS subject to carrier consent.

16. The Verizon Petitioners argue that the Provider-Specific Consumer Signal Booster technical requirements were not designed for mobile use scenarios and thus do not adequately protect against harmful interference. In its Opposition, Nextivity argues that mobile Provider-Specific Consumer Signal Boosters will not harm wireless networks and opposes the Verizon Petition on a variety of technical, legal, and policy grounds. In their Joint *Ex Parte* Statement proposing to resolve the matter, the Verizon Petitioners and Nextivity suggest strengthening the technical rules for mobile Provider-Specific Consumer Signal Boosters, thus facilitating the manufacture and operation of mobile Provider-Specific Consumer Signal Boosters, as Nextivity desires, while protecting wireless networks from harmful interference, thus addressing the Verizon Petitioners' concern.

17. To provide adequate protection to wireless networks as well as consistency with the noise and gain limits already in place for mobile Wideband Consumer Signal Boosters, the parties to the Joint *Ex Parte* Statement (collectively ''Joint Petitioners'') recommend that the Commission require that all mobile Provider-Specific Consumer Signal Boosters meet the same noise limits as mobile Wideband Consumer Signal Boosters and that mobile Provider-Specific Consumer Signal Boosters that are directly connected to the device or that use direct contact coupling (*e.g.,* cradle-type boosters) meet the same gain limits that apply to similarly connected Wideband Consumer Signal Boosters. For mobile Provider-Specific Consumer Signal Boosters that use an inside antenna and that have both automatic gain adjustment based on isolation measurements between booster donor and server antenna and automatic feedback cancellation, the Joint Petitioners recommend that the Commission require that the maximum booster gain not exceed 58 dB and 65 dB for frequencies below and above 1 GHz, respectively. We find that these proposed noise and gain limits are reasonable for signal booster manufacturers to implement, while also adequately protecting against interference to wireless networks. Accordingly, we will adopt these modified, strengthened noise and gain limits for mobile Provider-Specific Consumer Signal Boosters.

18. *Antenna Kitting Requirements.* The Verizon Petitioners also ask that the Commission harmonize the antenna kitting rule for all Provider-Specific Consumer Signal Boosters with the booster antenna kitting rules for Wideband Consumer Signal Boosters.

19. Currently, the antenna kitting rule for Wideband Consumer Signal Boosters provides that ''[a]ll consumer boosters must be sold together with antennas, cables, and/or coupling devices that meet the requirements of this section,'' while the rule for Provider-Specific Consumer Signal Boosters states that ''[m]obile consumer boosters must be sold together with antennas, cables, and/or coupling devices that meet the requirements of this section.''

20. We agree with the Joint Petitioners that a conforming change to the language of this rule is warranted in light of the above rule amendments. We therefore will amend the rule for mobile Provider-Specific Consumer Signal Boosters to mirror the current antenna kitting rule for Wideband Consumer Signal Boosters by replacing the word ''mobile'' in § 20.21(e)(9)(i)(H) with the word ''all.''

21. *Labeling Requirements.* Finally, in addition to the above technical rule modifications, the Verizon Petitioners ask the Commission to require that all Consumer Signal Boosters certified for fixed, in-building operation include a label directing consumers that the device may only be operated in a fixed in-building location. The Verizon Petitioners state that this additional labeling requirement is necessary to inform purchasers of fixed Consumer Signal Boosters that they may not lawfully be installed and operated in a moving vehicle or outdoor location. We

agree that such a requirement is appropriate to ensure that consumers are properly informed about which devices are suitable for their use and how to comply with our rules. We recognize that our labeling requirement imposes additional costs on entities that manufacture Consumer Signal Boosters; consistent with our previous decision in the *Report and Order* to implement labeling requirements, however, on balance, we find that such costs are outweighed by the benefits of ensuring that consumers purchase appropriate devices. Accordingly, all fixed Consumer Signal Boosters, both Provider-Specific and Wideband, manufactured or imported on or after one year from the effective date of the rule change must include the following advisory (1) in on-line point-of-sale marketing materials, (2) in any print or on-line owner's manual and installation instructions, (3) on the outside packaging of the device, and (4) on a label affixed to the device: ''This device may be operated ONLY in a fixed location for in-building use.''

22. *Conclusion.* Like the Consolidated Proposal, the recommendations in the Verizon Petition and Joint *Ex Parte* Statement have been considered and drafted by industry experts, who are well-qualified to determine what devices are cost-effective for manufacturers to produce, as well as whether such devices may cause interference and negatively affect service quality. We believe that the Verizon Petition, in accordance with the recommendations in the Joint *Ex Parte* Statement, appropriately balances the need to protect wireless networks with the need to provide consumers with a variety of affordable signal booster options. Accordingly, we grant in part, as described above, and otherwise deny the Verizon Petition.

3. Other Issues

23. We also correct typographic errors in the rules adopted in the *Report and Order* at this time. Specifically, we correct a reference to the **Federal Register** in 47 CFR 20.21 and remove a series of asterisks in 47 CFR 20.3. In addition, we correct a typographical error in 47 CFR 1.1307(b)(1) regarding radio frequency exposure labeling requirements for Consumer Signal Boosters.

## III. Procedural Matters

### *A. Paperwork Reduction Act*

24. The *Order on Reconsideration* contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

25. In the *Order on Reconsideration,* we assessed the effects of the policies adopted in the *Order on Reconsideration* with regard to information collection burdens on small business concerns, and find that these policies will benefit many companies with fewer than 25 employees because the rule modifications we adopt should provide small entities with access to the coverage enhancing benefits of signal boosters that do not harm wireless networks. In addition, we have described impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the Supplemental Final Regulatory Flexibility Analysis below.

### *B. Regulatory Flexibility Analysis*

26. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.''

27. Accordingly, we have prepared a Supplemental Final Regulatory Flexibility Analysis concerning the possible impact of the rule changes contained in the *Order on Reconsideration* on small entities. The Supplemental Final Regulatory Flexibility Analysis is set forth below.

### *C. Congressional Review Act*

28. The Commission will send a copy of this *Order on Reconsideration* to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

## IV. Supplemental Final Regulatory Flexibility Analysis

29. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *Notice of Proposed Rulemaking* (*NPRM*). No comments were filed addressing the IRFA. In addition, a Final Regulatory Flexibility Analysis (FRFA) was incorporated in the *Report and Order.* Because we amend the rules in the *Order on Reconsideration,* we have included this Supplemental Final Regulatory Flexibility Analysis (SFRFA). This present SFRFA conforms to the RFA.

### *A. Need for, and Objectives of, the Order on Reconsideration*

30. The *Order on Reconsideration* addresses two Petitions for Reconsideration of the technical rules adopted in the Signal Boosters *Report and Order.* The need for and objectives of the rules adopted in the *Order on Reconsideration* are the same as those discussed in the FRFA for the *Report and Order.* In the *Report and Order,* the Commission adopted a new regulatory framework to allow consumers to realize the benefits of using signal boosters while preventing, controlling, and, if necessary, resolving interference to wireless networks. The Commission adopted new technical, operational, and registration requirements for signal boosters. The new rules created two classes of signal boosters—Consumer and Industrial—with distinct regulatory requirements for each. For Consumer Signal Boosters, the Commission adopted a Network Protection Standard (NPS)—a flexible set of requirements for the design and manufacture of Consumer Signal Boosters, which are intended to couple signal booster innovation with sufficient safeguards to protect wireless networks from harmful interference. In addition, the Commission adopted two sets of technical parameters, which it deemed to satisfy the NPS—one for Wideband Consumer Signal Boosters and a second for Provider-Specific Consumer Signal Boosters.

31. In the *Order on Reconsideration,* we: (1) Streamline the equipment certification process by amending certain technical requirements for Wideband Consumer Signal Boosters; (2) strengthen the gain and power limits for Provider-Specific Consumer Signal Boosters; (3) amend the booster antenna kitting rules for Provider-Specific Consumer Signal Boosters accordingly; (4) and require that Consumer Signal Boosters certified for fixed operation only be labeled to notify consumers that such devices may only be used in fixed, in-building locations. These changes will ensure consumer access to a wide variety of cost-efficient Consumer Signal Boosters while still protecting the wireless networks.

*B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

32. No public comments were filed concerning the IRFA.

*C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration*

33. 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 (SBA), 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.

*D. Legal Basis*

34. The actions are authorized pursuant to sections 1, 4(i), 4(j), 301, 302, 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, 302, 303(f), and 303(r).

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

35. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted, herein. 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, we describe and estimate the number of small entity licensees that may be affected by the adopted rules.

36. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* As of 2009, small businesses represented 99.9% of the 27.5 million businesses in the United States, according to the SBA. Additionally, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2007 indicate that there were 89,527 governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,761 entities may qualify as ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

37. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for firms in this category, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2010, there were a total of 810 establishments in this category that operated for the entire year. Of this total, 787 had employment of fewer than 500, and an additional 23 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

*F. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

38. The rule changes adopted in this proceeding will not alter any of the current reporting or recordkeeping requirements.

*G. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

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

40. Regarding our amending certain technical requirements for Wideband Consumer Signal Boosters to streamline the equipment certification process, we anticipate this change will actually decrease the costs and complexities associated with the manufacture and certification of such devices, thereby benefiting small businesses. In addition, as to our amending certain technical and labeling requirements for Provider-Specific Consumer Signal Boosters, the Commission does not believe that these changes vary enough from the rules adopted in the *Report and Order* to unduly burden small entities.

*H. Federal Rules That May Duplicate, Overlap, or Conflict With the Rules*

41. None.

*I. Report to Congress*

42. The Commission will send a copy of the *Report and Order,* including the FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Order on Reconsideration,* including SFRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Order on Reconsideration* and SFRFA (or summaries thereof) will be published in the **Federal Register.**

## VI. Ordering Clauses

43. Accordingly, *it is ordered* that, pursuant to the authority of sections 1, 4(i), 7, 10, 201, 202, 208, 214, 301, 302, 303, 308, 309(j), 310, and 710 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 157, 160, 201, 202, 208, 214, 301, 302a, 303, 308, 309(j), 310, and 610, and §§ 1.412, 1.425, and 1.429 of the Commission's rules, 47 CFR 1.412, 1.425, 1.429, the *Order on Reconsideration is hereby adopted.*

44. *It is further ordered* that, pursuant to sections 1, 4(i), 4(j), 301, 302, 303(f), 303(r), and 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, 302a, 303(f), 303(r), and 405(a), and § 1.429(a) of the Commission's rules, 47 CFR 1.429(a), that the Petition for Reconsideration filed by Wilson Electronic, LLC, V–COMM, L.L.C., and Wireless Extenders, Inc., WT Docket No. 10–4, on May 13, 2013, *is granted.*

45. *It is further ordered* that, pursuant to sections 1, 4(i), 4(j), 301, 302, 303(f), 303(r), and 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, 302a, 303(f), 303(r), and 405(a), and § 1.429(a) of the Commission's rules, 47 CFR 1.429(a), that the Petition for Reconsideration filed by V–COMM,

L.L.C., Verizon Wireless, and Wilson Electronics, WT Docket No. 10–4, on May 13, 2013, *is granted in part,* as described above, and *otherwise denied.*

46. *It is further ordered* that parts 1 and 20 of the Commission's rules as *are amended* as set forth below, effective December 29, 2014 except for 47 CFR 20.21(f)(1)(iv)(A)(*2*), which contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13, that are not effective until after approval by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing OMB approval and the effective date of these rule revisions.

47. *It is further ordered* that the Commission *shall send* a copy of this *Order on Reconsideration* to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

48. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Order on Reconsideration,* including the Supplemental Final Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects**

*47 CFR Part 1*

Administrative practice and procedure

*47 CFR Part 20*

Communications common carriers, Communications equipment, Radio.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1 and 20 are amended as follows:

## PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309, 1403, 1404, 1451, and 1452.

■ 2. Section 1.1307 is amended in paragraph (b)(1) by revising Table 1 Commercial Mobile Radio Services (part 20) as follows:

**§ 1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.**

* * * * *

(b) * * *

(1) * * *

TABLE 1—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

| Service (title 47 CFR rule part) | Evaluation required if: |
|---|---|
| * * | * * * * * |
| Commercial Mobile Radio Services (part 20) ..... | Non-building-mounted antennas: height above ground level to lowest point of antenna < 10 m and power > 1000 W ERP (1640 W EIRP). Building-mounted antennas: power > 1000 W ERP (1640 W EIRP).<br>Consumer Signal Booster equipment grantees under the Commercial Mobile Radio Services provisions in part 20 are required to attach a label to Fixed Consumer Booster antennas that:<br>(1) Provides adequate notice regarding potential radiofrequency safety hazards, *e.g.,* information regarding the safe minimum separation distance required between users and transmitting antennas; and<br>(2) references the applicable FCC-adopted limits for radiofrequency exposure specified in § 1.1310. |
| * * | * * * * * |

* * * * * *

## PART 20—COMMERCIAL MOBILE SERVICES

■ 1. The authority citation for Part 20 continues to read as follows:

**Authority:** 47 U.S.C. 151, 152, 154(i), 201(b), 225, 301, 303(b), 303(g), 303(r), 316, 403, 615a, 615a–1, 615b, and 47 U.S.C. 615c.

■ 2. Section 20.21 is amended by revising paragraph (e)(8)(i)(A)(*1*), (e)(8)(i)(H), (e)(9)(i)(A)(*2*), (e)(9)(i)(C)(*2*), (e)(9)(i)(H), and (f)(1) to read as follows:

**§ 20.21 Signal boosters.**

* * * * *

(e) * * *

(8) * * *

(i) * * *

(A) *Noise Limits.* (*1*) The transmitted noise power in dBm/MHz of consumer boosters at their uplink port shall not exceed −103 dBm/MHz—RSSI. RSSI (received signal strength indication expressed in negative dB units relative to 1 mW) is the downlink composite received signal power in dBm at the booster donor port for all base stations in the band of operation.

* * * * *

(H) *Transmit Power Off Mode.* When the consumer booster cannot otherwise meet the noise and gain limits defined herein it must operate in ''Transmit Power Off Mode.'' In this mode of operation, the uplink and downlink noise power shall not exceed −70 dBm/MHz and both uplink and downlink gain shall not exceed the lesser of 23 dB or MSCL.

* * * * *

(9) * * *

(i) * * *

(A) * * *

(*2*)(*i*) Fixed booster maximum downlink noise power shall not exceed −102.5 dBm/MHz + 20 $Log_{10}$ (Frequency), where Frequency is the uplink mid-band frequency of the supported spectrum bands in MHz.

(*ii*) Mobile booster maximum noise power shall not exceed −59 dBm/MHz.

(*iii*) Compliance with Noise limits will use instrumentation calibrated in terms of RMS equivalent voltage, and with booster input ports terminated or without input signals applied within the band of measurement.

* * * * *

(C) * * *

(*2*) The uplink and downlink maximum gain of a frequency selective consumer booster referenced to its input and output ports shall not exceed the following limits:

(*i*) Fixed Booster maximum gain shall not exceed 19.5 dB + 20 $Log_{10}$ (Frequency), or 100 dB for systems having automatic gain adjustment based on isolation measurements between booster donor and server antennas.

(*ii*) Where, Frequency is the uplink mid-band frequency of the supported spectrum bands in MHz.

(*iii*) Mobile Booster maximum gain shall not exceed 15 dB when directly connected (*e.g.,* boosters with a physical connection to the subscriber device), 23 dB when using direct contact coupling (*e.g.,* cradle-type boosters), or 50 dB when using an inside antenna (*e.g.,* inside a vehicle). For systems using an inside antenna that have automatic gain adjustment based on isolation measurements between booster donor and server antenna and automatic feedback cancellation, the mobile booster maximum gain shall not exceed 58 dB and 65 dB for frequencies below and above 1 GHz, respectively.

* * * * *

(H) *Booster Antenna Kitting.* All consumer boosters must be sold with user manuals specifying all antennas and cables that meet the requirements of this section. All consumer boosters must be sold together with antennas, cables, and/or coupling devices that meet the requirements of this section. The grantee is required to submit a technical document with the application for FCC equipment authorization that shows compliance of all antennas, cables, and/or coupling devices with the requirements of this section, including any antenna or equipment upgrade options that may be available at initial purchase or as a subsequent upgrade.

* * * * *

(f) *Signal booster labeling requirements.* (1) Signal booster manufacturers, distributors, and retailers must ensure that all signal boosters marketed on or after March 1, 2014 include the following advisories:

(i) In on-line, point-of-sale marketing materials,

(ii) In any print or on-line owner's manual and installation instructions,

(iii) On the outside packaging of the device, and

(iv) On a label affixed to the device:

(A) For Consumer Signal Boosters:

(*1*) This is a CONSUMER device.

BEFORE USE, you MUST REGISTER THIS DEVICE with your wireless provider and have your provider's consent. Most wireless providers consent to the use of signal boosters. Some providers may not consent to the use of this device on their network. If you are unsure, contact your provider.

You MUST operate this device with approved antennas and cables as specified by the manufacturer. Antennas MUST be installed at least 20 cm (8 inches) from any person.

You MUST cease operating this device immediately if requested by the FCC or a licensed wireless service provider.

WARNING. E911 location information may not be provided or may be inaccurate for calls served by using this device.

(*2*) The label for Consumer Signal Boosters certified for fixed indoor operation also must include the following language:

This device may be operated ONLY in a fixed location for in-building use.

(B) For Industrial Signal Boosters:

WARNING. This is NOT a CONSUMER device. It is designed for installation by FCC LICENSEES and QUALIFIED INSTALLERS. You MUST have an FCC LICENSE or express consent of an FCC Licensee to operate this device. Unauthorized use may result in significant forfeiture penalties, including penalties in excess of $100,000 for each continuing violation.

* * * * *

[FR Doc. 2014–26061 Filed 11–26–14; 8:45 am]

**BILLING CODE 6712–01–P**

# Proposed Rules

Federal Register
Vol. 79, No. 229
Friday, November 28, 2014

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

## DEPARTMENT OF ENERGY

### 10 CFR Part 430

**[Docket No. EERE–2012–BT–STD–0045]**

**RIN 1904–AC87**

### Energy Efficiency Program for Consumer Products: Energy Conservation Standards for Ceiling Fans: Availability of the Preliminary Technical Support Document

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Extension of public comment period.

**SUMMARY:** On September 29, 2014, the U.S. Department of Energy (DOE) published a notice of public meeting and availability of the preliminary technical support document (TSD) for ceiling fans energy conservation standards in the **Federal Register**. This document announces an extension of the public comment period for submitting comments on the TSD or any other aspect of the rulemaking for ceiling fans. The comment period is extended to December 9, 2014.

**DATES:** DOE will accept comments, data, and information regarding this rulemaking received no later than December 9, 2014.

**ADDRESSES:** Interested persons may submit comments, identified by docket number EERE–2011–BT–STD–0045 and/or Regulation Identification Number (RIN) 1904–AC87, by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: CeilingFan2012STD0045@ee.doe.gov.* Include the docket number EERE–2011–BT–STD–0045 and/or RIN 1904–AC87 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies. [Please note that comments and CDs sent by mail are often delayed and may be damaged by mail screening processes.]
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone (202) 586–2945. If possible, please submit all items on CD, in which case it is not necessary to include printed copies.

*Docket:* The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The rulemaking Web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/65.* This Web page contains a link to the docket for this notice on the regulation.gov site. The *www.regulations.gov* Web page contains instructions on how to access all documents in the docket, including public comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202)–287–1604. Email: *ceiling_fans@ee.doe.gov.*

In the Office of the General Counsel, contact Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202)–287–6111. Email: *Jennifer.Tiedeman@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:** On September 29, 2014, the U.S. Department of Energy (DOE) published a notice of public meeting and availability of the preliminary technical support document in the **Federal Register** to make available and invite comments on the preliminary analysis for ceiling fans energy conservation standards. 79 FR 58290. The notice provided for the written submission of comments by November 28, 2014, and oral comments were also accepted at a public meeting held on November 19, 2014. Various stakeholders have requested an extension of the comment period to consider the preliminary technical support document and public meeting presentation, and to prepare and submit comments accordingly.

DOE has determined that an extension of the public comment period is appropriate based on the foregoing reason. DOE will consider any comments received by midnight of December 9, 2014, and deems any comments received by that time to be timely submitted.

Issued in Washington, DC, on November 21, 2014.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

[FR Doc. 2014–28127 Filed 11–26–14; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### 10 CFR Part 431

**[Docket No. EERE–2014–BT–STD–0051]**

**RIN 1904–AD40**

### Energy Conservation Program for Certain Commercial and Industrial Equipment: Gas Compressors

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of public meeting.

**SUMMARY:** The U.S. Department of Energy (DOE) is considering establishing energy conservation standards for commercial and industrial compressors. To date, DOE has considered energy conservation standards only for compressors intended to compress air, rather than natural gas. As a result, DOE's current efforts have focused on air compressors. However, DOE is also aware that compressors used to compress natural gas may also use a substantial amount of energy. To improve its understanding of both the technology and market of natural gas compressors, DOE will hold

a public meeting to discuss and receive further comments and supporting data about the characteristics and energy use of this equipment as described in the request for information (RFI) published by DOE on August 5, 2014 (79 FR 45377).

DOE may also opt to publish supplementary information prior to the meeting for stakeholder review. If so, DOE would announce the arrival of that information by publishing a notice of data availability in the **Federal Register.**

**DATES:** *Meeting:* DOE will hold a public meeting on December 17, 2014, from 9:00 a.m. to 1:30 p.m. in Washington, DC. In addition, DOE plans to broadcast the public meeting via webinar. You may attend the public meeting either in person or via webinar.

*Comments:* DOE will accept written comments, data, and other related information about the RFI before and after the public meeting, but not later than January 12, 2015. Interested parties are encouraged to submit comments electronically.

Any person requesting to present an oral statement for the record must notify DOE prior to 4:00 p.m., December 3, 2014, and provide to DOE an electronic copy of the statement with the presenter's name and, if appropriate, the organization the presenter represents, prior to 4:00 p.m., December 10, 2014.

**ADDRESSES:** A copy of the RFI is available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2013-BT-STD-0040-0023.*

The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 4A–104, 1000 Independence Avenue SW., Washington, DC 20585–0121.

Registration information, participant instructions, and also information about the capabilities available to webinar participants will be published in advance on DOE's Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/58.*

Webinar participants are responsible for ensuring their systems are compatible with the webinar software.

*Attendance:* Whereas the meeting is generally open to the public, please note that foreign nationals participating in the public meeting are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Regina Washington at (202) 586–1214 or by email: *foreign visit@ee.doe.gov* so that the necessary procedures can be completed.

Due to the REAL ID Act implemented by the Department of Homeland Security (DHS), there have been recent changes regarding ID requirements for individuals wishing to enter Federal buildings from specific states and U.S. territories. Driver's licenses from the following states or territory will not be accepted for building entry and one of the alternate forms of ID listed below will be required. DHS has determined that regular driver's licenses (and ID cards) from the following jurisdictions are not acceptable for entry into DOE facilities: Alaska, American Samoa, Arizona, Louisiana, Maine, Massachusetts, Minnesota, New York, Oklahoma, and Washington. Acceptable alternate forms of Photo-ID include: U.S. Passport or Passport Card; an Enhanced Driver's License or Enhanced ID-Card issued by the states of Minnesota, New York or Washington (Enhanced licenses issued by these states are clearly marked Enhanced or Enhanced Driver's License); a military ID or other Federal government issued Photo-ID card.

Any person bringing a personal computer into DOE spaces is required to obtain a property pass from DOE Security and should allow an extra 45 minutes for entry processing.

Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov* Follow the instructions for submitting comments.
- *Email: GasCompressors 2014STD0051@ee.doe.gov.* Include docket number EERE- 2014–BT–STD–0051 and/or RIN 1904–AD40 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, portable document format (PDF), or American Standard Code for Information Interchange (ASCII) file format, and avoid the use of special characters or any form of encryption.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

*Instructions:* All submissions received must include the agency name and docket number or RIN for this document. No telefacsimilies (faxes) will be accepted.

*Docket:* The docket is available for review at *http://www.regulations.gov,* and will include **Federal Register** notices, framework document, public meeting attendee lists and transcripts, comments, and other supporting documents/materials throughout the rulemaking process. The regulations.gov Web page contains simple instructions on how to access all documents, including public comments, in the docket. The docket can be accessed by searching for docket number EERE–2014–BT–STD–0051 on the regulations.gov Web site. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8654. Email: *compressors@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

Ms. Johanna Hariharan, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585. Telephone: (202) 287–6307. Email: *Johanna.Hariharan@hq.doe.gov.*

For information on how to submit or review public comments and on how to participate in the public meeting, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov.*

**SUPPLEMENTARY INFORMATION:** Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6291, *et seq.,* (EPCA) sets forth a variety of provisions designed to improve the energy efficiency of products and commercial equipment. (All references to EPCA refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA 2012), Pub. L. 112–210 (December 18, 2012)). Part C of Title III (42 U.S.C.

6311–6317), which was subsequently re-designated as Part A–1 for editorial reasons, established an energy conservation program for certain industrial equipment, including compressors, the subject of today's notice. (42 U.S.C. 6311(2)(B)(i)) Unlike some other types of equipment included in EPCA, the term ''compressors'' is undefined.

Section 341 of EPCA, 42 U.S.C. 6312, provides a general statement of purpose to improve the efficiency of a variety of industrial equipment to conserve the energy resources of the Nation and permits the Secretary of Energy to classify certain equipment as covered equipment if a determination is made by rulemaking that doing so is necessary to carry out the purposes of Part A–1 of EPCA. Consistent with this process, DOE is currently considering whether to regulate the efficiency of a specific group of compressors—commercial and industrial compressors. 77 FR 76972 (December 31, 2012). DOE received comments from interested parties, which are available in docket number EERE–2013–BT–STD–0040. The comments were considered in developing a Framework Document to explain the relevant issues, analyses, and processes it anticipates using when considering new energy conservation standards for commercial and industrial compressors. DOE issued that document and conducted a public meeting to discuss its contents earlier this year. 79 FR 6839 (February 5, 2014). For more information, see *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/58.*

Because the term ''compressors'' is undefined by EPCA, DOE considered a variety of definitions for this term to help ensure a reasonable level of clarity with respect to the type of equipment that might be regulated. In its ongoing proceeding, DOE offered for comment the following definition for ''commercial and industrial compressors'' to clarify the coverage of any potential test procedure or energy conservation standard:

*Compressor:* ''A compressor is an electric-powered device that takes in air or gas at atmospheric pressure and delivers the air or gas at a higher pressure. Compressors typically have a specific ratio, the ratio of delivery pressure to supply pressure, greater than 1.20.''

After further evaluating this definition and considering the comments it received, DOE revisited this definition and offered a revised version. That version, which is based on International Organization for Standardization (ISO) Technical Report (TR) 12942, provides a different definition of the term ''compressor'' from DOE's initial approach. (ISO TR 12942 provides a means to classify modern compressor types along with definitions and related terms that can be utilized in technical and contractual specifications such as a manufacturer's literature and industrial statistics.) DOE offered the following revised definition for public comment:

*Compressor:* a machine or apparatus converting different types of energy into the potential energy of gas pressure for displacement and compression of gaseous media to any higher pressure values above atmospheric pressure with pressure-increase ratios exceeding 1.1.[1]

DOE is continuing to consider revisions to this definition, however, due at least in part to submitted comments in which some parties commented that the specified ratio should be different to avoid overlapping with what the compressor industry generally treats as ''blowers,'' equipment for which DOE may also establish standards. See 78 FR 7306 (February 1, 2013) (announcing DOE's issuance of a framework document related to the potential setting of energy conservation standards for industrial fans and blowers). Also see *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/25.*

While DOE's focus has centered primarily on those compressors that are intended to compress air, compressors are used in a wide variety of applications and may be used to compress different types of gases. DOE is aware that compressors intended to compress other gases such as natural gas (*i.e.,* gas compressors) may, both collectively and individually, use a substantial amount of energy, as such compressors are often very large. An important application of gas compressors is the pipeline transport of natural gas. The drivers for such compressors can be natural gas turbines (particularly since gas is an easily accessible fuel out in the field), steam turbines, internal combustion engines, or electric motors. Recent data provided by the Energy Information Administration (EIA) indicate that the annual amount of natural gas used to transport natural gas through the pipeline system was about 0.7 quadrillion Btu. In addition to the pipeline transport of natural gas, compressors are used in the production and processing of natural gas, which is accounted for in the 1.4 quadrillion Btus of natural gas reported by EIA as ''lease and plant fuel.''[2] As such, DOE is now considering the possibility of setting energy efficiency standards for natural gas compressors, in addition to efficiency standards for commercial and industrial air compressors.

To inform its decision making regarding natural gas compressors DOE will hold a public meeting to discuss and receive further comments and supporting data about the characteristics and energy use of this equipment as described in the RFI. (79 FR 45377)

Issued in Washington, DC, on November 20, 2014.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. 2014–28126 Filed 11–26–14; 8:45 am]

BILLING CODE 6450–01–P

[1] International Organization for Standardization (ISO), ISO 12942, Compressors—Classification—Complementary information to ISO 5390, International Organization for Standardization (ISO), 2012.

[2] Energy Information Administration, Annual Energy Outlook 2014, Table 2.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2014–0778; Directorate Identifier 2014–NM–095–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. This proposed AD was prompted by reports of corrosion found on the mating surfaces between certain skin and stringers at circumferential skin splices. This proposed AD would require general visual inspections of the fuselage skin at certain lower circumferential splices for the presence of existing external doublers, repetitive inspections of the fuselage skin, and related investigative and corrective actions if necessary. We are proposing this AD to detect and correct compromised fillet seals, which can result in corrosion and skin cracking and consequent loss of capability to support limit loads.

**DATES:** We must receive comments on this proposed AD by January 12, 2015.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0778; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0778; Directorate Identifier 2014–NM–095–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

## Discussion

We received reports of corrosion found on the mating surfaces between the skin and stringers in Section 42 and Section 46 at circumferential skin splices. A review of the applicable drawings shows that the stringers in these circumferential splice locations were not installed with faying surface sealant. Fillet seals were applied on both the upper and lower sides of the stringer, so if a fillet seal is compromised, moisture can enter the area and result in corrosion in the area between the skin and the stringer. This condition, if not corrected, could result in skin cracking, which could result in a loss of capability to support limit loads.

## Relevant Service Information

We reviewed Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0778.

## FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

## Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information identified previously, except as discussed under ''Difference Between the Proposed AD and the Service Information.''

The phrase ''related investigative actions'' is used in this proposed AD. ''Related investigative actions'' are follow-on actions that (1) are related to the primary actions, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

## Explanation of ''RC'' Steps in Service Information

The FAA worked in conjunction with industry, under the Airworthiness Directives Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement was a new process for annotating which steps in the service information are required for compliance with an AD. Differentiating these steps from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The actions specified in the service information described previously include steps that are labeled as RC (required for compliance) because these steps have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

As noted in the specified service information, steps labeled as RC must be done to comply with the proposed AD. However, steps that are not labeled as RC are recommended. Those steps that are not labeled as RC may be deviated from, done as part of other actions, or done using accepted methods different from those identified in the service information without obtaining approval of an alternative method of compliance (AMOC), provided the steps labeled as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to steps labeled as RC will require approval of an AMOC.

## Difference Between Proposed Rule and Service Bulletin

Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

## Costs of Compliance

We estimate that this proposed AD affects 165 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection ..... | Up to 121 work-hours × $85 per hour = $10,370 ..... | $0 | Up to $10,285 ..... | Up to $1,697,025. |

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**The Boeing Company:** Docket No. FAA–2014–0778; Directorate Identifier 2014–NM–095–AD.

**(a) Comments Due Date**

We must receive comments by January 12, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company Model 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes; certificated in any category, as identified in Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by reports of corrosion found on the mating surfaces between certain skin and stringers at circumferential skin splices. We are issuing this AD to detect and correct compromised fillet seals, which can result in corrosion and skin cracking and consequent loss of capability to support limit loads.

**(f) Compliance**

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

**(g) Inspections and Repair for Group 1 Airplanes**

For airplanes identified as Group 1 in Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014, except as provided by paragraph (i)(1) of this AD, do external general visual inspections for the presence of external doublers on the fuselage skin, and do the applicable actions specified in paragraphs (g)(1) and (g)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014, except as required by paragraph (i)(2) of this AD.

(1) Before further flight, do an external lower lobe doubler surface low frequency eddy current (LFEC) inspection for skin cracks or do an external lower lobe skin surface LFEC inspection for corrosion, as applicable, and do all applicable related investigative and corrective actions. Do all applicable related investigative and corrective actions before further flight.

(2) Do all applicable repetitive inspections of the fuselage skin thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014.

**(h) Inspections and Repair for Group 2 Airplanes**

For airplanes identified as Group 2 in Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014, except as provided by paragraph (i)(1) of this AD, do external general visual inspections for the presence of external doublers on the fuselage skin, and do the applicable actions specified in paragraphs (h)(1) and (h)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014, except as required by paragraph (i)(2) of this AD.

(1) For affected areas with any existing repair doubler: Before further flight, do inspections and applicable repairs using a method approved in accordance with the procedures specified by paragraph (j) of this AD.

(2) For affected areas with no existing repair doubler, do the applicable actions specified in paragraph (h)(2)(i) and (h)(2)(ii) of this AD.

(i) Before further flight, do an external lower lobe skin surface LFEC for corrosion, an external lower lobe doubler surface LFEC inspection for skin cracks, and an external

lower lobe skin detailed inspection for cracks and do all applicable related investigative and corrective actions. Do all applicable related investigative and corrective actions before further flight.

(ii) Do all applicable repetitive inspections of the fuselage skin thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014.

**(i) Exceptions to Service Information Specifications**

(1) Where Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Although Boeing Alert Service Bulletin 747–53A2861, dated April 1, 2014, specifies to contact Boeing for repair data, and specifies that action as ''RC'' (Required for Compliance), this AD requires repair before further flight using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

**(j) Alternative Methods of Compliance (AMOCs)**

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

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

(3) Except as required by paragraph (i) of this AD: If the service information contains steps that are labeled as RC (Required for Compliance), those steps must be done to comply with this AD; any steps that are not labeled as RC are recommended. Those steps that are not labeled as RC may be deviated from, done as part of other actions, or done using accepted methods different from those identified in the specified service information without obtaining approval of an AMOC, provided the steps labeled as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to steps labeled as RC require approval of an AMOC.

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

**(k) Related Information**

(1) For more information about this AD, contact Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@faa.gov.*

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

Issued in Renton, Washington, on November 19, 2014.

**Suzanne Masterson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–28124 Filed 11–26–14; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0777; Directorate Identifier 2014–NM–088–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 airplanes. This proposed AD was prompted by numerous reports of failures of the proximity sensor within the slat skew detection mechanism assembly (DMA) leading to slats up landing events. This proposed AD would require replacing the slat skew DMAs with new slat skew DMAs, and marking the existing identification plates on the slat with the new part number. We are proposing this AD to prevent failure of the proximity sensor, which could result in the slats being shut down and a slats up high speed landing. This condition, in combination with abnormal landing conditions such as a short runway or adverse weather conditions, could result in a runway excursion.

**DATES:** We must receive comments on this proposed AD by January 12, 2015.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0777; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Douglas Tsuji, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–917–6546; fax: 425–917–6590; email: *douglas.tsuji@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0777; Directorate Identifier 2014–NM–088–AD'' at the beginning of your comments. We specifically invite

comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

**Discussion**

We have received numerous reports of failures of the proximity sensor within the slat skew detection mechanism assembly (DMA) leading to slats up landing events. It was determined that the failed sensors had broken magnet wires due to stresses induced by thermal expansion and contraction of an epoxy applied around them. This condition, if not corrected, could result in failure of the proximity sensor, which could result in the slats being shut down and a slats up high speed landing. This condition in combination with abnormal landing conditions such as a short runway or adverse weather conditions, could result in a runway excursion.

**Relevant Service Information**

We reviewed Boeing Alert Service Bulletin B787–81205–SB270021–00, Issue 001, dated March 20, 2014. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0777.

**FAA's Determination**

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

**Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in the service information described previously.

**Costs of Compliance**

We estimate that this proposed AD affects 15 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Replacement | 11 work-hours × $85 per hour = $935 | $0 | $935 | $14,025 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**The Boeing Company:** Docket No. FAA–2014–0777; Directorate Identifier 2014–NM–088–AD.

**(a) Comments Due Date**

We must receive comments by January 12, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company Model 787–8 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB270021–00, Issue 001, dated March 20, 2014.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by numerous reports of failures of the proximity sensor within the slat skew detection mechanism assembly (DMA) leading to slats up landing events. We are issuing this AD to prevent failure of the proximity sensor, which could result in the slats being shut down and a slats up high speed landing. This condition, in combination with abnormal landing conditions such as a short runway or adverse weather conditions, could result in a runway excursion.

**(f) Compliance**

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

**(g) Replacement**

Within 24 months after the effective date of this AD: Replace the slat skew DMA in slat number 5 and slat number 8 with new slat skew DMA, and mark the existing identification plates on the slat with the new

part number, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB270021–00, Issue 001, dated March 20, 2014.

**(h) Parts Installation Prohibitions**

(1) As of the effective date of this AD, no person may install a slat skew DMA, part number P683A0001–03, on any airplane.

(2) As of the effective date of this AD, no person may install, on any airplane, a slat skew DMA in slat number 5, having part number 145Z0201–11–8, 145Z0201–21–4, 145Z0201–21–3, 145Z0201–21–5, 145Z0201–21–8, 145Z0201–21–9, 145Z0201–31–1, or 145Z0201–33–1.

(3) As of the effective date of this AD, no person may install, on any airplane, a slat skew DMA in slat number 8, having part number 145Z0201–12–8, 145Z0201–22–4, 145Z0201–22–3, 145Z0201–22–5, 145Z0201–22–8, 145Z0201–22–9, 145Z0201–32–1, or 145Z0201–34–1.

**(i) Alternative Methods of Compliance (AMOCs)**

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

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

**(j) Related Information**

(1) For more information about this AD, contact Douglas Tsuji, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–917–6546; fax: 425–917–6590; email: *douglas.tsuji@faa.gov.*

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

Issued in Renton, Washington, on November 13, 2014.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–28130 Filed 11–26–14; 8:45 am]

**BILLING CODE 4910–13–P**

## FEDERAL TRADE COMMISSION

## 16 CFR Part 455

## Used Motor Vehicle Trade Regulation Rule

**AGENCY:** Federal Trade Commission (''FTC'' or ''Commission'').

**ACTION:** Supplemental notice of proposed rulemaking (''SNPRM''); request for comment.

**SUMMARY:** The FTC is proposing further amendments to the Used Motor Vehicle Trade Regulation Rule (''Rule'' or ''Used Car Rule'') that would require dealers to indicate on the Buyers Guide whether they obtained a vehicle history report, and, if so, to provide a copy of the report to consumers who request it; revise the Buyers Guide statement describing the meaning of an ''As Is'' sale in which a dealer offers a vehicle for sale without a warranty; and move boxes to the front of the Buyers Guide for dealers to indicate whether non-dealer warranties apply to a vehicle. Based on the FTC's review of the public comments, the Commission proposes these amendments to promote consumer access to vehicle history information, to clarify the meaning of ''As Is'' in the sale of used vehicles without warranties, and to make disclosures concerning non-dealer warranties more prominent. The FTC is not adopting any final amendments to the Used Car Rule at this time. It continues to consider comments submitted in response to its Notice of Proposed Rulemaking (''NPRM'') published in December 2012 and seeks additional comments in this SNPRM.

**DATES:** Comments must be received on or before January 30, 2015.

**ADDRESSES:** Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/usedcarrulesnprm* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Used Car Rule Regulatory Review, 16 CFR part 455, Project No. P087604,'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/usedcarrulesnprm* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Used Car Rule Regulatory Review, 16 CFR part 455, Project No. P087604,'' on your comment, and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex A), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex A), Washington, DC 20024. This document, and public records related to the FTC's regulatory review, are also available at that address and at *www.ftc.gov.*

**FOR FURTHER INFORMATION CONTACT:** John C. Hallerud, (312) 960–5634, Attorney, Midwest Region, Federal Trade Commission, 55 West Monroe Street, Suite 1825, Chicago, IL 60603.

**SUPPLEMENTARY INFORMATION:**

### I. Background

In December 2012, the FTC issued an NPRM setting forth proposed changes to the FTC's Used Car Rule.[1] The Used Car Rule requires dealers to display on used cars offered for sale a window sticker called a ''Buyers Guide'' containing warranty and other information. Among other things, in the NPRM, the Commission proposed adding a statement to the Buyers Guide advising consumers about the availability of vehicle history reports and directing consumers to an FTC Web site for more information about those reports. The Commission also proposed changing the statement on the Buyers Guide that describes the meaning of ''As Is'' when a dealer offers to sell a used vehicle without a warranty. In response to the NPRM, the Commission received nearly 150 comments from members of the public including automobile dealers, consumer attorneys, consumer advocacy organizations, automobile dealer associations, providers of vehicle history reports, legal aid agencies, consumer protection agencies, and state attorneys general.[2] After reviewing the comments, the Commission now proposes additional modifications to the proposal made in the NPRM to address concerns raised by commenters. The Commission also seeks comments on alternative proposals and issues that commenters have submitted or identified.

The Commission now proposes to amend the Used Car Rule to require that dealers who have obtained a vehicle history report on an individual vehicle indicate on the Buyers Guide that they have obtained such a report, and will provide a copy of the report to

[1] 77 FR 74746 (Dec. 17, 2012).

[2] The comments are available at: *http://www.ftc.gov/os/comments/usedcarrulenprm/index.shtm.* The comments are numbered, and the Commission has assigned each a number that follows the name of the commenter. Comments cited in this notice are identified by the name of the commenter (organization or individual) followed by the comment number (*e.g.,* Brown (1)).

consumers who request one. The proposal would retain with modifications the statement proposed in the NPRM to encourage consumers to obtain vehicle history reports, check for safety recalls, and to visit a proposed FTC Web site for more information. The Commission proposes to modify the Buyers Guide by adding a new box that dealers will be required to mark to indicate that they have obtained a vehicle history report. The proposed amendment would require those dealers who have obtained a vehicle history report, and who are required to check the box indicating that they have a vehicle history report, to provide a copy to consumers upon request. The proposed amended Rule would not require dealers to obtain vehicle history reports and would not mandate a specific type of vehicle history report or designate a specific provider of the reports.

The Commission also proposes modifying the Buyers Guide statement that describes the meaning of an ''As Is'' sale. In the NPRM, the Commission proposed changing the Buyers Guide statement describing ''As Is'' sales to make the statement easier to read and to understand. In light of the many comments critical of the proposed ''As Is'' statement in the NPRM, the Commission now proposes additional changes to the Buyers Guide statement describing ''As Is'' sales. The proposed statement in this SNPRM is intended to clarify that ''As Is'' means that a dealer is offering the vehicle for sale without a warranty, *i.e.,* without any undertaking or promise by the dealer to be responsible for post-sale repairs to the vehicle.

The NPRM also proposed minor changes to the wording of the ''Implied Warranties Only'' disclosure for use in jurisdictions that prohibit ''As Is'' used vehicle sales.[3] No comments were received on the wording change. The NPRM wording has been retained in the Buyers Guide in this SNPRM (Figure 2). The Commission does not seek comments on the proposed change here.

The Buyers Guide in this SNPRM incorporates several other changes that were proposed in the NPRM and subject to public comment. The revised Buyers Guide includes a statement, in Spanish, on the face of the English language Buyers Guide advising Spanish-speaking consumers to ask for the Buyers Guide in Spanish if they cannot read it in English. It also provides a new method for dealers to disclose both ''dealer'' and ''non-dealer'' warranties by providing boxes on the front of the Buyers Guide where dealers have the option to indicate manufacturers' or other third-party warranties. In response to the many comments suggesting that these disclosure boxes would be more noticeable to consumers on the front of the Guide, the Commission now proposes moving them to the front of the Guide.[4]

## II. Proposed Amendments and Revised Buyers Guide

### *A. Vehicle History Information*

#### i. Background

In the NPRM, the Commission proposed a Buyers Guide containing a statement that advised consumers to obtain vehicle history reports and directed consumers to an FTC Web site for more information.[5] Vehicle history information is available from a variety of public and private sources. These sources include state titling agencies (*e.g.,* departments of motor vehicles (''DMVs'')), the National Motor Vehicle Title Identification System (''NMVTIS''), and commercial vehicle history providers, such as CARFAX and Experian's AutoCheck. Commenters proposed several different approaches for making vehicle history information more accessible to consumers.

One source of vehicle history information is NMVTIS—a nationwide database of vehicle history information created pursuant to federal law.[6] NMVTIS is designed to enable nationwide access to title information submitted by state titling agencies, and information concerning junk or salvage vehicles that insurers, recyclers, and salvage yards are required by law to submit.[7] NMVTIS includes the most recent odometer reading in a state's titling data.[8] It is intended to serve as a reliable source of title and brand[9] history, but it does not contain detailed information regarding a vehicle's repair history.[10] Information on previous significant damage may not be included in NMVTIS if a vehicle was never determined to be a ''total loss'' by an insurer (or other appropriate entity) or branded by a DMV.[11] On the other hand, an insurer may be required to report a vehicle as a ''total loss'' even if the state's titling agency does not brand it as ''junk'' or ''salvage.''[12]

The NMVTIS Web site, *www.vehiclehistory.gov,* contains live links to the Web sites of approved non-governmental entities that sell NMVTIS reports to the public. Consumers can purchase NMVTIS reports from these vendors for as little as two dollars. Approved providers to both consumers and dealers are subject to quality control standards designed to ensure consistency with the intent and purpose of the Anti-Car Theft Act and its implementing regulations.

Title and other vehicle history information are also available from commercial vendors such as CARFAX and Experian's AutoCheck. CARFAX and AutoCheck enable consumers to purchase vehicle history reports, and some dealers distribute them to consumers free of charge. CARFAX and AutoCheck obtain data from state titling agencies, insurers, repair facilities, automobile auctions, salvage facilities, and fleet rental firms. These reports include information on prior ownership, usage, damage, repair history, etc. They may even disclose whether the car has had regular oil changes. In addition, both CARFAX and AutoCheck offer consumers an option to pay a flat fee to receive reports on as many individual vehicles as the consumers wish.

Commercial vehicle history reports may include vehicle condition data from sources other than NMVTIS.[13] According to CARFAX, NMVTIS reports carry limited title, odometer, brand, and salvage/total loss information, whereas commercial reports may contain ''a wealth of information about brands, total losses, prior wrecks, airbag deployments, open recalls, odometer readings, and even maintenance history.''[14] Experian noted that its AutoCheck vehicle history reports can include information about fire and flood

[3] *See* 77 FR at 74768 (16 CFR 455.2(b) (ii)), 74770 (Figure 2).

[4] The proposed non-dealer warranty boxes on the back of the Buyers Guide are shown in Figure 3 of the NPRM. *Id.* at 74773.

[5] *Id.* at 74754–74756.

[6] NMVTIS was created pursuant to the Anti-Car Theft Act of 1992, 49 U.S.C. 30501–30505. The United States Department of Justice published the final rule implementing NMVTIS in 2009. 28 CFR 25, 74 FR 5740 (Jan. 30, 2009).

[7] *See* Understanding an NMVTIS Vehicle History Report, available at: *http://www.vehiclehistory.gov/nmvtis_understandingvhr.html.*

[8] *See* Consumer Access Product Disclaimer available through *http://www.vehiclehistory.gov/index.html.*

[9] Brands are descriptive labels that many state DMVs place on car titles regarding the status of a motor vehicle, such as ''junk,'' ''salvage,'' and ''flood.'' The meaning of an individual brand differs from state to state, and the brands that states assign also differ by state.

NMVTIS keeps a history of all brands, if any, that have been assigned to the vehicle by any state. *See* *http://www.vehiclehistory.gov/nmvtis_understandingvhr.html.*

[10] *See* Consumer Access Product Disclaimer available through: *http://www.vehiclehistory.gov/index.html.*

[11] *See Id.*

[12] *Id.*

[13] Consumer Access Product Disclaimer available through: *http://www.vehiclehistory.gov/index.html.*

[14] CARFAX (6) at 1.

damage; accident damage, including the number and severity of any accidents; number of prior owners; auction inspection announcements; salvage, theft, or lemon; fleet or rental use; frame damage; service and maintenance records; and manufacturer recalls.[15]

ii. Comments and Proposals on Vehicle History Reports

The Commission received various comments and proposals about the potential costs and benefits of including references or requirements relating to vehicle history reports in the Buyers Guide. Some commenters supported the Commission's NPRM proposal to add a statement to the Buyers Guide advising consumers to obtain a vehicle history report and directing consumers to an FTC Web site (the ''NPRM Vehicle History Approach'').[16] Two vehicle history vendors recommended listing only an FTC Web site on the Buyers Guide, explaining that the FTC should avoid promoting a particular vendor or type of technology to deliver vehicle history reports.[17] In addition, the auto dealer associations recommended that the Rule not favor a particular source of vehicle history information or require dealers to obtain reports.[18]

Several consumer groups and other commenters recommended that the FTC follow the approach of California Assembly Bill 1215 (codified as Cal. Vehicle Code 11713.26) (''AB 1215'') by requiring dealers to obtain NMVTIS reports, to post a warning if a title brand or salvage history appears in a NMVTIS report, and to provide a copy of the NMVTIS report to consumers upon request (the ''AB 1215 Vehicle History Approach'').[19] A vehicle history vendor also proposed that the FTC require dealers to obtain NMVTIS reports.[20]

Another commercial vendor of NMVTIS reports, Auto Data Direct (''ADD''), recommended that the Buyers Guide should refer exclusively to the NMVTIS Web site and should advise consumers to ''[g]et information about the vehicle's history from one of the National Motor Vehicle Title Information System vehicle history providers found at *http://www.vehiclehistory.gov.*'' [21] (The ''ADD Vehicle History Approach.'') ADD also proposed adding a quick response (QR) code to the Buyers Guide that would link a smart phone to *www.vehiclehistory.gov* or permit dealers to use a QR code that would link to a vehicle history report previously obtained by the dealer.[22]

Consumers for Auto Reliability and Safety (''CARS'') proposed adding a statement to the Buyers Guide where dealers would be required to indicate the date on which the dealer obtained the required NMVTIS report.[23] The Commission, however, observes that requiring dealers to disclose on the Buyers Guide the date that the dealer obtained a report appears to be unnecessary because that date typically appears on the reports. CARS noted that eliminating the statement recommending that consumers visit an FTC Web site would create more space for the NMVTIS statement on the Buyers Guide.[24]

Two commenters also suggested that vehicle history information could help protect consumers from vehicles damaged by Hurricane Sandy and other natural disasters. The NSVRP recommended that the Commission require that dealers obtain NMVTIS reports and affix warning labels,[25] and the North Carolina Attorney General's office (''NC AG'') recommended that the Commission require dealers to disclose vehicle history report information on the Buyers Guide (the ''NC AG Vehicle History Approach'').[26] According to these commenters, Hurricane Sandy damaged an estimated 250,000 cars.[27] Although some damaged vehicles were crushed and salvaged and others sold for export, NSVRP noted that many were sold through less ''formally regulated channels including Craigslist, eBay Motors, curb stoning [sellers posing as private individuals to evade dealer regulatory requirements] or other means . . . to bypass proper titling, branding and reporting'' and thereby hide total loss histories of Hurricane Sandy damaged vehicles.[28] The comment explained that various vehicle history report services have not been able to capture many of the Hurricane Sandy flood transactions because of these violations.[29] NSVRP suggested that by requiring sellers to check each vehicle's history and to affix a warning disclosure modeled on AB 1215, the ''FTC may provide a cause of action for a defrauded party to be able to seek recourse from the parties in the supply chain who violated the law when they did not report into NMVTIS.'' [30] If NSVRP is correct, however, that certain marketers of Hurricane Sandy damaged vehicles fail to comply adequately with their titling, branding, and reporting obligations, NMVTIS reports may not provide accurate information with respect to some vehicles.

The Iowa Attorney General (''IA AG''), representing the views of twenty-two state attorneys general, proposed that the Buyers Guide include a box and require dealers to check that box if they know that the vehicle's title contains negative brand information (the ''IA AG Vehicle History Approach'').[31] A checked box would indicate that the vehicle's title ''will carry one or more of the following brands: Salvage, Prior Salvage, Rebuilt, Remanufactured, Flood, Lemon Law, or similar brand.'' [32] The IA AG's proposal does not require dealers to obtain NMVTIS reports or any other type of report from a designated vendor or source, and does not address whether the proposal might prompt dealers to procure vehicle history reports.[33] According to the IA AG, every state unfair or deceptive trade practices law already requires dealers who are aware of negative title information to disclose that information.[34] Therefore, the comment states, ''requiring dealers to check a box merely expressly requires dealers to engage in an act they are already required to perform.'' [35]

The Center for Auto Safety (''CAS'') recommended requiring that dealers check a box disclosing whether the dealer has a vehicle history report.[36] Dealers who check the box would be required to provide a copy of any

[15] Experian (15) at 3.

[16] American Automobile Ass'n (''AAA'') (47) at 2; CARFAX (6) at 1; Experian (15) at 5; Nat'l Independent Automobile Dealers Ass'n (''NIADA'') (13) at 3 (proposal for a statement ''directing consumers to the Web site'' about vehicle history information ''is an acceptable compromise'').

The following statement appears at the bottom of the front side of the Buyers Guide proposed in the NPRM:

Before you buy this used vehicle:

1. Get information about its history. Visit the Federal Trade Commission at: *ftc.gov/usedcars.* You will need the vehicle identification number (VIN), shown above, to make the best use of the resources on this site.

[17] CARFAX (6) at 2–3; Experian (15) at 1. Nat'l Automobile Dealers Ass'n (''NADA'') commented that the Web site, if created at all, ''should be limited to educational materials and should not endorse, link to, or otherwise imply the legitimacy of any particular vehicle history company, report, or service.'' NADA (7) at 3.

[18] *E.g.,* NIADA (13) at 3.

[19] *E.g.,* CARS (22); Legal Aid Justice Center (''LAJC'') (18); Nat'l Salvage Vehicle Reporting Program (''NSVRP'') (54); Nat'l Vehicle Service (''NVS'') (51).

[20] CARCO (44). ADD (17) at 3–4.

[21] ADD (17) at 3–4.

[22] *Id.* at 4.

[23] CARS (22) at 7.

[24] *Id.*

[25] *E.g.,* NSVRP (54).

[26] NC AG (11).

[27] NSVRP (54); NC AG (11).

[28] NSVRP (54) at 13.

[29] NSVRP (54) at 13.

[30] NSVRP (54) at 17.

[31] IA AG (12) at 5.

[32] *Id.* (Attachment).

[33] *Id.*

[34] *Id.* at 5.

[35] *Id.* at 6.

[36] CAS (3) at 4.

reports in their files to requesting consumers.[37] The Commission incorporates this recommendation into its revised proposal, described below as the SNPRM Vehicle History Approach.

Finally, some commenters stated that the Rule should not address the issue of vehicle history at all.[38] NADA commented that it believed that the Buyers Guide is fundamentally a warranty disclosure document and questioned whether vehicle history information is an appropriate subject for the Buyers Guide.[39] NADA recommended that the FTC include a disclaimer about the reliability of vehicle history reports and cautioned the FTC against endorsing any particular vehicle history company, report, or service.[40] NIADA raised concerns about potential liability for dealers, if the FTC requires dealers to obtain vehicle history reports.[41] Thus, NIADA recommended a ''safe harbor'' from liability for dealers who are required to report vehicle history information. NIADA asserts that vehicle history reports are not static and are regularly updated as new information is collected in the databases on which the reports are based. Accordingly, its comment notes that ''any history database . . . is only as good as the data in it.'' [42] The comment states that dealers necessarily would have to run daily vehicle history or NMVTIS reports on each vehicle in inventory ''hoping that each daily report contains completely up to date information about each vehicle and that such information is accurate.'' [43] The comment concludes that these reports would be material information that state unfair or deceptive trade practices laws would require dealers to disclose and the dealers ''would be automatically liable for providing false or incomplete information'' if the reports are inaccurate or outdated.[44] NIADA commented that the NPRM's proposed approach of directing consumers to a Web site and advising an independent inspection is ''an acceptable compromise.'' [45]

Two commenters addressed safety recall information, which typically does not appear in NMVTIS reports or vehicle titles. The United States Department of Transportation (''DOT'') provides information on safety recalls through the National Highway Traffic Safety Administration Web site, *www.safecar.gov*.[46] To encourage consumers to utilize information available from the site, DOT recommended that the Buyers Guide caution consumers to check for outstanding safety recalls and to review a vehicle's mileage history to determine whether a vehicle's odometer is an accurate indication of its mileage history.[47] CAS also urged the FTC to include safety recall information on the Buyers Guide.[48]

iii. Proposed Modifications To Address Vehicle History Reports (the ''SNPRM Vehicle History Approach'')

To prevent deception in the market for used vehicles, and in response to the concerns raised by the comments discussed above, the Commission now proposes adopting an approach to vehicle history information similar to the one recommended by CAS and revising the NPRM's proposed Buyers Guide statement concerning vehicle history reports. The Commission seeks comments on this revised proposal. Based on CAS's and other comments, the Commission concludes that this approach will help prevent deception in the market for used vehicles. Accordingly, the Commission proposes amending the Rule to require that dealers indicate on the Buyers Guide whether they have obtained a vehicle history report and, if so, to provide a copy of the report upon request by a consumer.

The Commission believes that this proposed approach would impose minimal burdens upon used car dealers, while providing consumers with important information about used vehicles and ensuring that dealers do not fail to disclose material information if they have obtained negative information in a vehicle history report. This disclosure requirement is also consistent with dealers' existing legal obligations. As the IA AG noted in its comments, ''Under state and federal law, motor vehicle dealers that know of negative title information have a legal obligation to disclose it to consumers'' and ''[f]ailing to do so violates every state UDAP statute.'' [49] The proposed disclosure requirement ensures that dealers who have obtained vehicle history reports—which may contain negative vehicle history information—make such reports available to consumers.

Several commenters urged the Commission to avoid requiring dealers to obtain vehicle history reports or requiring the use of a particular type of report or vendor.[50] To address dealer concerns about potential liability for inaccurate information in vehicle history reports and to promote consumer choice among types of vehicle history reports and sources of vehicle history information, the proposed Rule would not require dealers to obtain particular types of vehicle history reports, and would not require dealers to obtain those reports from specified vendors. Dealers who have obtained vehicle history reports would be required to check a box indicating that they have such a report and will provide the consumer with a copy upon request. The box would be accompanied by statements describing vehicle history reports and encouraging consumers to obtain a vehicle history report regardless of whether the box is checked.

The statements would also direct consumers to a planned FTC Web site for information about obtaining vehicle history reports, searching for safety recalls, and other topics. The Commission proposes adding safety recalls to the list of information available at the planned FTC Web site. Accordingly, the proposed Buyers Guide in this SNPRM recommends that consumers obtain a vehicle history report and visit a planned FTC Web site for information on how to search for safety recalls and how to obtain other vehicle history information. Although the proposed Buyers Guide does not include a recommendation that consumers check odometer readings, odometer information is typically included in the reports and the advice to review odometer history is part of the advice that Commission staff anticipates making available from the Web site.

Accordingly, the Commission proposes adding the following box and accompanying statements to the front of the Buyers Guide:

☐ IF THE DEALER CHECKED THIS BOX, THE DEALER HAS A VEHICLE HISTORY REPORT AND WILL PROVIDE A COPY TO YOU UPON REQUEST. The Vehicle History Report may contain information from title records, salvage yards, and insurance companies. It may also include salvage,

[37] *Id.*

[38] For a various reasons, some commenters stated that the Rule should not be changed. *E.g.,* Christensen (106); Emory, Lorrae (105); Grandjean, Dalma (45); Wright, Cheryl (100); Young (102).

[39] NADA (7) at 3.

[40] *Id.*

[41] Supplementary NIADA comment on Regulatory Review, Supplementary Comment 2, at 2–3 (Mar. 16, 2009).

[42] *Id.*

[43] *Id.*

[44] *Id.*

[45] NIADA (7) at 3.

[46] *Id.* at 1.

[47] DOT at 2; *see also* CAS (3) at 4.

[48] CAS (3) at 4.

[49] IA AG at 5.

[50] *See, e.g.,* NADA (7) at 3; Supplementary NIADA Comment at 2–3; CARFAX (6) at 2, 3; Experian (15) at 5, 6.

repair, accident, and prior ownership history.[51]

Regardless of whether the box is checked, the FTC recommends that you obtain a Vehicle History Report. For information on how to obtain a vehicle history report, how to search for safety recalls, and other topics, visit the Federal Trade Commission at *ftc.gov/used* cars. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on this site.

The Commission proposes using a single box for dealers to indicate whether they have obtained a vehicle history report. By leaving the box unchecked, dealers would indicate that they have not obtained a vehicle history report. This is also consistent with the Rule's approach to service agreements, where dealers only check a box if they are offering that to consumers.

Dealers who do not now obtain vehicle history reports would not be required to obtain them or to make any additional disclosures on the Buyers Guide. The additional burden imposed on dealers who already obtain vehicle history reports would be minimal. Dealers who already have the reports are unlikely to need to make additional disclaimers, because the reports are typically dated and contain disclaimers about the limits of the data in them. The only additional burden placed on these dealers is a requirement that they check a box on the Buyers Guide and provide requesting consumers a copy of a report that the dealer already has obtained. The second paragraph following the vehicle history box encourages consumers to obtain their own vehicle history reports to reduce consumer reliance on dealers for information. The paragraph also advises consumers to search for safety recalls, and encourages consumers to visit an FTC Web site for more information. By doing so, the Commission combines the benefit of immediate access to a dealer's vehicle history report with the benefits of the planned FTC Web site that would provide consumers with additional information on how to obtain vehicle history reports and related information.

In the NPRM, the Commission proposed advising consumers to obtain a vehicle history report and directing consumers to an FTC Web site that would provide information about various forms of vehicle history information and potential sources for that information. [52] The alternative approach in this SNPRM would help prevent deception in the market for used vehicles, and further promote consumer access to vehicle history information, by allowing consumers to obtain such information directly from dealers. This revised approach increases the likelihood that consumer would be aware of pertinent information in the dealer's possession. In addition, consumers could supplement a vehicle history report provided by a dealer with other reports and information available on the proposed FTC Web site.

The proposed single check box disclosure format is adapted from CAS proposal that, if dealers have a vehicle history report, ''they must give a copy to a prospective purchaser'' and mark ''a box on the Buyers Guide disclosing whether they have a copy and that a copy is available upon request.'' [53]

The proposal is also similar to IA AG's proposal that dealers mark a box indicating that the vehicle's title carries a brand.[54] The IA AG proposes a check box that states: ''If the dealer checked this box, it means that the title for this vehicle will carry one or more of the following brands: Salvage, Prior Salvage, Rebuilt, Remanufactured, Flood, Lemon Law, or a similar brand.'' [55] In the IA AG's proposal, an unmarked box would indicate that the dealer is unaware whether the title carries a brand. Unlike the IA AG's proposal, this SNPRM does not require dealers who have obtained vehicle history reports to disclose on the Buyers Guide that a vehicle's title carries a brand, but only that the dealer has obtained a report and will provide a copy to requesting consumers. Although the proposed Buyers Guide requires only disclosures concerning vehicle history reports, other laws, such as those prohibiting unfair or deceptive practices, may obligate dealers who are aware of title brands or other material information in vehicle history reports to provide appropriate disclosures to consumers.

The Commission is not inclined to require that dealers obtain vehicle history reports and disclose information in them in ways similar to AB 1215. Under the AB 1215 approach, consumers must rely upon the dealer for information. AB 1215 requires dealers to post a warning label if NMVTIS shows a title brand or salvage or insurance information. Consumers cannot tell from the warning label what title brands, insurance information, or salvage history may apply to a vehicle without asking the dealer for information and/or a copy of the NMVTIS report. A vehicle without a warning label will not alert consumers to review a vehicle history report or to investigate other sources of information. An AB 1215 approach to vehicle history information mandates the use of NMVTIS reports and the IA AG's proposal focuses on title brands to the exclusion of the variety of other vehicle history information that is available. The lack of an AB 1215 warning label or a check in the title brand box in the IA AG's proposal indicates at most that the dealer did not find insurance or salvage information in NMVTIS or a title brand, not that a vehicle was free from damage or mechanical flaws. The lack of disclosures could give consumers a false sense of security about the condition of a vehicle and would not alert consumers to sources of information such as commercial vehicle history reports that could reveal hidden damage or mechanical defects that NMVTIS is not designed to detect.

For these reasons, the Commission does not propose adopting either the AB 1215 or the IA AG's approach to vehicle history reports. The Commission, however, proposes to modify the approach to vehicle history reports it proposed in the NPRM. In this SNPRM, the Commission proposes a Rule that would require dealers who already have obtained vehicle history reports to check a box on the Buyers Guide indicating that they have a vehicle history report and will provide it upon request. Dealers who have not obtained a vehicle history report would not be required to obtain them or to make any additional disclosures on the Buyers Guide.

The Commission invites comments on its recommended Rule and modification of the Buyers Guide (the SNPRM Vehicle History Approach). The Commission also invites comments on the alternative proposed approaches discussed above. When commenting on the various proposed approaches, please quote and identify the proposed

[51] NMVTIS reports provide current state of title, latest title information, title brand information, odometer reading, total loss history (reported by insurers), and salvage history (reported by junk/salvage yards). Commercial reports, such as CARFAX and AutoCheck, could include additional or different information and rely on different sources.

CARFAX submitted a proposed Buyers Guide that contains a box that dealers would check to indicate that they have a vehicle history report and will provide it to the consumer. If the dealer does not have a vehicle history report, the dealer would check a different box that would instruct consumers to obtain a vehicle history report independently. The box further advises consumers that the vehicle history report should include information that, presumably, would appear in a CARFAX report: ''title brands, total losses, accidents, mileage, owners, service and maintenance, and airbag deployments.'' CARFAX (6).

[52] *See* 77 FR at 74755–74756.

[53] CAS (3) at 4.

[54] IA AG (12) 5–6, attachment.

[55] *Id.*

approach by its assigned name[56] and provide any data, consumer surveys, or other evidence that supports your comments.

*B. ''As Is'' Statement*

The existing Buyers Guide contains a box that dealers who offer to sell a used car without a warranty are required to mark to indicate that the vehicle is offered ''As Is,'' *i.e.,* without a warranty from the dealer. Adjacent to that box is a statement describing the meaning of the term ''As Is.'' In the NPRM, the Commission proposed modifying that statement to make it easier to read and to understand, but not to change the statement's meaning. After reviewing the comments that addressed the ''As Is'' statement, the Commission now proposes to adopt a modified ''As Is'' Statement.

i. Existing ''As Is'' Statement

The existing ''As Is'' statement on the Buyers Guide has been part of the Buyers Guide since the Rule's promulgation in 1984. This ''As Is'' statement was formulated to correct consumer misunderstanding of the term ''As Is.''[57] The existing Buyers Guide states:

☐ AS IS—NO WARRANTY
YOU WILL PAY ALL COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle. (''Existing 'As Is' Statement'').

ii. NPRM ''As Is'' Statement

In the NPRM, the Commission proposed revising the Buyers Guide ''As Is'' statement to improve readability and to clarify the meaning of the term ''As Is.'' The Buyers Guide in the NPRM stated:

☐ AS IS—NO DEALER WARRANTY
THE DEALER WON'T PAY FOR ANY REPAIRS. The dealer is not responsible for any repairs, regardless of what anybody tells you. (''NPRM 'As Is' Statement'').[58]

iii. SNPRM ''As Is'' Statement

After reviewing the comments submitted in response to the NPRM, the Commission now proposes modifying the Buyers Guide by replacing the existing explanatory ''As Is'' statement with the following:

☐ AS IS—NO DEALER WARRANTY
THE DEALER WILL NOT PAY FOR ANY REPAIRS. The dealer does not accept responsibility to make or to pay for any repairs to this vehicle after you buy it regardless of any oral statements about the vehicle. But you may have other legal rights and remedies for dealer misconduct. (''SNRPRM 'As Is' Statement'').

The proposed revised ''As Is'' Statement in this SNPRM is intended to make the statement easier to read and to improve consumer understanding, but is not intended to change the statement's meaning. Both the existing ''As Is'' statement and the SNPRM's ''As Is'' statement are intended to indicate that a dealer disclaims responsibility for implied warranties that might otherwise arise by operation of state law.[59]

iv. Discussion

Commenters uniformly recommended that the Commission not adopt the NPRM's proposed changes to the explanatory ''As Is'' statement. Commenters stated that the proposed revision could obscure the meaning of ''As Is,'' potentially change its meaning, or simply misstate the law. More than forty attorney-practitioners stated that the proposed revision misstates the law and consumers' rights.[60] Several commenters noted that the proposed NPRM revisions to the ''As Is'' statement could deter consumers from pursuing potential remedies.[61] Several commenters also criticized the ''As Is'' statement that currently appears on the Buyers Guide.[62] Commenters proposed several different possible formulations of the ''As Is'' statement.

CARS's (22) comment is representative of the comments criticizing the NPRM's proposed revision to the ''As Is'' language. CARS stated that the proposed language ''wrongly conflates the lack of a warranty with no responsibility for repairs,'' and then listed various scenarios in which a dealer could become responsible for oral statements and repairs.[63] These include situations in which: dealers' oral statements create express warranties under state law; deceptive statements or concealment of known facts violate state unfair or deceptive practices statutes; a service contract nullifies any attempt to disclaim implied warranties pursuant to federal warranty law under the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (''Magnuson-Moss Act'') and FTC Rule;[64] dealers inadequately disclaim implied warranties under state law; or dealers improperly claim that a sale is ''As Is'' in one of the seventeen states that prescribe minimum mandatory warranties.[65]

[56] *I.e.,* NPRM Vehicle History Approach, SNPRM Vehicle History Approach, AB 1215 Vehicle History Approach, IA AG Vehicle History Approach, ADD Vehicle History Approach, and NC AG Vehicle History Approach.

[57] 42 FR at 45722–45723.

[58] 77 FR at 74769 (Figure 1).

[59] Uniform Commercial Code (''UCC'') 2–316(3)(a) (''unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like 'as is,' 'with all faults' or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty.'').

[60] Anderson, Patty (71); Bensley, William (53); Bolliger, Bernard (69); Brown, Bernard (1); Burdge, Ronald (74); Cheney, Shawna (38); Choi, Hyung (63); Clanton, William (62); Coleman, Donald (23); Connolly, Gwendolyn (36); Cooper, Patrick (144); Crabtree, Jeffrey (108, 112); Deneen, Daniel (73); Desmond, Dawn (33); Domonoske, Thomas (43); Duff, Robert (66); Feferman, Richard (149); Flinn, Michael T. (34, 129); Goldberg, Joseph (61); Heaney, Mark (77); Hughes, Rob, Torres Law Firm (8); Irwin, Dale (68); Kaufman, Scott (52); Maier, Peter (26); Malone, Dean T. (72); Norris, Matthew J. (35); Quirk, Michael (113); Rawls, Kathi (59); Reichenbach, Gregory (64); Richards, Rhys, Casper & Casper (20); Roher, Deborah (56); Rudnitsky, Taras (42); Seth, Donald (116); Steinbach, Mark (65); Taterka, Steven (21); Thomson, Steven (58); Tomlinson, Richard (2); Valdez, David (115); Wells, Amy (30); Willis, Todd (39); Witte, Erin, Surovell Isaacs Petersen & Levy PLC (5).

[61] *E.g.,* Ohio Ass'n for Justice (31) (''proposed language is contrary to existing case law, which provides that even when a vehicle is sold ''As Is,'' this is not a shield to fraud . . . [The proposed language] may have the detrimental effect of discouraging consumers with valid fraud claims from seeking advice from consumer advocates, state attorneys general, or other advocacy groups.''); Irwin (68) (GA attorney) (proposed language ''will mislead consumers about their rights and make them think that a dealer can't be held responsible for oral statements.'').

[62] *E.g.,* CARS (22) at 1; Elias, Fla. Dep't of Regulatory and Econ. Res.-Consumer Protection (57); IA AG (12) at 5; Kaufman (74); Katherine Graham and George Alexander Community Law Center (''KGACLC'') (25) at 5; Klarquist (29); Military Justice Project, Nat'l Ass'n of Consumer Advocates (''NACA'') (14) at 2; Valdez (115).

[63] CARS (22) at 4.

[64] 15 U.S.C. 2308; 16 CFR 455.2(b)(3).

[65] *Id.* Dealers should not check the ''As Is'' box on the Buyers Guide when the vehicle is covered by a warranty, whether because the state mandates a minimum warranty or because the dealer has chosen to offer a warranty. Instead, the dealer should check the Warranty box. Moreover, dealers should use the Implied Warranties Only Buyers Guide if the vehicle is offered for sale in a jurisdiction that prohibits ''As Is'' sales. 16 CFR 455.2(b)(1)(ii).

The Int'l Ass'n of Lemon Law Administrators (''IALLA'') commented that the Buyers Guide should have a box for dealers to check to indicate if the vehicle is covered by a state-mandated minimum warranty. IALLA (70) at 1. Although the IALLA commented that the December 2012 NPRM would make the disclosure of a state-mandated warranty optional, neither the proposed nor the current rule does so. *See* 77 FR at 74761; Staff Compliance Guidelines 53 FR at 17663 (although the Rule does not require dealers to disclose warranties that are the responsibilities of third parties, such as manufacturers, it does require that dealers disclose all warranties for which they are responsible. ''Therefore, if federal, state, or local laws require you [the dealer] to give a specific warranty . . . you must briefly disclose this warranty on the Buyers Guide'' in the Systems Covered/Duration section). The dealer's obligation is the same whether a warranty is required by state law or the dealer chooses to offer a vehicle with a warranty. If state law requires a minimum warranty, or a dealer chooses to offer a warranty when one is not required, the dealer should check the Warranty Box and disclose details of the terms of

Continued

v. Alternative ''As Is'' Statements

Several commenters suggested other formulations of the ''As Is'' statement, both as alternatives to the statement proposed in the NPRM and the ''As Is'' statement on the existing Buyers Guide. For example, CARS recommended that the Buyers Guide state:

AS IS—NO DEALER WARRANTY. DEALER DENIES ANY RESPONSIBILITY FOR ANY REPAIRS AFTER SALE

(''CARS 'As Is' Statement'')

The IA AG suggested:

THE DEALER IS NOT PROVIDING A WARRANTY. The dealer does not agree to fix problems with the vehicle after you buy it. However, you may have legal rights if the dealer concealed problems with the vehicle or its history.[66]

(''IA AG 'As Is' Statement'')

The NC AG proposed:

THE DEALER WON'T PAY FOR REPAIRS. The dealer does not agree to pay for the vehicle's repairs. But you may have legal rights and remedies if the dealer misrepresents the vehicle's condition or engages in other misconduct.[67]

(''NC AG 'As Is' Statement'')

The East Bay Community Law Center (''East Bay'') suggested:

AS IS—NO WARRANTY. YOU WILL PAY ALL COSTS FOR ANY REPAIRS. Ask for all representations about the vehicle in writing.[68]

(''East Bay 'As Is' Statement'')

vi. Request for Comments

The Commission agrees with the comments recommending that it should not adopt the December 2012 NPRM proposed revision to the ''As Is'' statement on the Buyers Guide. The Commission has considered and incorporated the suggested revisions to the current ''As Is'' statement into the formulation of the ''As Is'' statement proposed in this SNPRM. The Commission invites comments on the proposed ''As Is'' statement in this SNPRM (SNPRM ''As Is'' Statement) and on the alternative proposed ''As Is'' statements that are noted above. When commenting on the various proposed ''As Is'' Statements, please quote and identify the statement by its assigned name[69] and provide any data, consumer surveys, or other evidence that supports your comments.

the warranty in the Systems Covered/Duration section on the front of the Buyers Guide.

[66] IA AG (12).

[67] NC AG (11).

[68] *See* East Bay (4) at 8.

[69] *I.e.,* Existing ''As Is'' Statement, SNPRM ''As Is'' Statement, CARS ''As Is'' Statement, IA AG ''As Is'' Statement, NC AG ''As Is'' Statement, and East Bay ''As Is'' Statement.

*C. Non-Dealer Warranty Boxes Proposed in NPRM*

The front of the proposed Buyers Guide in the SNPRM contains boxes (''non-dealer warranty boxes'') that dealers could check to indicate whether an unexpired manufacturer warranty, a manufacturer used car warranty, or some other warranty applies, and whether a service contract is available. The version of the Buyers Guide proposed in the NPRM included these same boxes on the back of the Buyers Guide.[70] The Commission now proposes to move these boxes to the front of the Buyers Guide as shown in Figures 1 and 2. Those commenters who addressed the non-dealer warranty boxes uniformly recommended moving the disclosures to the front of the Buyers Guide where they will be more accessible to consumers.[71]

The proposed Buyers Guide in this SNPRM retains the existing Rule's statement used to disclose the applicability of an unexpired manufacturer's warranty: ''The manufacturer's original warranty has not expired on the vehicle.'' [72] CAS suggested that the unexpired manufacturer's warranty box should state that ''[t]he manufacturer's original warranty has not expired on some components of the vehicle'' because, according to CAS, that language is ''more consistent with the different coverages that are in current warranties.'' [73] Although the Commission believes that the existing disclosure is adequate, the Commission invites comments on the effectiveness of the disclosure.

The Commission believes that the disclosure of non-dealer warranties will help ensure that consumers are not deceived if the dealer chooses to use the existence of a non-dealer warranty as a selling point. For example, to ensure that consumers understand the scope of any non-dealer warranty available, the disclosure advises consumers to ''ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.'' The Commission invites comments on the effectiveness of the disclosure in preventing deception.

[70] 77 FR at 74771 (Figure 3).

[71] *E.g.,* American Ass'n for Justice (89) at 2; Bolliger (69) (Florida attorney); CAS (3) at 2; CARS (22) at 8; Crabtree (108, 112); Domonoske (43); Elias (57) (Florida Dep't of Regulatory and Economic Resources—Consumer Protection); Kaufman (52): Klarquist (29); Kraft, Karen, Credit Counseling (78); Richards, Casper & Casper (20); Speer, James, Virginia Poverty Law Center (109); Thomson (58); Wells (30); NACA (14) at 2; OAJ (31) at 2; Wholesale Forms (10) at 1, 2.

[72] *See* 16 CFR 455.2(b)(v).

[73] CAS (3) at 3.

*D. Miscellaneous NPRM Buyers Guide Modifications Incorporated in the SNPRM*

The Buyers Guide and rule text proposed in this SNPRM incorporates other modifications to the Buyers Guide that the Commission proposed in the NPRM. The English version of the Buyers Guide in this SNPRM includes a proposed statement, in Spanish, that advises Spanish-speaking consumers that they can request a Spanish-language version of the Buyers Guide.[74] In addition, the Buyers Guide's statement advising consumers to ask the dealer about a mechanical inspection has been relocated above the proposed vehicle history information box to enhance its prominence.[75] The SNPRM also retains the use of the terms ''dealer warranty'' and ''non-dealer warranty'' proposed in the NPRM. Finally, the SNPRM Buyers Guide incorporates the NPRM's proposed modifications to the description of ''Implied Warranties Only'' on the version of the Buyers Guide for use in jurisdictions that prohibit dealers from waiving implied warranties [76] and the description of a service contract on the front of the Buyers Guide.[77] The Commission published these proposed modifications in the NPRM and does not seek additional comments here.

*E. Modification of Service-Contract Provisions*

When promulgating the Rule in 1984, the Commission noted that its intent was not to regulate those service contracts that are ''excluded from the Commission's jurisdiction by the McCarran-Ferguson Act.'' [78] Consistent with that intent, the Commission proposes revising the provision in § 455.1(d)(7) and the exception in § 455.2(d)(3) so that they correspond more closely with the statutory language of the McCarran-Ferguson Act.[79]

**III. Request for Comment**

The Commission invites interested persons to submit written comments on any issue of fact, law, or policy that may bear upon the proposals under

[74] The Buyers Guide in this SNPRM includes the statement: ''Si usted no puede leer este documento en inglés, pidale al concesionario una copia en español.'' *See* Figures 1 and 2.

[75] This statement has been on the Buyers Guide since the Rule's promulgation in 1984: ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT. *See* Figures 1 and 2.

[76] *See* 16 CFR 455.2(b)(1)(ii); Figure 2.

[77] *Id.*

[78] Trade Regulation Rule Concerning Sale of Used Motor Vehicles, 49 FR 45692, 45709 (Nov. 19, 1984).

[79] 15 U.S.C. 1012(b).

consideration. Please include explanations for any answers provided, as well as supporting evidence where appropriate. After evaluating the comments, the Commission will determine whether to issue specific amendments.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 30, 2015. Write ''Used Car Rule Regulatory Review, 16 CFR part 455, Project No. P087604'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[80] Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/usedcarrulesnprm* by following the instructions on the web-based form. If this document appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you prefer to file your comment on paper, write ''Used Car Regulatory Review, 16 CFR part 455, Project No. P087604'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex A), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex A), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this document and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 30, 2015. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Comments on any proposed recordkeeping, disclosure, or reporting requirements subject to review under the Paperwork Reduction Act (''PRA'') should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Therefore, comments instead should be sent by facsimile to (202) 395–5167.

## IV. Regulatory Analysis

Section 22 of the FTC Act, 15 U.S.C. 57b, requires the Commission to issue a preliminary regulatory analysis when publishing a Notice of Proposed Rulemaking, but requires the Commission to prepare such an analysis for a rule amendment proceeding only if it: (1) Estimates that the amendment will have an annual effect on the national economy of $100,000,000 or more; (2) estimates that the amendment will cause a substantial change in the cost or price of certain categories of goods or services; or (3) otherwise determines that the amendment will have a significant effect upon covered entities or upon consumers. The Commission has set forth in Section V below, in connection with its Initial Regulatory Flexibility Analysis (''IRFA'') under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, and has discussed elsewhere in this Document: the need for and objectives of the Proposed Rule (V.B below); a description of reasonable alternatives that would accomplish the Rule's stated objectives consistent with applicable law (V.F below); and a preliminary analysis of the benefits and adverse effects of those alternatives (*id.*).

The Commission believes that the proposed amendments to the Used Car Rule will not have such an annual effect on the national economy, on the cost or prices of goods or services sold by used car dealers, or on covered businesses or consumers. The Commission has not otherwise determined that the proposed amendments will have a significant impact upon regulated persons. As noted in the PRA discussion below, the Commission staff estimates each business affected by the Rule will likely incur only minimal initial added compliance costs to disclose on the Buyers Guide that they have obtained a vehicle history report and to provide copies of such reports to consumers upon request. To ensure that the Commission has considered all relevant facts, however, it requests additional comment on these issues.

## V. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (''RFA''), 5 U.S.C. 601–612, requires a description and analysis of proposed and final rules that will have significant economic impact on a substantial number of small entities. The RFA requires an agency to provide an Initial Regulatory Flexibility Analysis (''IRFA'') with the proposed Rule, and a Final Regulatory Flexibility Analysis

[80] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

(''FRFA''), if any, with the final Rule.[81] The Commission is not required to make such analyses if a Rule would not have such an economic effect.[82]

As described below, the Commission anticipates that the proposed changes to the Rule addressed in this SNPRM will require some dealers to make additional disclosures on the Buyers Guide and to provide consumers with copies of vehicle history reports. Many of these dealers are small entities as defined by the RFA. The Commission anticipates that these proposed changes will not impose undue burdens on these small entities. Nevertheless, to obtain more information about the impact of this SNPRM on small entities, the Commission has decided to publish the following IRFA pursuant to the RFA and to request public comment on the impact on small businesses of this SNPRM.

*A. Description of the Reasons That Agency Action Is Being Considered*

As described in Part I above, in December 2012, the Commission issued an NPRM setting forth proposed changes to the Commission's Used Car Rule. Among other things, the Commission proposed adding a statement to the Buyers Guide advising consumers about the availability of vehicle history reports and directing consumers to an FTC Web site for more information about those reports. The Commission also proposed changing the statement on the Buyers Guide that describes the meaning of ''As Is'' when used by a dealer to offer to sell a used vehicle without a warranty. Third, the Commission proposed adding boxes to the back of the Buyers Guide where dealers could indicate whether non-dealer warranties applied to a vehicle. The Commission received nearly 150 comments, including many concerning these three proposals. After reviewing the comments, the Commission now proposes amending the Rule by modifying the Buyers Guide to add a box where dealers will indicate if they have a vehicle history report and by requiring dealers who have the reports to make them available to consumers upon request. To provide consumers with a better description of their warranty rights in an ''As Is'' sale, the Commission proposes revising the existing Buyers Guide description of an ''As Is'' sale. The Commission also proposes moving the third-party warranty boxes to the front of the Buyers Guide.

*B. Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Amendments to the Rule*

The objectives of the proposed changes in the Rule are to promote the availability of vehicle history information to consumers and to inform consumers about their rights in ''As Is'' sales in which dealers disclaim warranties. The legal basis for the proposed amendments is Section 1029 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. 5519, and the Federal Trade Commission Act, 15 U.S.C. 41–58.

*C. Description and Estimate of the Number of Small Entities to Which the Rule's Amendments Will Apply*

The Used Car Rule primarily applies to ''dealers'' defined as ''any individual or business which sells or offers for sale a used vehicle after selling or offering for sale five (5) or more used vehicles in the previous twelve months.''[83] The Commission believes that many of these dealers are small businesses according to the applicable Small Business Administration (''SBA'') size standards. Under those standards, the SBA would classify as small businesses independent used car dealers having annual receipts of less than $23 million and franchised new car dealers, which also typically sell used cars, having fewer than 200 employees each.[84]

Most independent used vehicle dealers would be classified as small businesses. In 2012, the United States' 37,892 independent used vehicle dealers[85] had average total sales of $4,228,137.[86] These used vehicle dealers' average annual revenue is well below the maximum $23 million in annual sales established by the SBA for classification as a small business. Therefore, these used vehicle dealers would be classified as small businesses.

The SBA would also classify many franchised new car dealers as small businesses. In 2012, the nation's 17,635 franchised new car dealers[87] had an average of fifty-five employees,[88] well below the 200-employee maximum established by the SBA for classification as a small business.[89]

*D. Description of the Projected Reporting, Recordkeeping and Other Compliance Requirements, Including an Estimate of the Classes of Small Entities That Will Be Subject to the Requirements and the Type of Professional Skills Necessary for Preparation of the Report or Record*

The Used Car Rule imposes disclosure obligations on used vehicle car dealers, as set forth in Part [VI] of the Notice, but does not impose any reporting or recordkeeping requirements. Specifically, dealers are required to complete and display a Buyers Guide on each used car offered for sale. Neither the existing Rule nor the proposed amendments to the Rule require dealers to retain more records than may be necessary to complete and display the Buyers Guides. The proposed amendments do not require dealers to obtain vehicle history reports although it requires dealers who have obtained such reports to retain vehicle history reports if they have obtained them and to provide copies of the reports to requesting consumers. Neither the existing Rule nor the proposed amendments requires dealers to disclose non-dealer warranties. For those dealers who have obtained vehicle history reports or choose to disclose non-dealer warranties, the proposed amendments change the disclosure obligations required by the Rule. The Commission invites comments on the proposed Rule's compliance requirements and on the types of professional skills necessary to meet dealers' compliance obligations.

*E. Identification of Other Duplicative, Overlapping, or Conflicting Federal Rules*

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed amended Rule. No other federal law or regulation requires that the Buyers Guide disclosures be made when a used vehicle is placed on the dealer's lot or when it is offered for sale.[90] Dealers in two states are exempt from the Rule. Maine and Wisconsin require dealers to disclose related but different

[81] *See* 5 U.S.C. 603–604.

[82] *See* 5 U.S.C. 605.

[83] 16 CFR 455.1(d)(3).

[84] *U.S. Small Bus. Admin. Table of Small Bus. Size Standards Matched to North American Indus. Classification System [''NAICS''] Codes* at 23 (effective Jan. 22, 2014) (available at: *http://www.sba.gov/content/small-business-size-standards*) (last visited May 30, 2014). Used car dealers are classified as NAICS 441120 and franchised new car dealers as NAICS 441110.

[85] *NIADA Used Car Industry Report 2013,* at 16.

[86] *Id.* at 20. Used vehicle sales accounted for 38.29% ($1,618,954) of those sales.

[87] *NADA Data State of the Industry Report 2013* at 5 (number of franchised dealers as of Jan. 1, 2013). (available at: *http://www.nada.org/Publications/NADADATA/2013/*).

[88] *Id.* at 14.

[89] *Table of Small Bus. Size Standards* at 23.

[90] Some states also have adopted the Rule as state law. In addition, the Magnuson-Moss Act, 15 U.S.C. 2302(b), requires that written warranties on consumer products be available before sale, as specified by 16 CFR part 702, but displaying warranty information is not required.

information regarding used car sales.[91] The proposed amendments to the Rule would require dealers who have obtained vehicle history reports to disclose that fact on the Buyers Guide and to provide copies of the reports upon request. No other federal law or regulation creates a similar obligation.[92]

The Commission invites comment and information on this issue.

*F. Description of Any Significant Alternatives to the Proposed Amended Rule*

In proposing amendments to the Rule, the Commission is attempting to avoid unduly burdensome requirements for entities. The Commission believes that the proposed amendments will advance the goals of promoting consumer access to vehicle history information, consumer understanding of the meaning of ''As Is'' in used vehicle sales transactions in which a dealer disclaims warranties, and consumer awareness of warranties that may apply to a used vehicle. In proposing the amendments, the Commission has taken into account the concerns evidenced by the record to date.

The Commission is considering, but, at this point, has decided not to propose adopting, several different approaches to vehicle history information discussed in the comments. In this SNPRM, the Commission proposes to require dealers who have vehicle history reports to disclose that fact on the Buyers Guide and to provide copies of the reports to requesting consumers. The Commission proposed in the NPRM placing a statement on the Buyers Guide that would advise consumers about the availability of vehicle history information and direct consumers to an FTC Web site for more information. The Commission also considered requiring dealers to obtain vehicle history reports, such as NMVTIS reports, and requiring dealers to make disclosures similar to those required by California's AB 1215. Given the availability of various sources for and types of vehicle history reports, the Commission chose not to propose that dealers be required to obtain reports or to designate specific types of reports or specific vendors. In doing so, the Commission seeks to balance the burden placed on dealers with the goals of promoting consumer choice and access to vehicle history information.

The Commission considered comments on the Buyers Guide ''As Is'' statement and the various formulations of the statement proposed by the comments. The Commission chose to propose the ''As Is'' statement in this SNPRM because the Commission believes that the proposed statement clearly and accurately describes the meaning of ''As Is.'' Nevertheless, the Commission invites further comment on how best to phrase the Buyers Guide ''As Is'' statement to help consumer understanding of the term.

The Commission considered comments on the non-dealer warranty boxes proposed in the December 2012 NPRM. In response to those comments, the Commission has moved those boxes to the front of the Buyers Guide.

The Commission seeks comments on ways in which to modify the Rule to reduce any costs to or burdens on small entities.

## VI. Paperwork Reduction Act

The existing Rule contains no recordkeeping or reporting requirements, but it does contain disclosure requirements that constitute ''information collection requirements'' as defined by 5 CFR 1320.3(c) under the OMB regulations that implement the PRA. OMB has approved the Rule's existing information collection requirements through Jan. 31, 2017 (OMB Control No. 3084–0108).

The proposed amendments would increase the burden on those dealers who have obtained vehicle history reports because the amendments would require those dealers to disclose on the Buyers Guide that they have the reports and to provide copies of them to consumers upon request. This requirement would place no additional burden on dealers who do not have vehicle history reports. The proposed change to the Buyers Guide's description of ''As Is'' sales would not impose any additional burden on dealers other than the initial burden of purchasing replacement Buyers Guides. As discussed in the NPRM, the proposed amendments would increase the burden on those dealers who choose to disclose non-dealer warranties, but not on those dealers who do not make the optional disclosures.[93] The proposed amendments would change the burden estimates because the burden imposed on some dealers will increase. Therefore, the Commission is providing PRA estimates for the proposed modification set forth below.

The Commission invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) the accuracy of the FTC'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 collecting information.

*Estimated Additional Annual Hours Burden*

A. Number of Respondents

The proposed amendments to the Rule would affect all 55,432 used vehicle dealers[94] in the United States. Dealers who have vehicle history reports would be required to check a box on the Buyers Guide and to provide copies of the reports to requesting consumers. Although the proposed amendments to the Rule would not require dealers who do not have vehicle history reports to make additional Buyers Guide disclosures, the proposed amendments would continue to require all dealers to obtain and to use replacement Buyers Guides.

B. Recordkeeping Hours

The proposed amendments to the Rule will not impose incremental recordkeeping requirements on dealers.

C. Disclosure Hours

Under the existing OMB clearance for the Rule, FTC staff estimated the total annual hours burden to be 2,296,227 hours, based on the number of used car dealers (55,432), the number of used cars sold by dealers annually (28,958,000), and the time needed to fulfill the information collection tasks required by the Rule.[95]

[91] The Commission granted Maine and Wisconsin exemptions from the Rule pursuant to 16 CFR 455.6. Although neither state requires that dealers disclose vehicle history reports to consumers, each state requires that dealers disclose vehicle information on that state's Buyers Guide that the dealer knows about, such as prior use, title brands, mechanical defects, and substantial damage. *See* Wis. Admin. Code 139.04, Me. Rev. Stat. tit. 10, 1475. The Commission does not propose any change in the exemption status of these states in this SNPRM.

[92] Although no other federal law creates a similar obligation, California requires used vehicle dealers to obtain NMVTIS reports, and, if those reports contain junk, salvage, or insurance information or show that the title carries a brand, to post a warning label and to provide a copy of the NMVTIS report upon request. Cal. Veh. Code 11713.26. In effect, the proposed amended Rule would require California dealers to disclose, for every used vehicle offered for sale, that a vehicle history report (*i.e.,* a NMVTIS report) is available whereas the California statute requires only that dealers disclose that a NMVTIS report is available when the report contains certain information that triggers the required disclosure.

[93] 77 FR at 74764–74765.

[94] 37,892 independent dealers in 2012. *NIADA Used Car Industry Report* (2013), at 16. 17,540 franchised new car dealers in 2012. *NADA Data State-of-the Industry Report 2013,* at 5.

[95] Federal Trade Comm'n Agency Information Collection Activities; Proposed Collection; Comment Request; Extension,78 FR 59032 (Sept. 25, 2013), note 2, *citing NIADA Used Car Industry*

Continued

Industry sources, and anecdotal evidence,[96] indicate that most dealers use vehicle history reports and that dealer use of vehicle history reports is becoming increasingly commonplace. Staff is unaware of any reliable data concerning how often dealers obtain vehicle history reports, but, for simplicity, projects that 50% or more of dealers, nationwide, obtain the reports. In turn, staff projects that the proposed Rule would require dealers to check an additional box on the Buyers Guide and to make the reports available in at least 50% of used car sales nationwide.

The proposed Rule, however, would affect California, the state with the largest number of used car sales in the United States, differently. California requires dealers to obtain NMVTIS reports and to make those reports available to consumers when the reports contain a branded title or junk, salvage, or insurance information. Therefore, the proposed amendments to the Rule effectively would require all California used vehicle dealers to check the additional Buyers Guide box and make a vehicle history report available even when a NMVTIS report would not trigger the disclosures required by California. Although staff is unaware of reliable data concerning California's share of nationwide used car sales, California accounts for approximately 11% of vehicle registrations in the United States.[97] Using vehicle registrations as a proxy for sales, staff projects that California accounts for approximately 11% of nationwide used cars sales. Assuming that California used car dealers fully comply with their state law and the amendments proposed by the SNPRM, they will make the additional vehicle history disclosures in the projected 11% of nationwide sales, *i.e.,* 3,185,380 (11% × 28,958,000) used car sales.

Based on vehicle registrations as a proxy for used car sales, 89% of all used car sales occur outside of California, *i.e.,* 25,772,620 used car sales (89% of 28,958,000 nationwide used car sales). Assuming that dealers obtain vehicle history reports and, in turn, make the requisite vehicle history disclosures under the proposed Rule (*i.e.,* check the added box on the Buyers Guide, issue the vehicle history report to the consumer), dealers outside of California will make the required disclosures for 12,886,310 used car sales (50% of 25,772,620 used cars).

Thus, staff estimates that dealers will make the required vehicle history disclosures for 16,071,690 used car sales. At an estimated thirty seconds to retrieve a report, this amounts to 133,931 additional disclosure hours, cumulatively[98] (16,071,690 used cars × 1/120 hour).

Like the NPRM, the SNPRM provides for optional disclosures concerning non-dealer warranties. In the NPRM, staff estimated that dealers would make these optional disclosures in 25% of used car sales.[99] Staff also estimated that dealers would need no more than an additional thirty seconds to make these optional disclosures.[100] Therefore, the additional aggregate burden on dealers who choose to make the optional non-dealer warranty disclosures is 60,329 hours (25% × 28,958,000 used car sales × 1/120 hour).

In sum, the proposed amendments in the SNPRM, including those retained from the NPRM, would increase the estimated annual burden by 194,260 hours: [(100% of 3,185,380 California used car sales × 1/120 hour per vehicle to make vehicle history disclosures) + (50% of 25,772,620 remaining used car sales × 1/120 hour per vehicle to make vehicle history disclosures) + (25% × 28,958,000 used car sales × 1/120 hour per vehicle to make optional non-dealer warranty disclosures)].

D. Reporting Hours

The proposed amendments to the Rule will not impose incremental reporting requirements.

E. Labor Costs

(1) Recordkeeping

None.

(2) Disclosure

The estimated annual incremental cost of the proposed amendments to the Rule is $2,801,229. That figure is the product of estimated burden hours (194,260) multiplied by an hourly labor rate of $14.42[101] for clerical or administrative staff.

(3) Reporting

None.

F. Non-Labor/Capital Costs

The FTC anticipates making amended Buyers Guides available on its Web site for downloading by dealers. The FTC expects that current suppliers of Buyers Guides, such as commercial vendors and dealer trade associations, will supply dealers with amended Buyers Guides. Accordingly, dealers' cost to obtain amended Buyers Guides should increase only marginally, if at all.

The proposed Rule would require dealers who already have vehicle history reports to make copies of those reports available to consumers upon request. The proposed Rule does not require dealers to obtain the reports. The only additional cost that dealers will incur because of the proposed Rule is the cost of making copies for consumers who request them. Vehicle history reports are typically no more than a few pages in length. Staff anticipates that dealers can make copies of the reports using ordinary office equipment that they already possess and that the incremental cost of additional paper, ink, etc., for copies will be minimal. In addition, this SNPRM asks for public comment on whether these costs, however minimal, could be reduced further by permitting dealers to provide consumers with electronic access to the reports.

## VII. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

## VIII. Questions Concerning the Proposed Modifications of the Rule

The Commission is seeking comment on various aspects of the proposed Rule and is particularly interested in receiving comment on the questions that follow. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted in response to this notice. Responses to these questions should cite the numbers and subsection of the questions being answered. For all comments submitted, please submit any relevant data, statistics, or any other evidence upon which those comments are based.

*Report* (2013), 16–17. The number of used cars sold by dealers in 2012 is calculated by multiplying the percentage of total used car sales conducted by dealers (71.5%) by the total number of used cars sold in 2012 (40.5 million).

[96] Staff notes that vendors of vehicle history reports advertise extensively in dealer trade publications.

[97] *See http://hedgescompany.com/automotive-market-research-statistics/auto-mailing-lists-and-marketing.*

[98] Staff projects that the incremental time to check the vehicle history box would be *de minimis.*

[99] 77 FR at 74764–74765.

[100] *Id.* at 74765.

[101] *http://www.bls.gov/news.release/ocwage.nr0.htm.* Bureau of Labor Statistics, Economic News Release, April 1, 2014, Table 1, ''National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2013.'' The hourly rate drawn from this source is for ''[o]ffice clerks, general.''

*Vehicle History Report Disclosures*

1. The Commission proposes to amend the Rule by requiring dealers who have obtained a vehicle history report to check a box on a revised Buyers Guide indicating that they have a vehicle history report and will provide a copy of the report upon request.

a. Should the Commission require dealers who have obtained a vehicle history report to check a box indicating that the dealer has a vehicle history report and will provide a copy upon request? Why or why not?

b. Do used vehicle dealers typically obtain vehicle history reports for vehicles that they offer for sale? How prevalent is this practice? How prevalent is the practice among franchise dealers? How prevalent is the practice among independent dealers? Provide any studies, surveys, or other data that support your answers.

c. Do used vehicle dealers who obtain vehicle history reports typically make information from the reports available to consumers? If so, how? Do dealers make the reports available online? How prevalent is the practice among franchised used vehicle dealers of making vehicle history report information available to consumers? How prevalent is the practice among independent dealers? Provide any studies, surveys, or other data that support your answers.

d. Would a proposed Rule requiring dealers to provide consumers with a copy of a vehicle history report that a dealer has obtained on a vehicle be more or less likely to prompt dealers to obtain vehicle history reports? Would dealers who currently obtain vehicle history reports be more or less likely to obtain the reports if the Commission requires dealers to provide copies to consumers of any reports that the dealers obtain? Why or why not?

e. How prevalent is the practice among used vehicle dealers of obtaining vehicle history reports and failing to disclose title brands or other significant problems documented in those reports? How prevalent is the practice among franchised dealers? How prevalent is the practice among independent dealers? Would the proposed Rule requiring dealers to provide a copy of vehicle history reports that they have obtained reduce the prevalence of dealer failures to disclose information contained in vehicle history reports? Provide any studies, surveys, or other data that support your answers.

f. Does the Buyers Guide box and accompanying text concerning vehicle history reports in Figures 1 and 2 clearly indicate to consumers that the dealer has obtained a vehicle history report and will provide a copy upon request? If not, identify alternative means to make the disclosure.

g. Would the lack of a mark in the box concerning vehicle history reports clearly convey that the dealer has not obtained a vehicle history report and therefore is not required to provide a copy? If not, provide alternative ways in which a dealer could signify on the Buyers Guide that the dealer has not obtained a vehicle history report that it can provide upon request.

h. Would the following statement on the proposed Buyer Guides in Figures 1 and 2 benefit consumers?

> Regardless of whether the box is checked, the FTC recommends that you obtain a Vehicle History Report. For information on how to obtain a vehicle history report, how to search for safety recalls, and other topics, visit the Federal Trade Commission at ftc.gov/used cars. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on this site.

i. Will the SNPRM proposal to require that dealers who have obtained vehicle history reports indicate that they have the reports, and will provide copies upon request, make dealers more or less likely to obtain vehicle history reports, or have no impact on whether dealers obtain vehicle history reports?

j. Should the proposed Rule define the term ''vehicle history report''? If so, what should such a definition contain?

k. Should the Commission require that dealers who have obtained multiple vehicle history reports provide copies of all the reports upon request? If not, why not?

l. Should the Commission require that dealers who have obtained multiple reports provide only one report to consumers? If so, should dealers be required to provide consumers with the most recent report? If not, which report should dealers be required to provide?

m. Should the Commission permit dealers to provide consumers with electronic access to vehicle history reports as an alternative to providing consumers with printed reports? What mechanisms should dealers be permitted to use?

n. Should dealers be required to disclose the date(s) when they obtained vehicle history reports?

o. Once a dealer views a vehicle history report, should the Commission require that that dealer make the report available to consumers for as long as the dealer possesses the vehicle to which it applies regardless whether the dealer discards the report before selling the vehicle?

p. What barriers, if any, prevent effective enforcement of the proposed requirement that dealers indicate on the Buyers Guide whether they have obtained vehicle history reports? What measures could FTC staff take to detect violations of a requirement that dealers provide copies of vehicle history reports upon request? What records, if any, do suppliers of vehicle reports maintain that would demonstrate whether individual used vehicle dealers had previously viewed or obtained vehicle history reports on individual vehicles?

q. Should the Commission require dealers to create and to maintain records when they obtain or view vehicle history reports? If so, what recordkeeping should the Commission require and for what length of time should dealers be required to maintain the records?

r. What are the costs, potential liabilities, and/or benefits to dealers of requiring dealers to disclose that they have obtained vehicle history reports? Once disclosed, what are the costs, potential liabilities, and/or benefits to dealers of providing copies of the reports to consumers?

s. What are the costs and/or benefits to consumers of requiring dealers to disclose that they have obtained vehicle history reports? Once disclosed, what are the costs and/or benefits to consumers of requiring dealers to provide copies of the reports to consumers?

t. What are the costs, potential liabilities, and/or benefits to dealers of requiring dealers to disclose that they have obtained vehicle history reports, and affirmatively provide such reports to consumers, only when the reports include negative information (rather than provide any obtained report upon request as proposed in the SNPRM Vehicle History Approach)? How should the Rule define negative information?

u. What are the costs, potential liabilities, and/or benefits to consumers of requiring dealers to disclose that they have obtained vehicle history reports, and affirmatively provide such reports to consumers, only when the reports include negative information? (rather than provide any obtained report upon request as proposed in the SNPRM Vehicle History Approach) How should the Rule define negative information?

v. The Commission also invites comments on the alternative approaches discussed in Section II of this SNPRM. Which, if any, of the following alternatives provides the most benefits to consumers? to dealers? Which, if any, of the following alternatives is the most costly or burdensome for dealers? Provide any data, surveys, or evidence

that supports your comments regarding each of the alternative approaches:

i. NPRM Vehicle History Approach
ii. SNPRM Vehicle History Approach
iii. AB 1215 Vehicle History Approach
iv. IA AG Vehicle History Approach
v. ADD Vehicle History Approach
vi. NC AG Vehicle History Approach

w. Provide any studies, surveys, or other data concerning the number or percentage of used vehicles sold or offered for sale with clean titles that should have title brands or other negative information shown in their vehicle history reports.

*''As Is'' Statement on Buyers Guide*

2. The Commission proposes changing the statement on the Buyers Guide that explains the meaning of an ''As Is'' sale. The Commission proposes:

THE DEALER WILL NOT PAY FOR ANY REPAIRS. The dealer does not accept responsibility to make or to pay for any repairs to this vehicle after you buy it regardless of any oral statements about the vehicle. But you may have other legal rights and remedies for dealer misconduct.

(SNPRM ''As Is'' Statement)

a. Does the SNPRM ''As Is'' Statement clearly and accurately describe the meaning of ''As Is'' in a used vehicle sale in which dealers disclaim implied warranties? If not, provide alternative means to convey that information to consumers.

b. The Commission also invites comments on the following alternative descriptions of ''As Is'' proposed in the comments. Which, if any, of the following alternatives more clearly and accurately describes the meaning of ''As Is'' than the ''As Is'' statement proposed by the SNPRM? Provide any data, consumer surveys, or evidence that supports your comments:

i. AS IS—NO DEALER WARRANTY. DEALER DENIES ANY RESPONSIBILITY FOR ANY REPAIRS AFTER SALE

(CARS ''As Is'' Statement)

ii. THE DEALER IS NOT PROVIDING A WARRANTY. The dealer does not agree to fix problems with the vehicle after you buy it. However, you may have legal rights if the dealer concealed problems with the vehicle or its history.

(IA AG ''As Is'' Statement)

iii. THE DEALER WON'T PAY FOR REPAIRS. The dealer does not agree to pay for the vehicle's repairs. But you may have legal rights and remedies if the dealer misrepresents the vehicle's condition or engages in other misconduct.

(NC AG ''As Is'' Statement)

iv. AS IS—NO WARRANTY. YOU WILL PAY ALL COSTS FOR ANY REPAIRS. Ask for all representations about the vehicle in writing.

(East Bay ''As Is'' Statement)

*Non-Dealer Warranties*

3. The Commission proposes to amend the Rule by providing boxes on the front of the Buyers Guide to allow, but not require, dealers to indicate the applicability of non-dealer warranties including manufacturer and other third-party warranties. Does the proposed method of disclosure effectively convey to consumers that dealers may, but are not required, to disclose non-dealer warranties that are applicable to a vehicle?

4. Does the lack of a checkmark in any of the manufacturer or third-party warranty boxes effectively communicate that the dealer is not providing any information about whether a manufacturer or other third-party warranty applies?

5. Would check marks in multiple boxes effectively communicate that multiple third-party warranties apply?

6. Does the Buyers Guide statement that ''[t]he manufacturer's original warranty has not expired on the vehicle'' effectively explain to consumers that an unexpired manufacturer's warranty applies? Would the statement prompt consumers to seek additional information about the scope of coverage of the unexpired warranty?

## IX. Proposed Amendments to the Rule

### List of Subjects in 16 CFR Part 455

Motor Vehicles, Trade Practices.

For the reasons set forth in the preamble, the Federal Trade Commission proposes to amend 16 CFR part 455 as follows:

## PART 455—USED MOTOR VEHICLE TRADE REGULATION RULE

■ 1. Revise the authority citation for part 455 to read as follows:

**Authority:** 15 U.S.C. 2309; 15 U.S.C. 41–58.

■ 2. Amend § 455.1 by revising paragraph (d)(7) to read as follows:

### § 455.1 General duties of a used vehicle dealer; definitions.

* * * * *

(d) * * *

(7) *Service contract* means a contract in writing for any period of time or any specific mileage to refund, repair, replace, or maintain a used vehicle and provided at an extra charge beyond the price of the used vehicle, unless offering such contract is ''the business of insurance'' and such business is regulated by State law.

* * * * *

■ 3. Amend § 455.2 by revising paragraphs (a) introductory text, (a)(2), and (b) and adding paragraph (g) to read as follows:

### § 455.2 Consumer sales—window form.

(a) *General duty.* Before you offer a used vehicle for sale to a consumer, you must prepare, fill in as applicable and display on that vehicle the applicable ''Buyers Guide'' illustrated by Figures 1–2 at the end of this part.

* * * * *

(2) The capitalization, punctuation and wording of all items, headings, and text on the form must be exactly as required by this Rule. The entire form must be printed in 100% black ink on a white stock no smaller than 11 inches high by 7¼ inches wide in the type styles, sizes and format indicated. When filling out the form, follow the directions in paragraphs (b) through (e) and (g) of this section and § 455.4 of this part.

(b) *Warranties*—(1) *No Implied Warranty—''As Is''/No Dealer Warranty.* (i) If you offer the vehicle without any implied warranty, *i.e.,* ''as is,'' mark the box appearing in Figure 1. If you offer the vehicle with implied warranties only, substitute the IMPLIED WARRANTIES ONLY disclosure specified in paragraph (b)(1)(ii) of this section, and mark the IMPLIED WARRANTIES ONLY box illustrated by Figure 2. If you first offer the vehicle ''as is'' or with implied warranties only but then sell it with a warranty, cross out the ''As Is—No Dealer Warranty'' or ''Implied Warranties Only'' disclosure, and fill in the warranty terms in accordance with paragraph (b)(2) of this section.

(ii) If your State law limits or prohibits ''as is'' sales of vehicles, that State law overrides this part and this rule does not give you the right to sell ''as is.'' In such States, the heading ''As Is—No Dealer Warranty'' and the paragraph immediately accompanying that phrase must be deleted from the form, and the following heading and paragraph must be substituted as illustrated in the Buyers Guide in Figure 2. If you sell vehicles in States that permit ''as is'' sales, but you choose to offer implied warranties only, you must also use the following disclosure instead of ''As Is—No Dealer Warranty'' as illustrated by the Buyers Guide in Figure 2. *See* § 455.5 for the Spanish version of this disclosure.

IMPLIED WARRANTIES ONLY

The dealer doesn't make any promises to fix things that need repair when you buy the vehicle or afterward. But *implied warranties* under your state's laws may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

(2) *Full/Limited Warranty.* If you offer the vehicle with a warranty, briefly describe the warranty terms in the space provided. This description must include the following warranty information:

(i) Whether the warranty offered is ''Full'' or ''Limited.'' n2 Mark the box next to the appropriate designation.[1]

(ii) Which of the specific systems are covered (for example, ''engine, transmission, differential''). You cannot use shorthand, such as ''drive train'' or ''power train'' for covered systems.

(iii) The duration (for example, ''30 days or 1,000 miles, whichever occurs first'').

(iv) The percentage of the repair cost paid by you (for example, ''The dealer will pay 100% of the labor and 100% of the parts.'')

(v) You may, but are not required to, disclose that a warranty from a source other than the dealer applies to the vehicle. If you choose to disclose the applicability of a non-dealer warranty, mark the applicable box or boxes beneath ''NON–DEALER WARRANTIES FOR THIS VEHICLE'' to indicate: ''MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle,'' ''MANUFACTURER'S USED VEHICLE WARRANTY APPLIES,'' and/or ''OTHER USED VEHICLE WARRANTY APPLIES.'' If, following negotiations, you and the buyer agree to changes in the warranty coverage, mark the changes on the form, as appropriate. If you first offer the vehicle with a warranty, but then sell it without one, cross out the offered warranty and mark either the ''As Is—No Dealer Warranty'' box or the ''Implied Warranties Only'' box, as appropriate.

(3) *Service contracts.* If you make a service contract available on the vehicle, you must add the following heading and paragraph below the Non-Dealer Warranties Section and mark the box labeled ''Service Contract,'' unless offering such service contract is ''the business of insurance'' and such business is regulated by State law. *See* § 455.5 for the Spanish version of this disclosure.

☐ SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warranties* under your state's laws may give you additional rights.

* * * * *

(g) *Vehicle History Reports.* If you have obtained a vehicle history report regarding a used vehicle, mark the applicable box on the Buyers Guide adjacent to the statement, IF THE DEALER CHECKED THIS BOX, THE DEALER HAS A VEHICLE HISTORY REPORT AND WILL PROVIDE A COPY TO YOU UPON REQUEST. If you have obtained a vehicle history report, you must provide a copy of the report upon request to persons who request a copy. If you have not obtained a vehicle history report, leave the box blank.

■ 3. Revise § 455.5 to read as follows:

**§ 455.5 Spanish language sales.**

(a) If you conduct a sale in Spanish, the window form required by § 455.2 and the contract disclosures required by § 455.3 must be in that language. You may display on a vehicle both an English language window form and a Spanish language translation of that form. Use the translation and layout for Spanish language sales in Figures 4, 5, and 6.

(b) Use the following language for the ''Implied Warranties Only'' disclosure when required by § 455.2(b)(1) as illustrated by Figure 5:

SOLO GARANTÍAS IMPLÍCITAS

El concesionario no hace ninguna promesa de reparar lo que sea necesario cuando compre el vehículo o posteriormente. Sin embargo, las *garantías implícitas* según las leyes estatales podrían darle algunos derechos para hacer que el concesionario se encargue de ciertos problemas que no fueran evidentes cuando compró el vehículo.

(c) Use the following language for the ''Service Contract'' disclosure required by § 455.2(b)(3) as illustrated by Figures 4 and 5:

CONTRATO DE MANTENIMIENTO. Con un cargo adicional, puede obtener un contrato de mantenimiento para este vehículo. Pregunte acerca de los detalles de la cobertura, los deducibles, el precio y las exclusiones. Si compra un contrato de mantenimiento dentro de los 90 días desde el momento en que compró el vehículo, las *garantías implícitas* según las leyes de su estado podrían darle derechos adicionales.

■ 4. Add an appendix to part 455 to read as follows:

## Appendix to Part 455—Illustrations

BILLING CODE 6750–01–P

[1] A ''Full'' warranty is defined by the Federal Minimum Standards for Warranty set forth in 104 of the Magnuson-Moss Act, 15 U.S.C. 2304 (1975). The Magnuson-Moss Act does not apply to vehicles manufactured before July 4, 1975. Therefore, if you choose not to designate ''Full'' or ''Limited'' for such cars, cross out both designations, leaving only ''Warranty.''

FIGURE 1 - "AS IS" - NO DEALER WARRANTY Buyers Guide (English)

# BUYERS GUIDE

**IMPORTANT:** Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE MODEL YEAR VEHICLE IDENTIFICATION NUMBER (VIN)

**WARRANTIES FOR THIS VEHICLE:**

☐ **AS IS - NO DEALER WARRANTY**

THE DEALER WILL NOT PAY FOR ANY REPAIRS. The dealer does not accept responsibility to make or to pay for any repairs to this vehicle after you buy it regardless of any oral statements about the vehicle. But you may have other legal rights and remedies for dealer misconduct.

☐ **DEALER WARRANTY**

☐ FULL WARRANTY.

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

**SYSTEMS COVERED:** **DURATION:**

**NON-DEALER WARRANTIES FOR THIS VEHICLE:**

☐ MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle.

☐ MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.

☐ OTHER USED VEHICLE WARRANTY APPLIES.

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

☐ SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warranties* under your state's laws may give you additional rights.

**ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT.**

☐ IF THE DEALER CHECKED THIS BOX, THE DEALER HAS A VEHICLE HISTORY REPORT AND WILL PROVIDE A COPY TO YOU UPON REQUEST. The Vehicle History Report may contain information from title records, salvage yards, and insurance companies. It may also include salvage, repair, accident, and prior ownership history.

Regardless of whether the box is checked, the FTC recommends that you obtain a Vehicle History Report. For information on how to obtain a vehicle history report, how to search for safety recalls, and other topics, visit the Federal Trade Commission at ftc.gov/usedcars. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on this site.

**SEE OTHER SIDE for important additional information, including a list of major defects that may occur in used motor vehicles.**

**Si usted no puede leer este documento en inglés, pídale al concesionario una copia en español.**

FIGURE 2 - IMPLIED WARRANTIES ONLY Buyers Guide (English)

# BUYERS GUIDE

**IMPORTANT:** Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE MODEL YEAR VEHICLE IDENTIFICATION NUMBER (VIN)

**WARRANTIES FOR THIS VEHICLE:**

☐ **IMPLIED WARRANTIES ONLY**

The dealer doesn't make any promises to fix things that need repair when you buy the vehicle or afterward. But *implied warranties* under your state's laws may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

☐ **DEALER WARRANTY**

☐ FULL WARRANTY.

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

**SYSTEMS COVERED:** **DURATION:**

**NON-DEALER WARRANTIES FOR THIS VEHICLE:**

☐ MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle.

☐ MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.

☐ OTHER USED VEHICLE WARRANTY APPLIES.

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

☐ SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warranties* under your state's laws may give you additional rights.

**ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT.**

☐ IF THE DEALER CHECKED THIS BOX, THE DEALER HAS A VEHICLE HISTORY REPORT AND WILL PROVIDE A COPY TO YOU UPON REQUEST. The Vehicle History Report may contain information from title records, salvage yards, and insurance companies. It may also include salvage, repair, accident, and prior ownership history.

Regardless of whether the box is checked, the FTC recommends that you obtain a Vehicle History Report. For information on how to obtain a vehicle history report, how to search for safety recalls, and other topics, visit the Federal Trade Commission at ftc.gov/usedcars. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on this site.

**SEE OTHER SIDE for important additional information, including a list of major defects that may occur in used motor vehicles.**

**Si usted no puede leer este documento en inglés, pídale al concesionario una copia en español.**

FIGURE 3 - REVERSE SIDE Buyers Guide (English)

Here is a list of some major defects that may occur in used vehicles.

**Frame & Body**
- Frame-cracks, corrective welds, or rusted through
- Dog tracks—bent or twisted frame

**Engine**
- Oil leakage, excluding normal seepage
- Cracked block or head
- Belts missing or inoperable
- Knocks or misses related to camshaft lifters and push rods
- Abnormal exhaust discharge

**Transmission & Drive Shaft**
- Improper fluid level or leakage, excluding normal seepage
- Cracked or damaged case which is visible
- Abnormal noise or vibration caused by faulty transmission or drive shaft
- Improper shifting or functioning in any gear
- Manual clutch slips or chatters

**Differential**
- Improper fluid level or leakage, excluding normal seepage
- Cracked or damaged housing which is visible
- Abnormal noise or vibration caused by faulty differential

**Cooling System**
- Leakage including radiator
- Improperly functioning water pump

**Electrical System**
- Battery leakage
- Improperly functioning alternator, generator, battery, or starter

**Fuel System**
- Visible leakage

**Inoperable Accessories**
- Gauges or warning devices
- Air conditioner
- Heater & Defroster

**Brake System**
- Failure warning light broken
- Pedal not firm under pressure (DOT spec.)
- Not enough pedal reserve (DOT spec.)
- Does not stop vehicle in straight line (DOT spec.)
- Hoses damaged
- Drum or rotor too thin (Mfgr. Specs)
- Lining or pad thickness less than 1/32 inch
- Power unit not operating or leaking
- Structural or mechanical parts damaged

**Air Bags**

**Steering System**
- Too much free play at steering wheel (DOT specs.)
- Free play in linkage more than 1/4 inch
- Steering gear binds or jams
- Front wheels aligned improperly (DOT specs.)
- Power unit belts cracked or slipping
- Power unit fluid level improper

**Suspension System**
- Ball joint seals damaged
- Structural parts bent or damaged
- Stabilizer bar disconnected
- Spring broken
- Shock absorber mounting loose
- Rubber bushings damaged or missing
- Radius rod damaged or missing
- Shock absorber leaking or functioning improperly

**Tires**
- Tread depth less than 2/32 inch
- Sizes mismatched
- Visible damage

**Wheels**
- Visible cracks, damage or repairs
- Mounting bolts loose or missing

**Exhaust System**
- Leakage
- Catalytic Converter

DEALER NAME

ADDRESS

TELEPHONE EMAIL

FOR COMPLAINTS AFTER SALE, CONTACT:

**IMPORTANT:** The information on this form is part of any contract to buy this vehicle. Removing this label before consumer purchase (except for purpose of test-driving) violates federal law (16 C.F.R. 455).

FIGURE 4 - "AS IS" - NO DEALER WARRANTY Buyers Guide (Spanish)

# GUÍA DEL COMPRADOR

**IMPORTANTE:** Las promesas verbales son difíciles de hacer cumplir. Solicite al concesionario que ponga todas las promesas por escrito. Conserve este formulario.

MARCA DEL VEHÍCULO | MODELO | AÑO | NÚMERO DE IDENTIFICACIÓN DEL VEHÍCULO (VIN)

**GARANTÍAS PARA ESTE VEHÍCULO:**

☐ **COMO ESTÁ - SIN GARANTÍA DEL CONCESIONARIO**

EL CONCESIONARIO NO PAGARÁ NINGUNA REPARACIÓN. El concesionario no es responsable por ninguna reparación, sin importar lo que cualquier persona le haya dicho.

☐ **GARANTÍA DEL CONCESIONARIO**

☐ GARANTÍA COMPLETA.

☐ GARANTÍA LIMITADA. El concesionario pagará el _____% de la mano de obra y el _____% de las partes de los sistemas cubiertos que fallen durante el período de garantía. Pídale al concesionario una copia de la garantía y de cualquier documento que le explique la cobertura, las exclusiones y las obligaciones de reparación del concesionario. Las *garantías implícitas*, según las leyes de su estado, podrían darle derechos adicionales.

**SISTEMAS CUBIERTOS:** **DURACIÓN:**

**GARANTÍAS QUE NO PERTENECEN AL CONCESIONARIO:**

☐ SE APLICA LA GARANTÍA DEL FABRICANTE. La garantía original del fabricante para el vehículo no venció.

☐ SE APLICA LA GARANTÍA DEL FABRICANTE PARA VEHÍCULOS USADOS.

☐ SE APLICA OTRA GARANTÍA PARA VEHÍCULOS USADOS.

Pídale al concesionario una copia del documento de garantía y una explicación de la cobertura, las exclusiones y las obligaciones de reparación.

☐ CONTRATO DE MANTENIMIENTO. Con un cargo adicional, puede obtener un contrato de mantenimiento para este vehículo. Pregunte acerca de los detalles de la cobertura, los deducibles, el precio y las exclusiones. Si compra un contrato de mantenimiento dentro de los 90 días desde el momento en que compró el vehículo, las *garantías implícitas* según las leyes de su estado podrían darle derechos adicionales.

**PREGÚNTELE AL CONCESIONARIO SI SU MECÁNICO PUEDE INSPECCIONAR EL VEHÍCULO DENTRO O FUERA DEL CONCESIONARIO.**

☐ SI EL CONCESIONARIO MARCÓ ESTE CUADRO, EL CONCESIONARIO TIENE UN INFORME SOBRE EL HISTORIAL DEL VEHÍCULO Y LE ENTREGARÁ UNA COPIA SI USTED SE LA PIDE. El Informe del Historial del Vehículo puede contener información sobre los registros de los títulos de propiedad, galpones de desguace, y compañías de seguro. También puede incluir el historial de desguace, reparación, accidentes, y de propietarios previos.

Independientemente de que el concesionario haya marcado el cuadro, la FTC le recomienda que consiga el Informe del Historial del Vehículo. Para más información sobre cómo obtener un informe del historial del vehículo, cómo buscar vehículos retirados del mercado, y otros temas, visite el sitio ftc.gov/carrosusados de la FTC. Para aprovechar al máximo los recursos de este sitio necesitará el número de identificación de vehículo (VIN) mostrado anteriormente.

**CONSULTE EL DORSO para obtener más información acerca de las garantías y otros datos que se apliquen para este vehículo.**

FIGURE 5 - IMPLIED WARRANTIES ONLY Buyers Guide (Spanish)

# GUÍA DEL COMPRADOR

**IMPORTANTE:** Las promesas verbales son difíciles de hacer cumplir. Solicite al concesionario que ponga todas las promesas por escrito. Conserve este formulario.

MARCA DEL VEHÍCULO | MODELO | AÑO | NÚMERO DE IDENTIFICACIÓN DEL VEHÍCULO (VIN)

**GARANTÍAS PARA ESTE VEHÍCULO:**

☐ **SOLO GARANTÍAS IMPLÍCITAS**

El concesionario no hace ninguna promesa de reparar lo que sea necesario cuando compre el vehículo o posteriormente. Sin embargo, las *garantías implícitas* según las leyes estatales podrían darle algunos derechos para hacer que el concesionario se encargue de ciertos problemas que no fueran evidentes cuando compró el vehículo.

☐ **GARANTÍA DEL CONCESIONARIO**

☐ GARANTÍA COMPLETA.

☐ GARANTÍA LIMITADA. El concesionario pagará el _____% de la mano de obra y el _____% de las partes de los sistemas cubiertos que fallen durante el período de garantía. Pídale al concesionario una copia de la garantía y de cualquier documento que le explique la cobertura, las exclusiones y las obligaciones de reparación del concesionario. Las *garantías implícitas*, según las leyes de su estado, podrían darle derechos adicionales.

**SISTEMAS CUBIERTOS:** **DURACIÓN:**

**GARANTÍAS QUE NO PERTENECEN AL CONCESIONARIO:**

☐ SE APLICA LA GARANTÍA DEL FABRICANTE. La garantía original del fabricante para el vehículo no venció.

☐ SE APLICA LA GARANTÍA DEL FABRICANTE PARA VEHÍCULOS USADOS.

☐ SE APLICA OTRA GARANTÍA PARA VEHÍCULOS USADOS.

Pídale al concesionario una copia del documento de garantía y una explicación de la cobertura, las exclusiones y las obligaciones de reparación.

☐ CONTRATO DE MANTENIMIENTO. Con un cargo adicional, puede obtener un contrato de mantenimiento para este vehículo. Pregunte acerca de los detalles de la cobertura, los deducibles, el precio y las exclusiones. Si compra un contrato de mantenimiento dentro de los 90 días desde el momento en que compró el vehículo, las *garantías implícitas* según las leyes de su estado podrían darle derechos adicionales.

**PREGÚNTELE AL CONCESIONARIO SI SU MECÁNICO PUEDE INSPECCIONAR EL VEHÍCULO DENTRO O FUERA DEL CONCESIONARIO.**

☐ SI EL CONCESIONARIO MARCÓ ESTE CUADRO, EL CONCESIONARIO TIENE UN INFORME SOBRE EL HISTORIAL DEL VEHÍCULO Y LE ENTREGARÁ UNA COPIA SI USTED SE LA PIDE. El Informe del Historial del Vehículo puede contener información sobre los registros de los títulos de propiedad, galpones de desguace, y compañías de seguro. También puede incluir el historial de desguace, reparación, accidentes, y de propietarios previos.

Independientemente de que el concesionario haya marcado el cuadro, la FTC le recomienda que consiga el Informe del Historial del Vehículo. Para más información sobre cómo obtener un informe del historial del vehículo, cómo buscar vehículos retirados del mercado, y otros temas, visite el sitio ftc.gov/carrosusados de la FTC. Para aprovechar al máximo los recursos de este sitio necesitará el número de identificación de vehículo (VIN) mostrado anteriormente.

**CONSULTE EL DORSO para obtener más información acerca de las garantías y otros datos que se apliquen para este vehículo.**

FIGURE 6 - REVERSE SIDE Buyers Guide (Spanish)

**A continuación podrá encontrar una lista de los defectos principales que podrían ocurrir en vehículos usados.**

**Chasis y carrocería**
Grietas en el chasis, soldaduras correctivas u oxidadas
Descuadrado: chasis doblado o torcido

**Motor**
Pérdidas de aceite, excepto las filtraciones normales
Bloque o cárter con grietas
Correas ausentes o fuera de servicio
Golpes o fallas relacionados con levantadores de levas o bielas
Descarga del escape fuera de lo normal

**Transmisión y eje motor**
Nivel inadecuado de fluido o pérdidas excepto filtraciones normales
Grietas o daños visibles en la caja.
Ruidos o vibraciones fuera de lo normal ocasionados por la transmisión o el eje motor
Cambios o funcionamiento inadecuados en cualquier velocidad
Patinados o vibraciones del embrague manual

**Diferencial**
Nivel inadecuado de fluido o pérdidas excepto filtraciones normales
Grietas o daños visibles en el cárter del diferencial
Ruidos o vibraciones fuera de lo normal ocasionados por fallas en el diferencial.

**Sistema de enfriamiento**
Pérdidas, incluidas las del radiador
Funcionamiento inadecuado de la bomba de agua

**Sistema eléctrico**
Pérdidas en la batería
Funcionamiento inadecuado del alternador, generador, batería o arrancador

**Sistema de combustible**
Pérdidas visibles

**Accesorios fuera de servicio**
Indicadores o dispositivos de advertencia
Aire acondicionado
Calefacción y Desempañador

**Sistema de frenos**
Luz de advertencia de fallas rota
Falta de firmeza cuando se presiona el pedal (según especificaciones del Departamento de Transporte (DOT))
Distancia insuficiente del pedal (según especificaciones del DOT)
El vehículo no se detiene en línea recta (según especificaciones del DOT)
Mangueras dañadas
Tambor o rotor muy delgados (según especificaciones del fabricante)
Grosor de la placa o del revestimiento inferior que 1/32 pulgadas
Unidad de potencia fuera de servicio o con pérdidas
Partes estructurales o mecánicas dañadas

**Bolsas de aire**

**Sistema de dirección**
Demasiado juego en el volante (según especificaciones del DOT)
Juego mayor a 1/4 de pulgada en el vastago.
El mecanismo de dirección se traba
Alineación inadecuada de las ruedas frontales (según especificaciones del DOT)
Grietas o deslizamiento en las correas de la unidad de potencia
Nivel inadecuado de fluidos de la unidad de potencia

**Sistema de suspensión**
Juntas de rótula dañadas
Partes estructurales doblegadas o dañadas
Barra estabilizadora desconectada
Resorte roto
Colineta del amortiguador suelto
Cojinetes de caucho dañados o ausentes
Biela dañada o ausente
Amortiguador con pérdidas o con funcionamiento inadecuado

**Neumáticos**
Profundidad de las ranuras menor que 2/32 de pulgada
Tamaños que no corresponden
Daños visibles

**Ruedas**
Grietas, daños o reparaciones visibles
Tornillos de sujeción sueltos o ausentes

**Sistema de escape**
Pérdidas
Convertidor catalítico

NOMBRE DEL CONCESIONARIO

DIRECCIÓN DEL CONCESIONARIO

TELÉFONO CORREO ELECTRÓNICO

PARA QUEJAS DESPUÉS DE LA VENTA COMUNÍQUESE CON:

**IMPORTANTE:** La información de este formulario es parte de cualquier contrato para comprar este vehículo. Quitar esta etiqueta antes de la compra del consumidor (excepto a los fines de realizar una prueba de conducción) es una infracción a la ley federal (16 C. F. R. 455).

By direction of the Commission.

**Donald S. Clark**

*Secretary.*

[FR Doc. 2014–28000 Filed 11–26–14; 8:45 am]

**BILLING CODE 6750–01–C**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 721

**[EPA–HQ–OPPT–2007–0490; FRL–9919–77]**

**RIN 2070–AJ96**

## Certain Nonylphenols and Nonylphenol Ethoxylates; Significant New Use Rule; Extension of Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** EPA issued a proposed rule in the **Federal Register** of October 1, 2014, concerning 15 related chemical substances commonly known as nonylphenols (NP) and nonylphenol ethoxylates (NPE). For 13 NPs and NPEs, EPA proposed to designate any use as a ''significant new use,'' and for 2 additional NPs, EPA proposed that any use other than use as an intermediate or use as an epoxy cure catalyst would constitute a ''significant new use.'' This document extends the comment period for 45 days, from December 1, 2014, to January 15, 2015. The comment period is being extended because EPA received comments contending that the proposed NP/NPE Significant New Use Rule (SNUR) contains many chemicals that need to be analyzed, there are many documents in the docket that need to be reviewed, the rule involves some companies correcting how they identify chemicals, and companies need more time to determine whether they use the chemicals for purposes other than what EPA has identified. Extending the comment period will allow companies to more accurately assess and communicate to EPA how the chemicals are being used.

**DATES:** The comment period for the proposed rule published October 1, 2014 (79 FR 59186), is extended. Comments, identified by docket identification (ID) number EPA–HQ–OPPT–2007–0490, must be received on or before January 15, 2015.

**ADDRESSES:** Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of

October 1, 2014 (79 FR 59186) (FRL–9912–87).

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Jeffrey Taylor, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8828; email address: *taylor.jeffrey@epa.gov.*

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:** This document extends the public comment period established in the **Federal Register** document of October 1, 2014. In that document, EPA proposed a SNUR for 15 related chemical substances commonly known as nonylphenols (NP) and nonylphenol ethoxylates (NPE). For 13 NPs and NPEs, EPA proposed to designate any use as a ''significant new use,'' and for 2 additional NPs, EPA proposed that any use other than use as an intermediate or use as an epoxy cure catalyst would constitute a ''significant new use.'' EPA is hereby extending the comment period, which was set to end on December 1, 2014, to January 15, 2015.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of October 1, 2014. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

### List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 21, 2014.

**Wendy C. Hamnett,**

*Director, Office of Pollution Prevention and Toxics.*

[FR Doc. 2014–28215 Filed 11–26–14; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 15 and 74

**[MB Docket No. 03–185; GN Docket No. 12–268; ET Docket No. 14–175; FCC 14–151]**

### Low Power Television Digital Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this Third Notice of Proposed Rulemaking, the Federal Communications Commission (Commission) seeks comment on a number of issues involving low power television (LPTV) and TV translator stations including measures to facilitate the final conversion of LPTV and TV translator stations to digital service and consider additional means to mitigate the potential impact of the incentive auction and the repacking process on LPTV and TV translator stations to help preserve the important services they provide.

**DATES:** Comments Due: December 29, 2014. Reply Comments Due: January 12, 2015. Written comments on the proposed information collection requirements, subject to the Paperwork Reduction Act (PRA) of 1995, Pub. L. 104–13, should be submitted on or before January 27, 2015.

**ADDRESSES:** You may submit comments, identified by MB Docket No. 03–185, GN Docket No. 12–268 and ET Docket No. 14–175 and/or FCC 14–151, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail.) All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

In addition to filing comments with the Secretary, a copy of any PRA comments on the proposed collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov* and also to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

**FOR FURTHER INFORMATION CONTACT:** Shaun Maher, *Shaun.Maher@fcc.gov* of the Media Bureau, Video Division, (202) 418–2324. For additional information concerning the PRA information collection requirements contained in this document, contact Cathy Williams, Federal Communications Commission, at (202) 418–2918, or via email *Cathy.Williams@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Third Notice of Proposed Rulemaking, FCC 14–151, adopted October 9, 2014, in MB Docket No. 03–185 (*Third NPRM*). The Commission released its Notice of Proposed Rulemaking, 18 FCC Rcd 18365 (2003) in 2003 and Further Notice of Proposed Rulemaking, 25 FCC Rcd 13833 (2010) in 2010. The full text of the *Third NPRM* is available for inspection and copying during regular business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, *http://www.bcpi.com,* or call 1–800–378–3160. This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

*Paperwork Reduction Act of 1995 Analysis*

This *Third NPRM* contains proposed new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents,

including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

PRA comments should be submitted to Cathy Williams, Federal Communications Commission via email at *PRA@fcc.gov* and *Cathy.Williams@fcc.gov* and Nicholas A. Fraser, Office of Management and Budget via fax at 202–395–5167 or via email to *Nicholas_A._Fraser@omb.eop.gov.*

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

*OMB Control Numbers:* 3060–1100.

*Title:* Section 15.117(k), TV Broadcast Receivers; section 15.117(b), Elimination of Analog Tuner Requirement.

*Form Number:* None.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for profit entities.

*Number of Respondents/Responses:* 1,550; 5,550 responses.

*Estimated Hours per Response:* 0.25–5 hrs.

*Frequency of Response:* One time reporting requirement; Third party disclosure requirement.

*Total Annual Burden:* 4,000 hours.

*Total Annual Cost:* No cost.

*Obligation to Respond:* Mandatory for the disclosure requirement and required to obtain or retain benefits for the other requirement. The statutory authority for this information collection is contained in sections 1, 2(a), 3(33) and (52), 4(i) and (j), 7, 154(i), 301, 303(r) and (s), 307, 308, 309, 336, 337 and 624(a) of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Act Assessment:* No impact(s).

*Needs and Uses:* In this *Third NPRM,* the Commission proposed eliminating the analog tuner requirement contained in § 15.117(b) of the rules. Should it adopt its proposal, the Commission also proposed that broadcast receiver manufacturers and importers who market digital-only equipment to educate consumers and retailers about the devices' limits and capabilities to prevent consumer confusion.

The information collection requirements that are contained in 47 CFR 15.117(k) remain a part of this collection and it is not impacted by the *Third NPRM.* Therefore, it remains unchanged since the information collection requirements were last approved by OMB.

*OMB Control Numbers:* 3060–0017.

*Title:* Application for a Low Power TV, TV Translator or TV Booster Station License, FCC Form 347.

*Form Numbers:* FCC Form 347.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for profit entities; Not for profit institutions; State, local or Tribal government.

*Number of Respondents/Responses:* 550 respondents; 550 responses.

*Estimated Hours per Response:* 1.5 hours per response.

*Frequency of Response:* One time reporting requirement; On occasion reporting requirement.

*Total Annual Burden:* 825 hours.

*Total Annual Cost:* $66,446.

*Obligation to Respond:* Required to obtain benefits. The statutory authority for this information collection is contained in sections 154(i), 301, 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Act Assessment:* No impact(s).

*Needs and Uses:* In this *Third NPRM,* it is proposed that low power television and TV translator stations be permitted to share a channel. FCC Form 347 will be used to license channel sharing between these types of stations. This *Third NPRM* adopts the following proposed information collection requirements:

The information collection requirements that are contained in 47 CFR 74.800(b) (Licensing of Channel Sharing Stations) proposes to require that the LPTV or TV translator channel sharing station relinquishing its channel must file an application for the initial channel sharing construction permit (FCC Form 346), include a copy of the channel sharing agreement as an exhibit, and cross reference the other sharing station(s). Any engineering changes necessitated by the channel sharing arrangement may be included in the station's application. Upon initiation of shared operations, the station relinquishing its channel must notify the Commission that it has terminated operation pursuant to § 73.1750 of this part and each sharing station must file an application for license (FCC Form 347). Therefore, FCC Form 347, Application for Low Power TV, TV Translator or TV Booster Station License, will be modified to allow applicants to propose that their stations be licensed on a shared basis.

*OMB Control Numbers:* 3060–1086.

*Title:* Section 74.787 Digital Licensing; § 74.790, Permissible Service of Digital TV Translator and LPTV Stations; § 74.794, Digital Emissions, and § 74.796, Modification of Digital Transmission Systems and Analog Transmission Systems for Digital Operation; § 74.798, LPTV Digital Transition Consumer Education Information, Protection of Analog LPTV.

*Form Number:* Not applicable.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for profit entities; not for profit institutions; State, local or Tribal government.

*Number of Respondents/Responses:* 8,445 respondents; 27,386 responses.

*Estimated Hours per Response:* 0.50–4 hours.

*Frequency of Response:* Recordkeeping requirement; One-time reporting requirement; Third party disclosure requirement.

*Total Annual Burden:* 56,386 hours.

*Total Annual Cost:* $69,033,000.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this information collection is contained in section 301 of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Act Assessment:* No impact(s).

*Needs and Uses:* In this *Third NPRM,* the Commission proposed rules and policies for a digital-to-digital replacement digital replacement translator to permit full power television stations to continue to provide service to viewers that may have otherwise lost service as a result of the station being ''repacked'' in the

Commission's incentive auction process.

Unlike other television translator licenses, the replacement digital television translator license will be associated with the full-service station's main license and will have the same four letter call sign as its associated main station. As a result, a replacement digital television translator license may not be separately assigned or transferred and will be renewed or assigned along with the full-service station's main license. Almost all other rules associated with television translator stations are applied to replacement digital television translators.

Moreover, the *Third NPRM* proposes an information collection requirement contained in 47 CFR 74.787(a)(5)(v). The proposed information collection requirements contained in proposed rule 47 CFR 74.787(a)(5)(v) states that an application for a digital to digital replacement digital television translator may be filed by a full power television station that can demonstrate that a portion of its digital service area will not be served by its post-incentive auction digital facilities. The service area of the replacement digital television translators shall be limited to only a demonstrated loss area. However, an applicant for a replacement digital television translator may propose a de minimis expansion of its full power pre-incentive auction digital service area upon demonstrating that it is necessary to replace its post-incentive auction digital loss area.

The information collection requirements that are contained in 47 CFR 74.787(a)(2)(iii), (a)(3), (a)(4) and (a)(5)(i), 47 CFR 74.790(f), (e) and (g), 47 CFR 74.794, 47 CFR 74.796(b)(5) and 74.796(b)(6), 47 CFR 74.798 and the protection of analog LPTV requirement remain a part of this information collection. The information collection requirements contained in these rule sections remain unchanged and FCC 14–151 did not impact on them.

**Synopsis of Third Notice of Proposed Rulemaking**

1. In this *Third NPRM,* the Commission considers measures to ensure the successful completion of the LPTV and TV translator digital transition, help preserve the important services LPTV and TV translator stations provide, and other related matters. Specifically, the Commission: (1) Tentatively concludes to extend the September 1, 2015 digital transition deadline for LPTV and TV translator stations; (2) tentatively concludes to adopt rules to allow channel sharing by and between LPTV and TV translator stations; (3) tentatively concludes to create a ''digital-to-digital replacement translator'' service for full power stations that experience losses in their pre-auction service areas; (4) seeks comment on the proposed use of the incentive auction optimization model to assist LPTV and TV translator stations displaced by the auction and repacking process to identify new channels; (5) seeks comment on whether to permit digital LPTV stations to operate analog FM radio-type services on an ancillary or supplementary basis; and (6) seeks comment on whether to eliminate the requirement in § 15.117(b) of our rules that TV receivers include analog tuners. The Commission also invites input on any other measures it should consider to further mitigate the impact of the auction and repacking process on LPTV and TV translator stations.

*Extending the September 1, 2015 LPTV and TV Translator Digital Transition Date*

2. The Commission tentatively concluded that it should postpone the September 1, 2015 deadline for LPTV and TV translator stations to transition to digital. The Commission concluded that it appears that the current LPTV and TV translator digital transition deadline may occur in close conjunction with the incentive auction, leaving LPTV and TV translator stations little or no time to consider its impact before having to complete their digital conversion. The Commission noted that, as of the release date of the *Third NRPM,* approximately 56% of LPTV and 80% of TV translator stations have completed their transition to digital. However, 795 LPTV and 779 TV translator stations have not yet completed their conversion. Because a significant number of stations have yet to complete their transition to digital service, and with less than a year before the digital transition deadline, the Commission tentatively concluded that it should postpone the transition deadline in order to avoid requiring stations to incur the costs of digital transition before completion of the auction and repacking process, which is likely to impact a significant number of LPTV and TV translator stations. The Commission also sought input from the industry about why the remaining analog stations have not yet converted.

3. The Commission noted that this proceeding concerns matters related only to LPTV and TV translator stations and not Class A television stations. Because Class A stations are not similarly impacted by the incentive auction and repacking process, the measures discussed In this *Third NRPM* to mitigate the impact on LPTV and TV translator stations, including extending the digital transition deadline, do not extend to Class A stations.

4. Although the Commission tentatively concluded that postponement of the digital transition deadline is appropriate, it noted that, since the initiation of the digital television conversion process, the Commission has consistently sought to ensure an expedited and successful transition for all television services, so that the public will be able to enjoy the benefits of digital broadcast television technology. It sought comment on whether and how postponement of the low power transition date will impact these goals. In addition, it sought comment from existing LPTV and TV translator stations on the status of their conversion efforts and the additional costs they may have to incur should they have to ''double build'' their digital facilities. The Commission also invited comment from low power stations that have completed the conversion process regarding their experience and the extent of their current digital service offerings.

5. Should it decide to adopt its tentative conclusion and postpone the September 1, 2015 transition date, the Commission sought comment on whether to establish a new deadline now or wait until after the incentive auction. The advantage of the latter approach would be to allow the Commission to examine the outcome of the incentive auction and take into account the overall impact of the repacking process on LPTV and TV translator stations before settling on a new transition date. Alternatively, prior to the auction, the Commission could establish a new transition date based on the record in this proceeding. That approach would provide LPTV and TV translator stations with more certainty about when the transition will end and might expedite completion of the digital transition. The Commission sought comment on the advantages and disadvantages of both approaches.

6. If the Commission decides to set, prior to the auction, a new transition date, it sought comment on an appropriate new transition date. The Commission noted that LPTV and TV translator stations may have to wait several months after the conclusion of the incentive auction to determine whether they are displaced as well as the channel availability for displacement applications. The Commission sought comment on whether a postponement of the current deadline to twelve months after the close of the incentive auction would be

appropriate in order to further its goal of expediting the transition to digital for these services. The Commission also invited comment on alternative approaches and dates. Whatever the new deadline, the Commission announced that it intended that it will continue to be a ''hard'' deadline and that all analog transmissions will be required to cease even if stations' digital facilities are not yet constructed.

7. If the Commission extends the digital transition deadline for LPTV and TV translator stations, it proposed to make corresponding rule changes and to modify transition-related digital construction permits to effectuate any new transition date. In addition, the Commission proposed to modify the rules to continue to allow transitioning stations to request one ''last minute'' extension beyond the transition deadline of up to six months, so long as the request is filed at least four months before the new deadline and meets the other criteria in our current rule. As in the current rule, the Commission proposed that extension requests no longer be accepted after that deadline and that use of the tolling rule commence the following day. The Commission sought comment on these proposals.

8. The Commission noted that the September 1, 2015 digital transition date does not apply to holders of unbuilt construction permits for new digital LPTV and TV translator stations. These permits are issued a three-year construction deadline at the time the initial construction permit is granted. Many of the more than 1,700 outstanding new digital LPTV and TV translator station permittees have been granted two extensions of time to construct by the Media Bureau staff and some have filed applications requesting a third extension of time. In order to treat these permittees similarly to the permittees of transitioning LPTV and TV translator stations, the Commission noted that, by a Public Notice that was released the same day, it had suspended the expiration date and construction deadlines of construction permits for new digital LPTV and TV translator stations pending final action in this proceeding. In the event the Commission extends the deadline for transitioning analog LPTV and TV translator stations in this proceeding, it tentatively concluded to extend the deadline for construction permits for new digital stations to conform their construction deadline to the new digital transition deadline. The Commission sought comment on this tentative conclusion.

*LPTV and TV Translator Channel Sharing*

9. The Commission tentatively concluded that it should adopt rules to permit channel sharing by and between LPTV and TV translator stations, and sought comment on a variety of rules to implement channel sharing for these stations. The Commission tentatively concluded that such rules are permitted under its general authority in Title III of the Communications Act of 1934, as amended.

10. The Commission tentatively concluded that authorizing channel sharing between and among LPTV and TV translator stations would serve the public interest, and we sought comment on this tentative conclusion.

11. Should the Commission decide to authorize channel sharing by and between LPTV and TV translator stations, it announced that channel sharing would be entirely voluntary. The Commission stated that it did not intend to be involved in the process of matching licensees interested in channel sharing with potential partners. Rather, LPTV and TV translator stations would decide for themselves whether and with whom to enter into a channel sharing arrangement. The Commission proposed to require all LPTV and TV translator stations to operate in digital on the shared channel and to retain spectrum usage rights sufficient to ensure at least enough capacity to operate one standard definition (''SD'') programming stream at all times. The Commission proposed to allow stations flexibility within this ''minimum capacity'' requirement to tailor their agreements and allow a variety of different types of spectrum sharing to meet the individualized programming and economic needs of the parties involved. The Commission will not propose to prescribe a fixed split of the capacity of the six megahertz channel between the stations from a technological or licensing perspective and that all channel sharing stations be licensed for the entire capacity of the six megahertz channel and that the stations be allowed to determine the manner in which that capacity will be divided among themselves subject only to the minimum capacity requirement.

12. The Commission proposed to retain its existing policy framework for the licensing and operation of channel sharing LPTV and TV translator stations. Under this policy, despite sharing a single channel and transmission facility, each station would continue to be licensed separately. Each station would have its own call sign, and each licensee would separately be subject to all of the Commission's obligations, rules, and policies. The Commission sought comment on these proposals.

13. The Commission proposed a licensing scheme for reviewing and approving channel sharing between LPTV and TV translator stations that differs from the one adopted for full power and Class A stations. Because the implementation of a channel sharing arrangement does not involve construction that requires Commission pre-approval, and because channel sharing arrangements involving full power and Class A stations will have been reviewed already in conjunction with the stations submitting bids in the incentive auction, the Commission found that there was no need for such stations to go through a two-step process by first applying for construction permits to implement their channel sharing proposals and then filing for new shared licenses. In contrast, LPTV and TV translator stations will not have already participated in the incentive auction, and the Commission will not have had an opportunity to review their proposed channel sharing arrangements, including any technical changes to the stations' facilities. Therefore, the Commission proposed the following two-step process for implementing channel sharing between LPTV and TV translator stations that addresses the particularities of the low power television service while minimizing costs and burdens in order to encourage channel sharing among these stations.

14. As the first step, if no technical changes are necessary for sharing, a channel sharing station relinquishing its channel would file an application for digital construction permit (FCC Form 346) for the same technical facilities as the sharer station, including a copy of the channel sharing agreement (''CSA'') as an exhibit, and cross reference the other sharing station(s). In this case, the sharer station would not need to take action at this time. If the CSA required technical changes to the sharer station's facilities, each sharing station would file an application for construction permit for identical technical facilities proposing to share the channel, along with the CSA. As a second step, after the sharing stations have obtained the necessary construction permits, implemented their shared facility and initiated shared operations, a station relinquishing its channel would notify the Commission that it has terminated operation on that channel. At the same time, sharing stations would file applications for license (FCC Form 347) to complete the licensing process. The

Commission sought comment on these proposed procedures.

15. The Commission comment on an appropriate length of time for channel sharing LPTV and TV translator stations to implement their arrangements. The Commission required that channel sharing arrangements involving full power and Class A stations in the incentive auction be implemented within three months after the relinquishing station receives its reverse auction proceeds. While the Commission found that this deadline would expedite the transition to the reorganized UHF band, it does believe it is necessary to set a similar deadline for LPTV and TV translator stations to implement their channel sharing arrangements. Therefore, the Commission sought comment on whether to allow channel sharing stations the standard three-year construction period under the rules to implement their sharing deals. It stated that it expected that many stations will not need a full three-year time period. Indeed, some LPTV and TV translator stations displaced by the repacking process and forced to go silent will need to resume operations within twelve months to avoid automatic cancellation of their license pursuant to section 312(g) of the Communications Act. Finding a channel sharing partner and resuming operations on a shared facility within the twelve months could be an important way for displaced stations to avoid automatic cancellation of their license. Other stations not facing this timing constraint may want or need more time to implement their new shared facilities. The Commission sought comment on this issue.

16. The Commission also sought comment on whether to apply existing restrictions on relocation proposals to LPTV and TV translator channel sharing arrangements. LPTV and TV translator stations may need flexibility in their ability to move their facilities in order to take advantage of channel sharing. Specifically, LPTV and TV translator stations may need to propose to relocate to a shared transmission site that is several miles from the location of their current transmission site. However, under our current rules, LPTV and TV translator stations filing a minor change application may not propose a move of their transmitter site of greater than 30 miles (48 kilometers) from the reference coordinates of the existing station's antenna location. In addition, LPTV and TV translator stations may file a minor change application only if there is contour overlap between the proposed and existing facilities. The Commission sought comment on whether continued application of these limitations is necessary and appropriate or whether their application in the context of channel sharing modifications would unduly limit channel sharing between LPTV and TV translator stations. Alternatively, should these restrictions be waived in certain cases to allow LPTV and TV translators more flexibility in their channel sharing arrangements, and if so, under what circumstances?

17. The Commission proposed to adopt ''channel sharing operating rules'' similar to those adopted for full power and Class A television stations in the Incentive Auction Report and Order with respect to the terms of CSAs, as well as the transfer or assignment of channel sharing licenses. The Commission proposed a different approach, however, when a channel sharing station's license is terminated due to voluntary relinquishment, revocation, or failure to renew.

18. CSAs for full power and/or Class A stations must include provisions governing certain key aspects of their operations. In so requiring, the Commission recognized that channel sharing will create new and complex relationships, and sought to avoid disputes that could lead to a disruption in service to the public and to ensure that each licensee is able to fulfill its independent obligation to comply with all pertinent statutory requirements and our rules. At the same time, the Commission noted that it ordinarily does not become involved in private contractual agreements and that it does not wish to discourage channel sharing relationships.

19. The Commission tentatively concluded that the same requirements are warranted in the context of LPTV and TV translator channel sharing. As with full power and Class A sharing arrangements, the Commission believes this approach will protect the public interest and ensure the success of channel sharing with minimal intrusion into channel sharing relationships. Therefore, it proposed that LPTV and TV translator CSAs be required to contain provisions outlining each licensee's rights and responsibilities in the following areas: (1) Access to facilities, including whether each licensee will have unrestrained access to the shared transmission facilities; (2) allocation of bandwidth within the shared channel; (3) operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions; and (4) termination or transfer/assignment of rights to the shared licenses, including the ability of a new licensee to assume the existing CSA. The Commission proposed to reserve the right to review CSA provisions and require modification of any that do not comply with these requirements or the Commission's rules. The Commission sought comment on these proposals.

20. The Commission sought comment on a streamlined approach to the situation in which an LPTV or TV translator channel sharing station's license is terminated due to voluntary relinquishment, revocation, failure to renew, or any other circumstance. Under the proposed approach, where an LPTV or TV translator sharing station's license is terminated, the Commission would modify the license(s) of the remaining channel sharing station(s) to reflect that its channel is no longer shared with the terminated licensee. In the event that only one station remains on the shared channel, that station could request that the shared channel be re-designated as a non-shared channel or could enter into a CSA with another LPTV or TV translator station and resume shared operations, subject to Commission approval. This approach differs from the approach the Commission adopted for full power and Class A television channel sharing arrangements in order to reduce the cost and burden to LPTV and TV translator stations and to encourage channel sharing among these stations.

21. In addition, the Commission proposes to allow rights under a CSA to be assigned or transferred, subject to the requirements of section 310 of the Communications Act, the Commission's rules, and the requirement that the assignee or transferee comply with the applicable CSA. The Commission sought comment on the above proposals and on any alternative approaches it should consider.

22. Should the Commission adopt rules authorizing channel sharing for LPTV and TV translator stations, it sought comment on whether to permit these stations to channel share with full power and Class A television stations as well. The Commission sought comment on the feasibility of allowing channel sharing between primary (full power and Class A) and secondary (LPTV and TV translator) services, each of which operate with differing power levels and interference protection rights. In the Incentive Auction Report and Order, the Commission allowed channel sharing between full power and Class A television stations despite the fact that each operate with different technical rules. It concluded that the Class A television station sharing a full power

television station's channel after the incentive auction would be permitted to operate under the part 73 rules governing power levels and interference. To facilitate channel sharing and further assist displaced LPTV and TV translator stations to find a new channel, the Commission sought comment on whether to allow LPTV and TV translator stations that share a full power or Class A television station's channel to similarly operate under the rules governing power levels and interference for full power and Class A television stations. In the unlikely event a full power or Class A television station proposes to share an LPTV or TV translator station's channel, the Commission proposes that the full power or Class A station would be subject to the power level and interference protection rules associated with the channel of the LPTV or TV translator station. The Commission sought comment on these proposals, including any regulatory difficulties that would result from channel sharing between a full power or Class A television station and an LPTV or TV translator station.

*Creation of a New Digital-to-Digital Replacement Translator Service*

23. The Commission proposes to establish a new ''digital-to-digital'' replacement translator service that will allow eligible full power television stations to recover lost digital service area that results from the reverse auction and repacking process. The Commission tentatively concluded that eligibility for the digital-to-digital replacement translator service should be limited to those full power television stations whose channels are changed following the incentive auction that can demonstrate that (1) a portion of their pre-auction service area will not be served by the facilities on their new channel, and (2) the proposed digital-to-digital replacement translator will be used solely to fill in such loss areas. The Commission sought comment on this tentative conclusion.

24. The Commission proposed to limit the service area of digital-to-digital replacement translators to digital loss areas resulting from the reverse auction and repacking process. To implement this restriction, it proposed to require applicants for a digital-to-digital replacement translator to demonstrate a digital loss area through an engineering study that depicts the station's pre- and post-incentive auction digital service areas. The Commission tentatively concluded that ''pre-auction digital service area'' should be defined as the geographic area within the full power station's noise-limited contour (of its facility licensed by the pre-auction licensing deadline). The Commission recognized that, due to the lack of available transmitter sites, it may be impossible or extremely costly for stations to locate a translator that replaces digital loss areas without also slightly expanding their pre-auction digital service areas. The Commission stated that it believed a better approach would be to allow applicants to propose de minimis expansions of pre-auction digital service areas on a showing that the expansions are necessary to replace service area lost as a result of their new channel assignments. To demonstrate necessity, the Commission proposed that stations be required to show that it is not possible to site a digital-to-digital replacement translator without de minimis expansion of the station's pre-auction digital service area. Further, it proposed to define de minimis on a case-by-case basis, consistent with the approach it took for processing analog to digital replacement translator applications. The Commission sought comment on these proposals.

25. The Commission also sought comment on the appropriate timing for the availability of this proposed new service. Specifically, the Commission proposed that the opportunity to apply for a digital-to-digital replacement translator be limited, commencing with the opening of the post-auction LPTV and TV translator displacement window and ending one year after the completion of the 39-month post-incentive auction transition period. Under this proposal, stations could begin applying for digital-to-digital replacement translators during the LPTV and TV translator displacement window and would then have one year beyond the completion of the post-auction transition period to identify the need and apply for a digital-to-digital replacement translator. The Commission stated that it believed this proposed deadline will provide full power television stations sufficient time to identify any possible loss areas that result from their new channel assignments while also helping to limit this service to its proposed objective of replacing a loss that results from the reverse auction and repacking process. The Commission sought comment on this proposal and on any alternative commencement and expiration dates it should consider.

26. The Commission proposed to afford applications for new digital-to-digital replacement translators co-equal processing priority with displacement applications for existing DRTs that are displaced as a result of the auction and repacking process. The Commission proposed co-equal processing treatment of these two types of applications to meet two goals. First, we seek to assist those full power stations that need a new digital-to-digital replacement translator to quickly obtain an authorization and schedule construction to coincide with the completion of their repacked facilities. The Commission also recognized that full power stations with existing DRTs that are displaced by the repacking process will need to construct on their new channel to help preserve their existing service. Therefore, to balance these two goals, it proposed that applications for new digital-to-digital replacement translators be afforded a co-equal processing priority with displacement applications for existing DRTs in cases of mutual exclusivity.

27. The Commission also proposed that both applications for new digital-to-digital replacement translators and displacement applications for existing DRTs would have processing priority over all other LPTV and TV translator applications including new, minor change and displacement applications. Under this approach, the Commission would begin to accept applications for new digital-to-digital replacement translators commencing with the opening of the post-auction LPTV and TV translator displacement window. All applications for new digital-to-digital replacement translators and displacement applications for existing DRTs filed during the post-auction displacement window would be considered filed on the last day of the window, would have priority over all other displacement applications filed during the window by LPTV and TV translator stations, and would be considered co-equal if mutually exclusive. Following the close of the displacement window, applications for new digital-to-digital replacement translators would be accepted on a first-come, first-served basis, would continue to have priority over all LPTV and TV translator new, minor change or displacement applications, even if first-filed, and co-equal priority with applications for displacement applications for existing DRTs filed on the same day. The Commission sought comment on these proposals and requested input on any alternative approaches it should consider.

28. The Commission sought comment on a number of proposed licensing and operating rules for digital-to-digital replacement translators analogous to those the Commission adopted for analog to digital replacement translators in 2009. Although the Commission

tentatively concluded that the same rules would be appropriate, it welcomed input regarding why a different approach might be preferable in this context and any alternative proposals.

29. The Commission proposed that the digital-to-digital replacement translator license could not be separately assigned or transferred and would be renewed, transferred, or assigned along with the main license. The Commission also proposed that applications for digital-to-digital replacement translators be filed on FCC Form 346, be treated as minor change applications, and be exempt from filing fees. The Commission proposed that digital-to-digital replacement translator stations be licensed with ''secondary'' frequency use status. Under this approach, these translators would not be permitted to cause interference to, and must accept interference from, full power television stations, certain land mobile radio operations, and other primary services, and would be subject to the interference protections to land mobile station operations in the 470-512 MHz band set forth in the rules.

30. The Commission proposed to apply the existing rules associated with television translator stations to digital-to-digital replacement translators, including the rules concerning power limits, out-of-channel emission limits, unattended operation, time of operation, and resolution of mutual exclusivity. The Commission also proposed to assign digital-to-digital replacement translators the same call sign as their associated full power television station.

31. The Commission proposed that stations be given a full three-year construction period to build their digital-to-digital replacement translators. The Commission believes that a full three-year period for completion of replacement translator facilities will help to ensure the successful implementation of this new service. Among other things, the Commission believes it will allow stations that are reassigned to new channels in the repacking process, some of which will have 39 months to complete construction of their post-auction facilities, to schedule construction of their replacement translator to coincide with the completion of their full power facilities. The Commission is concerned that a shorter construction period could discourage licensees from taking advantage of their processing priority by applying for digital-to-digital replacement translators at the earliest possible time.

32. The Commission tentatively concluded that allowing the licensing of new analog-to-digital replacement translators is no longer necessary and proposed to no longer accept applications for such facilities. Given the length of time that has passed since the digital transition deadline, the Commission believes any future applications will be unnecessary for stations to replace an analog loss area that occurred as a result of the digital transition. The Commission sought comment on this tentative conclusion.

*Assistance to LPTV and TV Translator Stations in Finding Displacement Channels After the Incentive Auction*

33. The Commission stated that it believes that the availability of the repacking and optimization software may provide a unique opportunity for the Commission to assist with the challenges displaced LPTV and TV translator stations face in finding new channel homes. The Commission sought comment on the use of these software tools to facilitate the relocation of displaced low power stations. In particular, because it is likely that a number of low power stations will be displaced from UHF channels, the Commission sought comment on whether and, if so how, our optimization software could facilitate the ability of low power stations to relocate to VHF channels where UHF channels are unavailable. One possibility is that, prior to opening the special window for LPTV and TV translator stations affected by the repacking process to file displacement applications, the Media Bureau could utilize the optimization model to identify market areas where all displaced LPTV and TV translator stations can be accommodated onto new channels. For such markets, the Media Bureau would issue a Public Notice listing potential channel assignments for displaced low power stations. Displaced low power stations would be encouraged to file for those channels in the displacement window. In cases where not all LPTV and TV translator stations can be accommodated onto new channels using current operating parameters, the Media Bureau could use the software to identify possible arrangements based on other objectives, such as maximizing the number of stations assigned or minimizing the interference that stations might experience, to assist stations in examining engineering solutions to find channels. In addition, the Commission seek comment on alternative methods for efficiently assigning the spectrum that will remain available post-auction for LPTV and TV translator stations.

34. The Commission emphasized that stations' decision to seek channel assignments recommended by the Media Bureau as a result of using repacking and optimization software or another method to assist with the displacement process would be voluntary. It does not propose to require stations to accept channel assignments identified by the Media Bureau. It intends that these stations continue to be permitted to seek displacement channels that work best for their particular circumstances, so long as the channel selections comply with our licensing and technical rules. The Commission sought comment on these proposals.

*Operation of Analog Radio Services by Digital LPTV Stations as Ancillary or Supplementary Services*

35. The Commission sought comment on whether to allow LPTV stations on digital television channel 6 (82–88 MHz) to operate analog FM radio-type services on an ancillary or supplementary basis pursuant to § 73.624(c) of the rules. Currently, some analog LPTV stations licensed on channel 6 are operating with very limited visual programming and an audio signal that is programmed like a radio station. FM radio listeners are able to receive the audio portion of these LPTV stations at 87.76 MHz, which is adjacent to noncommercial educational (NCE) FM channel 201 (88.1 MHz). When these LPTV stations convert to digital, however, they are unable to continue providing such radio service because the digital audio portion of their signal can no longer be received by standard FM receivers. LPTV stations have been proposing engineering solutions to allow their continued FM radio-type operation following their conversion to digital. For example, a station has proposed using a single transmitter that allows a digital visual and audio stream, as well as a separate analog audio transmission, to simultaneously operate a digital LPTV station on channel 6 and an analog FM radio-type service at 87.76 MHz. Under this proposal, the Commission would treat the analog FM audio transmission as an ''ancillary or supplementary'' service offering under § 74.790(i) of the Commission's rules, which provides that ''a digital LPTV station may offer services of any nature, consistent with the public interest, convenience, and necessity, on an ancillary or supplementary basis in accordance with the provisions of § 73.624(c). . . .'' Section 73.624(c) in turn provides that: The kinds of services that may be provided include, but are not limited to

computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and any other services that do not derogate DTV broadcast stations' obligations under paragraph (b) of this section.

36. The Commission seeks comment on whether to permit LPTV stations on digital television channel 6 (82–88 MHz) to operate dual digital and analog transmission systems in this manner. These stations are low power television stations and, following the eventual transition, will be operating solely in digital. The Commission sought comment on whether a digital LPTV station can provide an analog FM radio-type service as an ancillary or supplementary service consistent with the Communications Act and our rules.

37. The Commission sought comment on the potential for a digital LPTV station's analog FM radio-type service to interfere with or disrupt the LPTV station's digital TV service. Section 336(b)(2) of the Act provides that the Commission shall ''limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies.'' Would a digital LPTV station be able to operate an analog transmitter without interfering or derogating its co-channel digital operation?

38. In addition, the Commission sought comment on the potential of interference to other primary licensees. Because an LPTV station operates on a secondary interference basis, the provision of an ancillary or supplementary service by the station must also be on a secondary basis. Therefore, it must protect the operations of all primary licensees. LPTV stations on channel 6 are second and third adjacent to FM channels 201 and 202, which are licensed on a primary basis for NCE FM radio operations. The Commission sought comment on the potential for interference from digital LPTV stations' ancillary or supplementary analog FM radio-type operations to primary licensees, including NCE FM radio stations. It also sought comment on what rules we might adopt to prevent such interference. If it permits such operations, should the Commission prohibit any overlap between the 100 dBu interfering contour of the channel 6 LPTV station and the 60 dBu protected contour of the NCE FM station? In addition, should the Commission propose that if the operation of the LPTV station causes any actual interference to the transmission of any authorized FM broadcast station, the LPTV station would be required to eliminate the interference or immediately suspend operations? Would such a prohibition of contour overlap adequately prevent interference to primary licensees including NCE FM stations?

39. If the Commission decides to permit analog FM radio-type operations by LPTV stations on an ancillary or supplementary basis, it sought comment on whether such operations should be subject to the part 73 rules applicable to FM radio stations. Section 336(b)(3) of the Communications Act mandates that the Commission ''apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person . . . .'' The Commission sought comment on whether the analog FM radio-type service discussed herein is ''analogous to other services subject to regulation by the Commission'' within the meaning of section 336(b)(3) and the Commission's implementing rules and, if so, on which of the part 73 rules should apply to the offering of an analog FM radio-type service.

40. Finally, should the Commission permit the provision of an analog FM radio-type service on an ancillary or supplementary basis, it sought comment on whether that service would be subject to a five percent fee. The ancillary and supplementary rule provides that digital television stations ''must annually remit a fee of five percent of the gross revenues derived from all ancillary and supplementary services . . . which are feeable . . . .'' ''Feeable'' services are defined as ''[a]ll ancillary or supplementary services for which payment of a subscription fee or charge is required in order to receive the service.'' ''Feeable'' services are also defined as ''[a]ny ancillary or supplementary service for which no payment is required from consumers in order to receive the service . . . if the DTV licensee directly or indirectly receives compensation from a third party in return for the transmission of material provided by that third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required).'' The FM radio-type services provided by LPTV stations, thus far, appear to have been available to the general public without subscription. Given these definitions, the Commission sought comment on whether, and under what circumstances, an LPTV station's ancillary or supplementary analog FM radio service should be deemed ''feeable'' and subject to the five percent fee.

*Elimination of Analog Tuner Requirement*

41. The Commission sought comment on a proposed change to § 15.117(b) of our rules that would eliminate any obligation to integrate analog tuners in TV receivers. This proposed modification would allow TV broadcast receiver manufacturers and importers to ship and import devices without analog tuners before all LPTV and TV translator stations cease analog broadcasting, but would continue to require those devices to be able to receive all digital broadcast TV channels. The Commission asked if it should eliminate the analog tuner requirement before all broadcast TV stations cease broadcasting in analog. The Commission sought comment on the costs to manufacturers of continuing to build analog tuners into their devices in comparison with the benefits to consumers. If the Commission eliminates the analog tuner requirement, it sought comment on whether to modify § 15.117 to remove requirements that apply to analog tuners.

42. In its waiver orders, the Media Bureau also conditioned the waivers on the recipients' voluntary commitments to educate consumers and retailers about the devices' limits and capabilities to prevent consumer confusion. If the Commission adopts its proposal, it sought comment on whether to impose similar consumer protection or education measures on broadcast receiver manufacturers and importers who market digital-only equipment prior to the LPTV and TV translator digital transition deadline. If so, should such measures only be required for a defined period of time? Or would such requirements be unnecessary because the effect on consumers by the time any elimination would become effective will be ''de minimis''? The Commission sought comment on its statutory authority to adopt consumer protection or education measures and on any other issues related to our analog tuner rule that we should consider.

*Additional Measures To Preserve LPTV and TV Translator Services*

43. Finally, the Commission sought comment on additional measures it should consider in order to mitigate the impact of the incentive auction on LPTV and TV translator stations and to help preserve the important services they provide. Commenters proposing other measures for consideration should identify the legal authority to take the

proposed measures and describe in detail any perceived benefits and disadvantages of the measures advocated.

**Initial Regulatory Flexibility Act Analysis**

As required by the Regulatory Flexibility Act of 1980, as amended (''RFA'') [1] the Commission has prepared this present Initial Regulatory Flexibility Analysis (''IRFA'') concerning the possible significant economic impact on small entities by the policies and rules proposed in this *Third Notice of Proposed Rulemaking, FCC 14–151, adopted October 9, 2014 in MB Docket No. 03–185* (Third NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments indicated on the first page of the *Third NPRM.* The Commission will send a copy of the *Third NPRM* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[2] In addition, the *Third NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register.**[3]

*Need for and Objectives of the Proposed Rules*

On June 2, 2014, the Federal Communications Commission (Commission) released its Incentive Auction Report and Order, 29 FCC Rcd 657 (2014), adopting rules to implement the broadcast television spectrum incentive auction authorized by the Middle Class Tax Relief and Job Creation Act (Spectrum Act). The Commission recognized in the Incentive Auction Report and Order that the incentive auction will have a significant impact on low power television stations and TV translator stations. As part of the incentive auction, the Commission will (1) conduct a ''reverse auction,'' whereby full power and Class A television stations may opt to relinquish some or all of their spectrum usage rights in exchange for incentive payments, and (2) reorganize or ''repack'' the broadcast television bands in order to free up a portion of the ultra high frequency (UHF) band for new flexible uses. The Commission concluded in the Incentive Auction Report and Order that the Spectrum Act does not mandate the protection of LPTV and TV translator stations because the scope of mandatory protection under section 6403(b)(2) is limited to full power and Class A television stations. The Commission also declined to extend discretionary protection to these stations because of the detrimental impact such protection would have on the repacking process and the success of the incentive auction. Accordingly, some LPTV and TV translator stations will be displaced as a result of the repacking process and required to either find a new channel or discontinue operations.

In order to mitigate the impact of the auction and repacking process on LPTV and TV translator stations, the Commission stated that it intended to initiate an LPTV/TV Translator rulemaking proceeding ''to consider additional measures that may help alleviate the consequences of LPTV and TV translator station displacements resulting from the auction and repacking process. In this *Third NPRM,* the Commission considers the measures discussed in the Incentive Auction Report and Order as well as other measures to ensure the successful completion of the LPTV and TV translator digital transition and the continued viability of these services.

In this *Third NPRM,* the Commission seeks comment on whether to extend the September 1, 2015 digital transition deadline for LPTV and TV translator stations. Because a significant number of stations have yet to complete their transition to digital service, and with less than a year before the digital transition deadline, the Commission believes that it is appropriate to reconsider whether the deadline should be postponed in light of the projected timing of its incentive auction. The Commission seeks comment on an appropriate new transition date and whether to revise its related rules to accommodate the change.

The Commission also tentatively concludes to adopt rules to permit channel sharing by and between LPTV and TV translator stations, and seeks comment on a variety of rules to implement channel sharing for these stations. The Commission's existing channel sharing rules apply only to full power and Class A stations bidding in the incentive auction. The Commission now considers creating channel sharing rules for LPTV and TV translator stations outside of the auction context.

The Commission also tentatively concludes to create a ''digital-to-digital replacement translator'' service for full power stations that are reassigned to new channels in the incentive auction, either in the repacking process and or through a winning UHF-to-VHF or high-VHF-to-low-VHF bid, if those full power stations discover that a portion of their existing pre-auction service area will no longer be able to receive service after the station transitions to its new channel. The Commission seeks comment on various rules and policies to implement the new digital-to-digital replacement translator service.

In this *Third NPRM,* the Commission seeks comment on a proposed use of the incentive auction optimization model to assist LPTV and TV translator stations displaced by the incentive auction repacking process to identify new channels.

The Commission also seeks comment on whether to permit digital LPTV stations to operate analog FM radio-type services on an ancillary or supplementary basis. Currently, some analog LPTV stations licensed on channel 6 are operating with very limited visual programming and an audio signal that is programmed like a radio station. FM radio listeners are able to receive the audio portion of these LPTV stations at 87.76 MHz, which is adjacent to noncommercial educational (NCE) FM channel 201 (88.1 MHz). When these LPTV stations convert to digital, however, they are unable to continue providing such radio service because the digital audio portion of their signal can no longer be received by standard FM receivers. Anticipating the end of their FM radio-type operations, LPTV stations have been proposing engineering solutions to allow their continued operation following their conversion to digital. The Commission seeks comment on whether to permit LPTV stations to operate dual digital and analog transmission systems in this manner and whether the provision of an analog FM radio-type service is what Congress intended when it passed the 1996 Telecom Act to allow digital television stations, including LPTV stations, to offer ancillary or supplementary services.

In this *Third NPRM,* the Commission seeks comment on whether to eliminate the requirement in § 15.117(b) of our rules that TV receivers include analog tuners. This proposed modification would allow TV broadcast receiver manufacturers and importers to build and import devices without analog tuners before all LPTV and TV translator stations cease analog broadcasting, but would continue to require those devices to be able to receive all digital broadcast TV channels.

Finally, the Commission invites input on any other measures it should

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 et. seq., has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''), Pub. L. 104–121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract With America Advancement Act of 1996 (''CWAAA'').

[2] *See* 5 U.S.C. 603(a).

[3] *Id.*

consider to further mitigate the impact of the auction and repacking process on LPTV and TV translator stations.

*Legal Basis*

The authority for the action proposed in this rulemaking is contained in sections 1, 4(i) and (j), 5(c)(1), 7, 301, 302, 303, 307, 308, 309, 312, 316, 319, 324, 332, 336, and 337 of the Communications Act of 1934, 47 U.S.C 151, 154(i) and (j), 155(c)(1), 157, 301, 302, 303, 307, 308, 309, 312, 316, 319, 324, 332, 336, and 337.

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

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 proposed rules, if adopted.[4] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small government jurisdiction.'' [5] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[6] 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.[7]

*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.'' [8] The SBA has created the following small business size standard for Television Broadcasting firms: Those having $14 million or less in annual receipts.[9] The Commission has estimated the number of licensed commercial television stations to be 1,387.[10] 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.[11] We therefore estimate that the majority of commercial television broadcasters are small entities.

We note, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included.[12] 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.

In addition, the Commission has estimated the number of licensed noncommercial educational (''NCE'') television stations to be 395.[13] These stations are non-profit, and therefore considered to be small entities.[14]

There are also 2,460 LPTV stations, including Class A stations, and 3838 TV translator stations.[15] Given the nature of these services, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

*Electronics Equipment Manufacturers.* Rules adopted in this proceeding could apply to manufacturers of television receiving equipment and other types of consumer electronics equipment. The SBA has developed definitions of small entity for manufacturers of audio and video equipment [16] as well as radio and television broadcasting and wireless communications equipment.[17] These categories both include all such companies employing 750 or fewer employees. The Commission has not developed a definition of small entities applicable to manufacturers of electronic equipment used by consumers, as compared to industrial use by television licensees and related businesses. Therefore, we will utilize the SBA definitions applicable to manufacturers of audio and visual equipment and radio and television broadcasting and wireless communications equipment, since these are the two closest NAICS Codes applicable to the consumer electronics equipment manufacturing industry. However, these NAICS categories are broad and specific figures are not available as to how many of these establishments manufacture consumer equipment. According to the SBA's regulations, an audio and visual equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern.[18] Census Bureau data indicates that there are 554 U.S. establishments that manufacture audio and visual equipment, and that 542 of these establishments have fewer than 500 employees and would be classified as small entities.[19] The remaining 12 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. Under the SBA's regulations, a radio and television broadcasting and wireless communications equipment manufacturer must also have 750 or fewer employees in order to qualify as a small business concern.[20] Census Bureau data indicates that there 1,215 U.S. establishments that manufacture radio and television broadcasting and wireless communications equipment,

[4] *Id.* at 603(b)(3).

[5] 5 U.S.C. 601(6).

[6] *Id.* at 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[7] 15 U.S.C. 632. Application of the statutory criteria of dominance in its field of operation and independence are sometimes difficult to apply in the context of broadcast television. Accordingly, the Commission's statistical account of television stations may be over-inclusive.

[8] U.S. Census Bureau, *2012 NAICS Definitions: 515120 Television Broadcasting, http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=515120&search=2012* (last visited Mar. 6, 2014).

[9] 13 CFR 121.201 (NAICS code 515120) (updated for inflation in 2010).

[10] *See* FCC News Release, Broadcast Station Totals as of June 30, 2014 (rel. July 9, 2014).

[11] We recognize that BIA's estimate differs slightly from the FCC total given the information provided above.

[12] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.'' 13 CFR 121.103(a)(1).

[13] *See* FCC News Release, Broadcast Station Totals as of June 30, 2014 (rel. July 9, 2014).

[14] *See generally* 5 U.S.C. 601(4), (6).

[15] *See* FCC News Release, Broadcast Station Totals as of June 30, 2014 (rel. July 9, 2014).

[16] 13 CFR 121.201, NAICS Code 334310.

[17] 13 CFR 121.201, NAICS Code 334220.

[18] 13 CFR 121.201, NAICS Code 334310.

[19] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1997 Economic Census, Industry Series—Manufacturing, Audio and Video Equipment Manufacturing, Table 4 at 9 (1999). The amount of 500 employees was used to estimate the number of small business firms because the relevant Census categories stopped at 499 employees and began at 500 employees. No category for 750 employees existed. Thus, the number is as accurate as it is possible to calculate with the available information.

[20] 13 C.F.R 121.201, NAICS Code 334220.

and that 1,150 of these establishments have fewer than 500 employees and would be classified as small entities.[21] The remaining 65 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. We therefore conclude that there are no more than 542 small manufacturers of audio and visual electronics equipment and no more than 1,150 small manufacturers of radio and television broadcasting and wireless communications equipment for consumer/household use.

*Description of Projected Reporting, Recordkeeping and Other Compliance Requirements*

This *Third NRPM* proposes the following new or revised reporting or recordkeeping requirements.

To implement channel sharing between LPTV and TV translator stations, stations will follow a two-step process proposed by the Commission—first filing an application for construction permit (Form 346) and then application for license (Form 347). Stations terminating operations to share a channel would be required to submit a termination notice pursuant to the existing Commission rule. These existing forms and collections will need to be revised to accommodate these new channel-sharing related filings and to expand the burden estimates. In addition, the Commission proposes that channel sharing stations submit their channel sharing agreements (CSAs) with the Commission and be required to include certain provisions in their CSAs. The existing collection concerning the execution and filing of CSAs will need to be revised.

To implement its proposed new digital-to-digital replacement translator service, the Commission will need to revise its existing replacement translator forms (346 and 347), rules and collections and to expand the burden estimates.

Should the Commission eliminate its rule requiring that television receivers include an analog tuner, prior to the time that all broadcasters are operating digital-only, it is considering requiring that all broadcast receiver manufacturers and importers who market digital-only equipment prior to the LPTV and TV translator digital transition deadline educate consumers and retailers about the devices' limits and capabilities to prevent consumer confusion.

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

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.[22]

The Commission's proposal to extend the September 1, 2015 LPTV and TV Translator digital transition date will greatly minimize the impact on small entities having to complete their transition to digital. Instead of having to possibly endure the expense of having to construct a digital facility only to be displaced by the incentive auction reorganization of spectrum and having to finance the construction of a second digital facility, the Commission's proposal will allow small entities to wait until the incentive auction is complete and to determine the impact on their digital transition plan.

The Commission's proposal to allow LPTV and TV Translator to share channels between themselves and with other television services would greatly minimize the impact on small entities. Many stations will be displaced by the incentive auction reorganization of spectrum and allowing these stations to channel share will reduce the cost of having to build a new facility to replace the one that was displaced. Stations can share in the cost of building a shared channel facility and will experience cost savings by operating a shared transmission facility. In addition, channel sharing is voluntary and only those stations that determine that channel sharing will be advantageous will enter into this arrangement.

The Commission's proposed licensing and operating rules for channel sharing between LPTV and TV translator stations and other television services were designed to minimize impact on small entities. The rules provide a streamlined method for reviewing and licensing channel sharing for these stations as well as a streamlined method for resolving cases where a channel sharing station loses its license on the shared channel. These rules were designed to reduce the burden and cost on small entities.

The Commission is aware that some full service television stations operate with limited budgets. Accordingly, every effort was taken to propose rules for the new digital-to-digital replacement translator that impose the least possible burden on all licensees, including small entities. Existing forms will be used to implement this new service thereby reducing the burden on small entities.

The Commission proposes that applications for digital-to-digital replacement translators should be given licensing priority over all other low power television and TV translator applications except displacement applications for analog-to-digital replacement translators (for which they would have co-equal priority). The Commission could have proposed allowing no such priority, but this alternative was not considered because it would result in many more mutually exclusive filings and delay the implementation of this valuable service.

The Commission also proposes to limit the eligibility for such service to only those full-service television stations that can demonstrate that a portion of their digital service area will not be served by their post-incentive auction facilities and for translators to be used for that purpose. Alternatively, the Commission could have allowed all interested parties to file for new translators, however such approach was not considered because it would also result in numerous mutually exclusive filings and would greatly delay implementation of this needed service.

The Commission further proposes that the service area of the replacement translator should be limited to only a demonstrated loss area and seeks comment on whether a replacement translator should be permitted to expand slightly a full-service station's post-incentive auction service area. Once again, the Commission could have allowed stations to file for expansion of their existing service areas but such an alternative was not seriously considered because it could result in the use of valuable spectrum that the Commission seeks to preserve for other uses.

[21] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1997 Economic Census, Industry Series—Manufacturing, Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, Table 4 at 9 (1999). The amount of 500 employees was used to estimate the number of small business firms because the relevant Census categories stopped at 499 employees and began at 500 employees. No category for 750 employees existed. Thus, the number is as accurate as it is possible to calculate with the available information.

[22] 5 U.S.C. 603(c)(1)–(c)(4).

The Commission proposes that replacement digital television translator stations should be licensed with ''secondary'' frequency use status. The Commission could have proposed that replacement translators be licensed on a primary frequency use basis, but this alternative was not proposed because it would result in numerous interference and licensing problems.

The Commission proposes that, unlike other television translator licenses, the license for the replacement translator should be associated with the full power station's main license. Therefore, the replacement translator license could not be separately assigned or transferred and would be renewed or assigned along with the full-service station's main license. Alternatively, the Commission could have proposed that the replacement translator license be separate from the main station's license however this approach was not seriously considered because it could result in licenses being sold or modified to serve areas outside of the loss area, and thus would undermine the purpose of this new service.

The Commission also tentatively concludes that the other rules associated with television translator stations should apply to the new replacement translator service including those rules concerning the filing of applications, payment of filing fees, processing of applications, power limits, out-of-channel emission limits, call signs, unattended operation, and time of operation. The alternative could have been to design all new rules for this service, but that alternative was not considered as it would adversely impact stations ability to quickly implement these new translators.

The Commission's proposal to discontinue accepting applications for analog-to-digital replacement translators may impact small entities. However, the Commission determined that the need to prevent a negative impact on the post-incentive auction displacement window that could occur if the precious few channels were used for this service rather than for use by displaced LPTV and TV translator stations outweighed the limited impact on full power stations seeking a replacement translator given that the DTV transition was completed over five years ago.

The Commission's efforts to assist LPTV and TV translator stations in finding displacement channels after the incentive auction will greatly benefit small entities. By helping stations find new channels from an ever shrinking universe of channels that will remain after the incentive auction reorganization of channels, the Commission will save small entities time and money by not having to consult with an engineer to make such determinations. Such savings can then be used to construct and operate the displacement facility.

The Commission seeking comment on whether to permit operation of analog radio services by digital LPTV stations as ancillary or supplementary services could greatly benefit small entity LPTV stations by allowing them to find new business operations and sources of income. LPTV stations could establish a separate radio operation on an ancillary basis in addition to their primary digital television service. Such ancillary operation could provide a separate source of income to supplement their television operation and provide a separate audience for their programming and advertising.

The Commission seeking comment on whether to permit equipment manufacturers to forego having to include an analog tuner in their television sets could benefit small entity equipment manufacturers. Having to include an analog tuner increases the cost of a television sets and equipment manufacturers, some of whom may be small entities, would enjoy a cost savings as a result of the Commission's proposal. Any impact that not including an analog tuner in new television sets may have upon consumers should be minimal now that the digital transition has been complete for over five years and would be outweighed by the benefit of less expensive digital television sets.

*Federal Rules Which Duplicate, Overlap, or Conflict With the Commission's Proposals*

None.

**List of Subjects**

*47 CFR Part 15*

Communications equipment.

*47 CFR Part 74*

Television.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

**Proposed Rules**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 15 and 74 as follows:

## PART 15—RADIO FREQUENCY DEVICES

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

**Authority:** 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a, and 549.

■ 2. Amend § 15.117 by revising paragraph (b) to read as follows:

**§ 15.117 TV broadcast receivers.**

* * * * *

(b) TV broadcast receivers shall be capable of adequately receiving all digital channels allocated by the Commission to the television broadcast service.

* * * * *

## PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 3. The authority citation for part 74 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, 307, 309, 336 and 554

■ 4. Amend § 74.731 by revising paragraph (l) to read as follows:

**§ 74.731 Purpose and permissible service.**

* * * * *

(l) After 11:59 p.m. local time on September 1, 2015, Class A television stations may no longer operate any facility in analog (NTSC) mode. After 11:59 p.m. local time on (insert new transition date), low power television and TV translator stations may no longer operate any facility in analog (NTSC) mode.

■ 5. Amend § 74.787 by revising paragraphs (a)(5) to read as follows:

**§ 74.787 Digital licensing.**

(a) * * *

(5) *Applications for analog-to-digital and digital-to-digital replacement television translators.*

(i) Applications for new analog-to-digital replacement translators will not be accepted. Displacement applications for analog-to-digital replacement translators will continue to be accepted. An application for a digital-to-digital replacement translator may be filed beginning the first day of the low power television and TV translator displacement window set forth in § 73.3700(g)(1) of this chapter to one year after the completion of the 39 month transition period set forth in § 73.3700(b)(4) of this chapter. Applications for digital-to-digital replacement translators filed during the displacement window will be considered filed on the last day of the window. Following the completion of the displacement window, applications for digital-to-digital replacement translators will be accepted on a first-come, first-serve basis.

(ii) Applications for analog-to-digital replacement television translator shall be given processing priority over all

other low power television and TV translator applications except displacement applications (with which they shall have co-equal priority) as set forth in § 73.3572(a)(4)(ii) of this chapter. Applications for digital-to-digital replacement television translator shall be given processing priority over all other low power television and TV translator applications and shall have co-equal priority with displacement applications filed for analog-to-digital replacement translators.

(iii) The service area of the digital-to-digital replacement translator shall be limited to only a demonstrated loss area within the full-service station's pre-auction digital service area. ''Pre-auction digital service area'' is defined as the geographic area within the full power station's noise-limited contour (of its facility licensed by the pre-auction licensing deadline prior to the incentive auction conducted under Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96)). An applicant for a digital-to-digital replacement television translator may propose a *de minimis* expansion of its full power pre-auction digital service area upon demonstrating that the expansion is necessary to replace its digital loss area.

(iv) The license for the analog-to-digital and digital-to-digital replacement television translator will be associated with the full power station's main license, will be assigned the same call sign, may not be separately assigned or transferred, and will be renewed with the full power station's main license.

(v) Analog-to-digital and digital-to-digital replacement television translators may only operate on those television channels designated for broadcast television use following completion of the auctions conducted under Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96).

(vi) Each original construction permit for the construction of an analog-to-digital or digital-to-digital replacement television translator station shall specify a period of three years from the date of issuance of the original construction permit within which construction shall be completed and application for license filed. The provisions of § 74.788(c) of this chapter shall apply for stations seeking additional time to complete construction of their replacement television translator station.

(vii) Applications for analog-to-digital and digital-to-digital replacement television translators shall be filed on FCC Form 346 and shall be treated as an application for minor change. Mutually exclusive applications shall be resolved via the Commission's part 1 and broadcast competitive bidding rules, § 1.2100–§ 1.2114. and § 73.5000–§ 73.5009 of this chapter.

(viii) The following sections are applicable to analog-to-digital and digital-to-digital replacement television translator stations:

§ 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.
§ 74.703 Interference
§ 74.709 Land mobile station protection.
§ 74.734 Attended and unattended operation
§ 74.735 Power Limitations
§ 74. 751 Modification of transmission systems.
§ 74.763 Time of Operation
§ 74.765 Posting of station and operator licenses.
§ 74.769 Copies of rules.
§ 74.780 Broadcast regulations applicable to translators, low power, and booster stations (except § 73.653—Operation of TV aural and visual transmitters and § 73.1201—Station identification).
§ 74.781 Station records.
§ 74.784 Rebroadcasts.

■ 6. Amend § 74.788 by revising paragraphs (c)(1), (c)(3) and (d) to read as follows:

**§ 74.788 Digital construction period.**

* * * * *

(c) *Authority delegated.* (1) For the September 1, 2015 Class A television digital construction deadline, authority is delegated to the Chief, Media Bureau to grant an extension of time of up to six months beyond September 1, 2015 upon demonstration by the digital licensee or permittee that failure to meet the construction deadline is due to circumstances that are either unforeseeable or beyond the licensee's control where the licensee has taken all reasonable steps to resolve the problem expeditiously. For the (insert new transition date) low power television and TV translator station digital construction deadline, authority is delegated to the Chief, Media Bureau to grant an extension of time of up to six months beyond (insert new transition date) upon demonstration by the digital licensee or permittee that failure to meet the construction deadline is due to circumstances that are either unforeseeable or beyond the licensee's control where the licensee has taken all reasonable steps to resolve the problem expeditiously.

* * * * *

(3) Applications for extension of time filed by Class A television stations shall be filed not later than May 1, 2015 absent a showing of sufficient reasons for late filing. Applications for extension of time filed by low power television and TV translator stations shall be filed not later than (insert new filing deadline) absent a showing of sufficient reasons for late filing.

(d) For Class A television digital construction deadlines occurring after May 1, 2015, the tolling provisions of § 73.3598 of this chapter shall apply. For low power television and TV translator digital construction deadlines occurring after (insert new transition date), the tolling provisions of § 73.3598 of this chapter shall apply.

* * * * *

■ 7. Add § 74.800 to read as follows

**§ 74.800 Low power television channel sharing.**

(a) *Channel sharing generally.* (1) Subject to the provisions of this section, low power television and TV translator stations may voluntarily seek Commission approval to share a single six megahertz channel with other low power television, TV translator, full power television and Class A television station.

(2) Each station sharing a single channel pursuant to this section shall continue to be licensed and operated separately, have its own call sign and be separately subject to all of the Commission's obligations, rules, and policies.

(b) *Licensing of channel sharing stations.* The LPTV or TV translator channel sharing station relinquishing its channel must file an application for the initial channel sharing construction permit (FCC Form 346), include a copy of the channel sharing agreement as an exhibit, and cross reference the other sharing station(s). Any engineering changes necessitated by the channel sharing arrangement may be included in the station's application. Upon initiation of shared operations, the station relinquishing its channel must notify the Commission that it has terminated operation pursuant to section 73.1750 of this part and each sharing station must file an application for license (FCC Form 347).

(c) *Deadline for implementing channel sharing arrangements.* Channel sharing arrangements submitted pursuant to this section must be implemented within three years of the grant of the initial channel sharing construction permit.

(d) *Channel sharing agreements.* (1) Channel sharing agreements submitted under this section must contain provisions outlining each licensee's rights and responsibilities regarding:

(i) Access to facilities, including whether each licensee will have unrestrained access to the shared transmission facilities;

(ii) Operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions; and

(iii) Termination or transfer/assignment of rights to the shared licenses, including the ability of a new licensee to assume the existing CSA.

(2) Channel sharing agreements submitted under this section must include a provision affirming compliance with the channel sharing requirements in this section including a provision requiring that each channel sharing licensee shall retain spectrum usage rights adequate to ensure a sufficient amount of the shared channel capacity to allow it to provide at least one Standard Definition (SD) program stream at all times.

(e) *Termination and assignment/transfer of shared channel.* If a channel sharing station's license authorized under this section is terminated, the remaining channel sharing station or stations will continue to have rights to their portion(s) of the shared channel. The license(s) of the remaining channel sharing station(s) shall be modified to reflect that its channel is no longer shared with the terminated licensee. In the event that only one station remains on the shared channel, that station may request that the shared channel be re-designated as a non-shared channel or could enter into a CSA with another station and resume shared operations, subject to Commission approval.

[FR Doc. 2014–27895 Filed 11–26–14; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 20

**[WT Docket No. 10–4; FCC 14–138]**

### The Commission's Rules To Improve Wireless Coverage Through the Use of Signal Boosters

**AGENCY:** Federal Communications Commission

**ACTION:** Further notice of proposed rulemaking.

**SUMMARY:** In the *Further Notice of Proposed Rulemaking,* the Commission seeks comment on whether to retain the ''personal use'' restriction for Provider-Specific Consumer Signal Boosters.

**DATES:** Submit comments on or before December 29, 2014 and reply comments on or before January 20, 2015.

**ADDRESSES:** You may submit comments, identified by WT Docket No. 10–4 or FCC 14–138, by any of the following methods:

▪ *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.

▪ *Mail:* FCC Headquarters, 445 12th St. SW., Washington, DC 20554.

▪ *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Amanda Huetinck of the Mobility Division, Wireless Telecommunications Bureau, at (202) 418–7090 or *Amanda.Huetinck@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is the Commission's Further Notice of Proposed Rulemaking, in WT Docket No. 10–4, FCC 14–138, adopted September 19, 2014, and released September 23, 2014. The *Order on Reconsideration* that was adopted concurrently with the *Further Notice of Proposed Rulemaking* is published elsewhere in this issue of the **Federal Register**.

The full text of that document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554, or by downloading the text from the Commission's Web site at *http://www.fcc.gov/document/signal-boosters-order-reconsideration-and-fnprm.* The complete text also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Suite CY–B402, Washington, DC 20554.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

▪ *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*

▪ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

▪ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

▪ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

▪ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

*People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

## Synopsis

### I. Introduction and Background

1. In this *Further Notice of Proposed Rulemaking,* we seek comment on whether to retain the ''personal use'' restriction for Provider-Specific Consumer Signal Boosters.

2. The Commission released the Signal Boosters NPRM on April 6, 2011, whereby it proposed rules to facilitate the development and deployment of well-designed signal boosters. On February 20, 2013, in the Signal Boosters *Report and Order* (*Report and Order*), the Commission adopted the new regulatory framework to allow consumers to realize the benefits of using signal boosters while preventing, controlling, and, if necessary, resolving interference to wireless networks. In the *Report and Order,* the Commission

adopted new technical, operational, and registration requirements for signal boosters. The new rules created two classes of signal boosters—Consumer and Industrial—with distinct regulatory requirements for each.

## II. Further Notice of Proposed Rulemaking

3. The underlying purpose of the *Report and Order* was to broaden the availability of signal boosters while ensuring that these boosters do not adversely affect wireless networks. In the concurrently adopted *Order on Reconsideration,* we adopted rule amendments that advance this goal by making Provider-Specific Consumer Signal Booster safer to wireless networks. Consistent with that purpose, we now consider whether to further expand consumer access to signal boosters. We therefore seek comment on whether to remove the ''personal use'' restriction on the operation of Provider-Specific Consumer Signal Boosters.

4. To facilitate broader access to signal boosters, in the *Report and Order,* we developed a streamlined process for authorizing Consumer Signal Boosters by requiring consumers to obtain the consent of their wireless carrier and register their Consumer Signal Booster with that carrier. We found that this licensing framework would best facilitate the rapid introduction of Consumer Signal Boosters while enabling wireless operators to maintain sufficient control of their networks. By incorporating the restriction that Consumer Signal Boosters may be operated only for ''personal use,'' we also made it possible for consumers to seek consent from and register their devices only with the wireless carrier to which they subscribe. This restriction is particularly relevant for Wideband Consumer Signal Boosters, as they are capable of operating on spectrum licensed to multiple wireless providers.

5. With Provider-Specific Consumer Signal Boosters, however, we question whether this ''personal use'' restriction remains necessary, as the device operates only on a single provider's spectrum. Because the consumer will have obtained consent from and registered with that single carrier, any transmissions from the Signal Booster are therefore authorized.

6. We therefore ask whether we should eliminate the ''personal use'' restriction for Provider-Specific Consumer Signal Boosters (but not for Wideband Consumer Signal Boosters). Would removing this restriction for Provider-Specific Consumer Signal Boosters be in the public interest? What are the costs and benefits of removing the restriction? What are the costs and benefits of maintaining the restriction?

## III. Procedural Matters

### *A. Paperwork Reduction Act*

7. The *Further Notice of Proposed Rulemaking* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). Therefore the *Further Notice of Proposed Rulemaking* does not contain any new or modified information collection burdens for small businesses with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

### *B. Regulatory Flexibility Analysis*

8. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.''

9. We hereby certify that the *Further Notice of Proposed Rulemaking* will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the *Further Notice of Proposed Rulemaking,* including this certification, to the Chief Counsel for Advocacy of the Small Business Administration.

### *C. Ex Parte Presentations*

10. Permit-But-Disclose. We will continue to treat this proceeding as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

## IV. Ordering Clauses

11. Accordingly, *it is ordered* that, pursuant to the authority of sections 1, 4(i), 7, 10, 201, 202, 208, 214, 301, 302, 303, 308, 309(j), 310, and 710 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 157, 160, 201, 202, 208, 214, 301, 302a, 303, 308, 309(j), 310, and 610, and §§ 1.412, 1.425, and 1.429 of the Commission's rules, 47 CFR 1.412, 1.425, 1.429, the *Further Notice of Proposed Rulemaking is hereby adopted.*

12. *It is further ordered* that the Commission *shall send* a copy of the *Further Notice of Proposed Rulemaking* to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

13. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the *Further Notice of Proposed Rulemaking* to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2014–26062 Filed 11–26–14; 8:45 am]

**BILLING CODE 6712–01–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**49 CFR Part 387**

**[Docket No. FMCSA–2014–0211]**

**RIN 2126–AB74**

# Financial Responsibility for Motor Carriers, Freight Forwarders, and Brokers

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** FMCSA announces that it is considering a rulemaking that would increase the minimum levels of financial responsibility for motor carriers, including liability coverage for bodily injury or property damage; establish financial responsibility requirements for passenger carrier brokers; implement financial responsibility requirements for brokers and freight forwarders, and revise existing rules concerning self-insurance and trip insurance. FMCSA seeks public comments on these topics.

**DATES:** You must submit comments on or before February 26, 2015.

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA–2014–0211 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Sean P. Gallagher, Office of Policy, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 or by telephone at 202–366–3740.

**SUPPLEMENTARY INFORMATION:**

## I. Public Participation and Request for Comments

### *A. Submitting Comments*

If you submit a comment, please include the docket number for this ANPRM (FMCSA–2014–0211), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2014–0211, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may draft a notice of proposed rulemaking based on your comments and other information and analysis.

### *B. Viewing Comments and Documents*

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2014–0211, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

### *C. Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

## II. Background and Legal Basis for the Rulemaking

### *Minimum Levels of Financial Responsibility*

Under 49 U.S.C. 31138 and 31139, FMCSA is authorized to establish minimum levels of financial responsibility at or above the minimum levels set by Congress. FMCSA's regulations (49 CFR part 387 subparts A and B) currently require for-hire property and passenger motor carriers and all motor carriers transporting hazardous materials to maintain financial responsibility at the statutory minimums set forth in 49 U.S.C. 31138 and 31139. Part 387, Subpart C, requires for-hire motor carriers subject to the Agency's jurisdiction under 49 U.S.C. 13501 to file evidence of financial responsibility with FMCSA.[1] FMCSA seeks public comment on whether to exercise its discretion to increase the minimum levels of financial responsibility, and, if so, to what levels. Through a separate rulemaking initiative,[2] FMCSA intends to propose extending those minimum financial responsibility requirements to all private motor carriers of property and passengers.

The Federal Government has long required motor carriers, brokers, and freight forwarders to maintain certain levels of financial responsibility, either through insurance, a bond, or other financial security, as a means to protect the public in the event of a crash and to protect carriers and shippers against dishonest and financially unstable brokers. The Motor Carrier Act of 1935 first directed the establishment of Federal rules and regulations for interstate motor carrier operations that govern ''security for the protection of the public.'' Congress provided the Interstate Commerce Commission (ICC), one of FMCSA's predecessor agencies, the authority to issue these regulations. Over time, both Congress and the agencies have taken numerous actions

[1] 49 CFR 387.303(b)(1)(i) requires $300,000 in financial responsibility as opposed to $750,000 where the entire fleet consists of vehicles under 10,001 pounds Gross Vehicle Weight Rating (GVWR).

[2] MAP–21 Enhancements and Other Updates to the Unified Registration System.

to address the levels of financial responsibility.

*Motor Carrier Act of 1935*

The first major legislative directive regarding financial responsibility levels for the motor carrier industry was the Motor Carrier Act of 1935, Pub. L. 74–255. In section 215, Congress directed that ''no [common carrier] certificate or [contract carrier] permit shall be issued to a motor carrier or remain in force, unless such carrier complies with such reasonable rules and regulations as the [Interstate Commerce] Commission shall prescribe governing security for the protection of the public.'' The ICC also decided that a person seeking authority to operate as a broker must furnish ''a bond or other security approved by the Commission, in an amount of not less than $5,000, and in such form as will ensure the financial responsibility of such broker and the supplying of authorized transportation in accordance with the contracts, agreements, or arrangements therefore.'' [3]

*Motor Carrier Act of 1980*

The next significant legislation regarding financial responsibility was the Motor Carrier Act of 1980 (MCA), Pub. L. 96–296, which largely deregulated the motor carrier industry. Section 30 of the MCA set minimum levels of financial responsibility for property-carrying motor carriers. The MCA also gave the Secretary of Transportation (Secretary) the authority to reduce those levels, by regulation, for a ''phase-in period'' of up to 2 years, provided the reduced levels would not adversely affect public safety and would prevent a serious disruption in transportation service.

The MCA set the minimum financial responsibility level at $750,000 for the transportation of property, $5 million for the transportation of certain hazardous materials, and $1 million for the transportation of hazardous materials consisting of ''any material, oil, substance or waste'' that is not subject to the $5 million limit.[4] Pursuant to the MCA, DOT opted to phase in implementation of the new minimum financial responsibility levels. DOT set those levels at $500,000 for property (non-hazardous), $1,000,000 for certain hazardous materials, and $500,000 for other hazardous materials not subject to the $1,000,000 limit.[5] Pursuant to Section 406(a) of the Surface Transportation Assistance Act of 1982, Pub. L. 97–424, DOT extended the phase-in period through the end of 1984. 49 FR 27288. As of January 1, 1985, DOT set the levels at the lowest levels authorized by the MCA, and the levels have remained unchanged since.

Setting minimum levels of financial responsibility was intended to address two concerns, first, to protect the ability of the public to recover damages in the event of crashes and, second, to ease concerns that competition in the largely deregulated industry could result in cost-cutting at the expense of minimum safety standards.[6]

*Bus Regulatory Reform Act of 1982*

The Bus Regulatory Reform Act of 1982 (the Bus Act), Pub. L. 97–261, was signed September 20, 1982. Section 18 established minimum levels of financial responsibility covering public liability and property damage for the transportation of passengers by for-hire motor vehicles in interstate or foreign commerce.

Like the MCA, the Bus Act provided the Secretary with the authority to temporarily lower the required financial responsibility amount below the statutory minimum for up to a 2-year ''phase-in period,'' provided the reduced levels would not adversely affect public safety and would prevent a serious disruption in transportation service.

The Bus Act set minimum financial responsibility levels at $5 million for carriers operating vehicles with a seating capacity of 16 or more passengers and $1,500,000 for carriers operating vehicles with a seating capacity of 15 or fewer.[7] In 1983 the Secretary opted to phase in the new insurance requirements. The ''phase-in'' levels were $2,500,000 for carriers operating vehicles with a seating capacity of 16 or more passengers and $750,000 for carriers operating vehicles with a seating capacity of 15 or fewer. Those levels were in place for 2 years before being raised to $5 million and $1,500,000, respectively. These were the lowest limits the statute authorized DOT to require.[8] The statutory minimums went into effect on November 19, 1985 (48 FR 52684) and have remained unchanged.

The current minimum levels of financial responsibility are summarized below in Table 1.

TABLE 1—CURRENT MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR BODILY INJURY/PROPERTY DAMAGE BY TYPE OF REGULATED CARRIER

| Regulated carrier category | Minimum level |
|---|---|
| For Hire Interstate General Freight Carriers <10,001 pounds GVWR | $300,000 |
| For-Hire Interstate General Freight Carriers | 750,000 |
| For-Hire and Private Carriers of Oil and Certain Other Types of Hazardous Materials | 1,000,000 |
| For-Hire and Private Carriers of Other Hazardous Materials | 5,000,000 |
| For-Hire Passenger Carriers (Seating Capacity ≤15) | 1,500,000 |
| For-Hire Passenger Carriers (Seating Capacity >15) | 5,000,000 |

*Moving Ahead for Progress in the 21st Century Act (MAP–21)*

On July 6, 2012, the President signed MAP–21 [9] into law. Section 32104 of MAP–21 directed the Secretary to issue a report on the appropriateness of (1) the current minimum financial responsibility requirements for the transportation of passengers and property; and (2) the current bond and insurance requirements for freight forwarders and brokers, including for brokers for motor carriers of passengers. FMCSA issued this report in April 2014.[10] Section 32104 also directed the Secretary to determine the appropriateness of these requirements every 4 years and to issue similar reports to Congress. In its April 2014 report, FMCSA concluded that the current financial responsibility

[3] 1 FR 1156 at 1161 (1936).

[4] These amounts are codified at 49 U.S.C. 31139(b), (d).

[5] 46 FR 30974, 30983 (June 11, 1981).

[6] H.R. Rep. No. 96–1069, at 43 (1980).

[7] These amounts are codified at 49 U.S.C. 31138(b).

[8] Section 18 of the Bus Act; see also 48 FR 52679, 52682 (quoting DOT conclusion that ''the lowest levels allowed in the Act are sufficient.'').

[9] Public Law 112–141.

[10] *http://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/Financial-Responsibility-Requirements-Report-Enclosure-FINAL-April%202014.pdf.*

minimums are inadequate to cover the costs of some crashes.

*Research on Minimum Levels of Financial Responsibility*

FMCSA's report to Congress included findings from a study, Financial Responsibility Requirements for Commercial Motor Vehicles,[11] conducted by DOT's John A. Volpe Transportation Systems Center (Volpe), assessing the adequacy and effectiveness of those levels in meeting carrier liabilities. The Volpe study examined the following in connection with potentially increasing FMCSA's financial responsibility requirements:

- Higher compensation for crash victims,
- transferring more of the costs of crashes back to motor carriers,
- reductions in truck- and bus-involved crashes,
- costs imposed on CMV operators and the insurance industry, and
- other relevant considerations.

While the study's findings provided preliminary support for increasing the current levels of financial responsibility, the Agency is seeking additional information. Highlights from the study include:

▪ *Catastrophic motor carrier-related crashes are relatively rare.* Based on limited available claims data, it was estimated that catastrophic crashes, which are defined as crashes resulting in claims for injury, death, and/or property damages that exceed the current minimum levels of financial responsibility, comprised less than one percent of all CMV crashes (about 3,300 of 330,000 total crashes per year).

▪ *Costs for severe and critical injury crashes can easily exceed $1 million.* The analysis reveals that two categories of injury crash (severe and critical) yield damages of more than $1 million.

▪ *Insurance premiums have declined in real terms since the 1980s.* The analysis revealed the stability of insurance rates over the last three decades. Insurance rates for the same level of coverage (*e.g.,* $750,000 or $1 million) have declined slightly on average in nominal terms, hovering around $5,000 per power unit (truck or bus). Additionally, inflation-adjusted premium rates have also declined over the same period.

▪ *Current insurance limits do not adequately cover catastrophic crashes, mainly because of increased medical costs.* Since 1985, when the current minimum levels were established, the real value of insurance coverage has decreased. Because medical costs have increased significantly, insurance coverage at the statutory minimum levels does not cover as much of the cost of a catastrophic crash as it once did. From 1985 to 2013, the medical consumer price index (CPI) increased at a significantly higher rate than the core CPI (4.9 percent annually for medical care, compared to 2.8 percent for core). Thus, had minimum financial responsibility levels kept pace with core CPI or medical CPI, by 2013, these minimum levels would have been higher.

▪ *Comprehensive data on premiums that motor carriers would incur to meet higher coverage limits were not readily available.* The insurance underwriting process is specific to individual motor carriers and there are no uniform pricing practices (other than limits that might be imposed by State regulations). The insurance industry is protective of its pricing data and underwriting processes for competitive reasons. Accordingly, available information was largely generic and limited. Motor carrier risk managers were also reluctant to disclose their insurance premium expenses. The study, therefore, did not assess the regulatory cost of potential insurance premium increases.

FMCSA's report to Congress also included research findings from other organizations which have studied the appropriateness of the current minimum insurance levels, such as the Pacific Institute for Research and Evaluation (PIRE), the Alliance for Driver Safety and Security, Inc. (Trucking Alliance), and the American Trucking Associations (ATA).

PIRE published a report[12] that examined the adequacy of the current $750,000 minimum for large trucks by examining the costs and damages associated with serious large truck crashes. PIRE concluded that the current minimum levels are an order of magnitude too low. The report found that the estimated upper decile/quartile range for liability awards in large truck crashes involving death or catastrophic injury is $9–10 million (in 2012 dollars). The report recommended that DOT set a minimum of at least $10 million per crash and index for inflation and productivity growth in the same manner that DOT indexes its value of a statistical life for regulatory purposes.[13]

The Trucking Alliance reviewed crash settlement data that it compiled from its membership. Its March 2013 analysis showed that the current $750,000 of insurance required of many motor carriers is inadequate to cover the costs of many crashes. Member companies of the Trucking Alliance voluntarily tracked 8,692 accident settlements between 2005 and 2011. The data shows that 42 percent of the trucking companies' monetary exposure from these settlements would have exceeded their insurance coverage had all companies in the study maintained the minimum $750,000 insurance requirement. According to the Trucking Alliance, 42 percent of the injury claims could have had no avenue for offsetting all medical costs. The Trucking Alliance favors increasing the Federal minimum requirements for trucking companies. By contrast, in its 1983 comments to the DOT rulemaking, the American Insurance Association asserted that less than one one-hundredth of one percent (.01%) of all commercial vehicle accidents result in damages in excess of $500,000.[14]

The ATA also conducted a review[15] of the appropriateness of the current minimum insurance requirements with data from the Insurance Services Office (ISO), an insurance advisory company. The ATA's analysis is based on ISO data, obtained under nondisclosure agreements, from two of the 10 largest trucking insurers. The data covered all the large truck (over 26,000 pounds) policies of these two insurers. According to the ATA, ISO's data show that only 6.5 percent of insurance policies for trucks over 26,000 pounds are written at limits under $1 million (not taking into account umbrella or excess coverage), while 83 percent are written at $1 million, and the remaining 10.5 percent are written over $1 million. In its analysis of the ISO data, ATA found that there is a 1.40 percent chance of a claim exceeding $500,000, a 0.73 percent chance of a claim exceeding $1 million, and a 0.31 percent chance of a claim exceeding $2 million. From 2006 to 2011, there were 85,632 reported crashes in this data set with a total of $961,591,721 in claims incurred, making the average cost per occurrence $11,229. FMCSA seeks comments on the data and material presented in this section.

[11] *http://www.fmcsa.dot.gov/research-and-analysis/research/study-financial-responsibility-requirements-commercial-motor-vehicles.*

[12] Pacific Institute for Research and Evaluation, ''Potential Damages in Heavy Truck Crashes,'' March 2013.

[13] The DOT applies the Bureau of Labor Statistics' annual estimates of inflation and productivity growth rates.

[14] 48 FR 5268.

[15] *http://www.trucking.org/ATA%20Docs/What%20We%20Do/Trucking%20Issues/Documents/Insurance%20Study%20Group%20Findings.pdf.*

*Broker/Freight Forwarder Financial Responsibility, Trip Insurance, Bus Brokers and Self-Insurance*

FMCSA seeks comments on four issues besides the minimum levels of financial responsibility for motor carriers.

First, pursuant to Section 32918 of MAP–21, Congress directed FMCSA to undertake a rulemaking to implement certain broker and freight forwarder financial responsibility requirements. On October 1, 2013, FMCSA raised the financial responsibility requirements for brokers to $75,000, the minimum allowed under statute, and extended that financial responsibility requirement to freight forwarders for the first time.[16] Questions 18 and 19 below continue the statutory implementation process.

Second, pursuant to 49 CFR 387.7(b)(3), Mexican motor carriers, operating solely in commercial zones along the U.S.-Mexico border, can meet their financial responsibility requirements by having so-called ''trip insurance,'' which allows them to obtain insurance coverage in at least 24 hour increments. However, FMCSA has faced challenges in verifying in a timely manner the validity of coverage, and Questions 23 and 24 below address that concern.

Third, pursuant to 49 U.S.C. 13904(f), FMCSA can impose bond or insurance requirements on ''brokers for motor carriers of passengers'' that the Agency ''determines are needed to protect passengers and carriers dealing with such brokers.'' FMCSA is considering implementing this statutory authorization and is seeking comment in question 25 below.

Fourth, pursuant to the congressional mandate at 49 U.S.C. 13906(d), FMCSA maintains a self-insurance program for eligible motor carriers (see 49 CFR 387.309). In considering applications to self-insure, carriers ''should submit evidence'' that will allow FMCSA to determine ''[t]he existence of an adequate safety program.'' 49 CFR 387.309(a)(3). Currently, pursuant to that regulation, carriers must either submit evidence of a ''Satisfactory'' FMCSA safety rating or certify that they are not rated, if that is the case. Question 26 seeks comment on whether different or additional evidence of an ''adequate safety program'' should be required.

*Motor Carrier Safety Advisory Committee (MCSAC)*

In May 2014, the Agency tasked its MCSAC with examining the financial responsibility requirements. The MCSAC will conclude its deliberations at its October 2014 meeting and submit a report to the Administrator.

**III. Questions**

FMCSA is considering a rulemaking to increase the minimum levels of financial responsibility for motor carriers, including liability coverage for bodily injury or property damage in the case of general freight, hazardous materials, and passenger motor carriers. As noted above, the Agency is also considering a rulemaking pertaining to broker and freight forwarder financial security, trip insurance, bus brokers and self-insurance. FMCSA requests responses to the following issues and questions. Whenever possible, commenters should provide data in support of their responses. FMCSA recognizes that an individual commenter may choose to respond to all of the issues or only a subset, based on his or her interest or area of expertise.

*Premium Rates*

1. What are the current insurance premium rates (baseline) for each category of carriers (property, hazardous materials, and passenger) covered under the current financial responsibility regulations? To what extent do the premiums vary based on carriers' safety performance information from FMCSA?

2. For each 10% increase in insurance requirements, how much would the premium rates increase? How much additional capital would insurers have to raise to cover the new exposure associated with each 10% increase?

3. What percentage of fleets, based on size and the type of operation of the carrier (passenger, property, hazmat), already have liability coverage that exceed the minimum financial responsibility requirement and by how much? What are the premiums for the policies that exceed the Federal minimums?

4. How are insurance premium rates determined? Is it by driver? Is it by credit or safety history? Is there a discount for a certain number of vehicles in a fleet? Is there a discount for bundling? Are there any other unique methods of determining rates? In the event of a crash, are carriers responsible for paying a deductible? If so, what are the most common deductible amounts? What are some of the major thresholds that result in changes in premium costs?

*Current Minimum Levels of Financial Responsibility*

5. How often is the minimum level of financial responsibility insufficient to meet the actual costs associated with a crash, specifically for lifelong medical support? How often are carriers liable for crash costs in excess of the financial responsibility requirements unable to pay damages? How often do carriers go bankrupt following a crash with damages in excess of the minimum requirements? How often do carriers attempt to reincarnate in order to avoid paying damages? How would increasing the insurance requirements change the behavior of such carriers?

6. How often is the minimum level of financial responsibility exceeded by damages caused by the unintentional release of hazardous materials from a carrier required to have $5 million in coverage?

*Impacts of Increasing the Minimum Level of Financial Responsibility*

7. Would an increase in financial responsibility requirements affect small and large motor carriers differently? If so, how?

8. How would increasing the minimum financial responsibility requirements affect the ability of a carrier to obtain insurance?

9. How would increasing minimum levels of financial responsibility affect safety, *e.g.,* would carriers put off ''optional costs'' such as safety programs, preventive maintenance and investments in new technology, to cover the high cost of premiums? Would higher minimum levels drive unsafe carriers out of business? Is there any evidence that CMV carriers take more risks because they know they are insured? How could these effects be measured?

10. What are the current State insurance requirements and how do they vary from the Federal requirements?

11. How many carriers currently participate in Risk Retention Groups (RRG)? If FMCSA raised the minimum level of financial responsibility requirements, how would that affect RRGs? What are the current RRG rates, and how would they change if the minimum level of financial responsibility is raised?

12. What percentage of insurance-related cases settles before trial at the current minimum levels of financial responsibility? If the minimum levels are increased, would the same percentage of cases settle before trial?

*Compensation*

13. What minimum levels of financial responsibility are needed to adequately protect against uncompensated losses associated with crashes?

[16] 78 FR 60226; see also 49 U.S.C. 13906(b), (c).

14. What other mechanisms, besides increased minimum levels of financial responsibility, are available to more fully compensate persons who suffer catastrophic loss? Should FMCSA consider creating a compensation fund for such purposes? If so, how would such a fund be administered? Who would be eligible to receive compensation from the fund? What claims would be covered? Would a compensation fund create a disincentive for self-insured or less well insured motor carriers to make safety improvements? Are there other potential administrators of such a fund?

15. How would increasing the minimum financial responsibility requirements affect out-of-court crash damage settlement agreements?

*Information Sources*

16. As noted in its report to Congress, FMCSA has had difficulty obtaining information on insurance company underwriting procedures and motor carrier premiums. The insurance industry understandably regards such information as trade secrets, and motor carriers are likewise reluctant to disclose what they pay to competitors or other insurance companies. What procedures might FMCSA follow to obtain such underwriting and pricing data?

17. In addition to the information discussed above, what other sources of information should FMCSA evaluate in connection with potential changes to minimum required financial responsibility levels?

*Timelines*

18. If the required amount of financial responsibility is increased, what is a reasonable phase- in period for insurance companies and motor carriers to adjust to the new requirements?

19. Should there be a standard process for updating the minimum levels of financial responsibility (*e.g.,* using core CPI, medical CPI, etc.)? How often should the update occur, and to what data source should the minimum be linked (a risk-based or inflation-based measure)?

*BMC 84 and 85 Filers*

20. What information regarding claims should FMCSA require trust fund providers (BMC–85 filers) to make publicly available on their Web sites?

21. If a broker or freight forwarder fails financially, how should BMC–85 trust providers make public notification?

22. Should the BMC–84 and BMC–85 forms be adjusted to provide claims handling instructions to the surety or trustee? If so, how?

*Trip Insurance, Bus Brokers, and Self-Insurance*

23. Does the trip insurance authorized for Mexican commercial zone carriers in § 387.7(b)(3) provide compensation comparable to the insurance that FMCSA requires for domestic carriers, and what are suggested methods for verifying the validity of a carrier's trip insurance in a timely manner?

24. In regards to trip insurance, as an aid to verification and to reduce fraud, should policy coverage periods be no less than seven days as opposed to the current 24 hour minimum?

25. Should bus brokers be required to file evidence of financial responsibility pursuant to 49 U.S.C. 13904(f)? What benefits would accrue from such a requirement?

26. Should the requirement in 49 CFR 387.309(a)(3) that carriers in the self-insurance program have ''an adequate safety program'' be enhanced? If so, how?

Issued under the authority of delegation in 49 CFR 1.87.

Dated: November 21, 2014.

**T.F. Scott Darling III,**

*Acting Administrator.*

[FR Doc. 2014–28076 Filed 11–26–14; 8:45 am]

BILLING CODE 4910–EX–P

# Notices

Federal Register

Vol. 79, No. 229

Friday, November 28, 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

### Umatilla National Forest, Pomeroy Ranger District; Washington; Sunrise Vegetation and Fuels Management Project

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** Umatilla National Forest, Pomeroy Ranger District will be preparing an Environmental Impact Statement to analyze vegetation management and fuels treatment actions within the Asotin watershed in Garfield and Asotin Counties, Washington. The purpose of the project is to move species composition, structural characteristics, density, and fuel loading of the project area closer to ranges of desired conditions described in the Umatilla Land and Resource Management Plan.

**DATES:** Comments concerning the scope of the analysis must be received by December 29, 2014. The draft environmental impact statement is expected November 2015 and final environmental impact statement is expected March 2016.

**ADDRESSES:** Send written comments to Monte Fujishin, Pomeroy District Ranger, 71 West Main, Pomeroy, WA 99347. Comments may also be sent via email to *comments-pacificnorthwest-umatilla-pomeroy@fs.fed.us,* or via facsimile to (509) 843–4621.

**FOR FURTHER INFORMATION CONTACT:** Brad Cooper, Environmental Coordinator; Pomeroy Ranger District, 71 West Main, Pomeroy, WA 99347; email: *bradleylcooper@fs.fed.us;* phone: (509) 843–4626.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

As they are developed, additional information and maps will be posted to the ''Projects'' page on the Forest Web site: *http://www.fs.usda.gov/projects/umatilla/landmanagement/projects.*

**SUPPLEMENTARY INFORMATION:** Sunrise project planning area has been substantially affected by processes of forest growth and succession in combination with forest management practices, resulting in the fuels and forest vegetation now present. Recent analysis suggests that patterns of forest structures, species cover types, density classes, and fuel loadings within the planning area are likely inconsistent with desired conditions (or ranges of conditions) described in the Umatilla National Forest Land and Resources Management Plan (Forest Plan), Eastside Screens amendment, and other related technical guidance.

#### Purpose and Need for Action

The need for action in Sunrise project planning area arises from the differences between existing and desired forest conditions, and the purpose of the project is to move species composition, structural characteristics, density, and fuel loading of the project area closer to ranges of desired conditions described in the Umatilla Forest Plan, plan amendments, and related guidance. The purpose and need for this project is responsive to and consistent with the following Forest Plan goals (FP pages 4–1 to 4–3):

- To provide land and resource management that achieves a more healthy and productive forest and assists in supplying lands, resources, uses, and values which meet local, regional, and national social and economic needs.
- To provide for production and sustained yield of wood fiber and insofar as possible meet projected production levels consistent with various resource objectives, standards and guidelines, and cost efficiency.
- To protect forest and range resources and values from unacceptable losses due to destructive forest pests through the practice of integrated pest management.

#### Proposed Action

In response to the purpose and need identified above, Umatilla National Forest, Pomeroy Ranger District proposes vegetation and fuels management treatments to improve the health and vigor of upland forest stands, and to reduce susceptibility to future wildland fires of uncharacteristic intensity by reducing hazardous and ladder fuels in Sunrise project planning area. Fuels treatments would be used to reduce existing uncharacteristic fuel loads of dead and live natural fuels, reduce fuels generated from harvest activities, prepare sites for regeneration, and maintain desired fuel conditions. One of the objectives of these fuel treatments is to break-up fuel continuity on the landscape, so that if a wildfire did occur, it could be safely and effectively contained.

Vegetation and fuels treatments are anticipated to take place beginning in calendar year 2016 and could continue over a period of approximately five to ten years. Following are brief descriptions of activities proposed for implementation, along with associated activities that would occur concurrently.

Timber harvest and other tree-cutting activities—The project would include mechanical tree-cutting activities across approximately 8,200 acres. Free thinning would be the primary silvicultural activity in some areas (approximately 6,200 acres). In other areas where thinning treatments alone would not meet landscape vegetation and fuels-related objectives, regeneration harvests and tree planting would occur (up to approximately 2,000 acres). Treatments will be designed to promote under-represented, early-seral tree species such as ponderosa pine and western larch. Harvest methods would include a combination of conventional ground based logging systems, and skyline systems. Activity units could include the removal of sawlogs, small diameter trees (generally less than 7.0 inches diameter at breast height (DBH)) and/or excess down wood for use as woody biomass products. Tree-cutting objectives and activities would vary depending on existing forest vegetation and fuels conditions. Although wood fiber utilization is expected in some areas, the focus of each treatment will be based on the desired conditions of each activity area and designed to move vegetative conditions towards those desired conditions.

Fuels treatments (activity related and natural)—The proposed action will include ongoing maintenance of

desirable vegetation characteristics in previously treated areas and, when necessary, reduction of surface and ladder fuels, stand density, and canopy biomass to emulate fire intensities, and associated fire severities, associated with a particular Fire Regime. Prescribed fire entry will be utilized to rehabilitate decadent grass and shrub to improve wildlife forage in big game winter range and bighorn sheep habitat, dispose of activity fuels created by harvest, and as site preparation for planting. Treatment objectives would be achieved through a combination of the following activities such as whole-tree yarding, prescribed burning in harvest units (approximately 2,300 acres), grapple piling of activity fuels (approximately 600 acres).

Landscape prescribed fire—Landscape prescribed fire would occur across approximately 11,500 acres within the Sunrise project area. This treatment would reintroduce fire to a fire-dependent ecosystem to lessen the impact of a future uncharacteristic wildfire and improve forage quality for big game (Management area direction for C3, C3A, C4, and C8). In the majority of the project area, fire intensities would be kept low by keeping fire out of the overstory and burning mainly surface fuels. Consistent with the mixed-severity fire regimes which have long characterized some parts of the project area, individual tree and group torching would likely occur in areas where there is sufficient ladder fuels and in timber stands with high occurrences of mistletoe. Upon completion the landscape could be described as a mosaic of unburned, lightly burned, moderately burned, and intensely burned patches.

Road management—To accomplish implementation of proposed activities approximately 39 miles of open system roads, about 42 miles of closed system roads, and 46 miles of seasonally open roads would be used as haul routes. Closed system roads used for project activities would not be opened to the public. All system roads would remain the same after project implementation; open roads would remain opened, closed roads would continue to be closed, and seasonally open roads would continue with that designation. Approximately 11 miles of temporary road would be constructed of which 9 miles would be constructed over previous road templates. All temporary roads would be decommissioned after project activity use. No new specified road construction is proposed.

Danger tree removal—Danger trees would be felled and removed along all previously described haul routes used for timber sale activity. If considered economically feasible they would be sold as part of a timber sale. Danger trees within Riparian Habitat Conservation Areas (RHCAs) would not be removed; they would be cut and left to provide additional coarse woody debris.

**Responsible Official**

Monte Fujishin, District Ranger of Pomeroy Ranger District will be the responsible official for making the decision and providing direction for the analysis.

**Nature of Decision To Be Made**

The responsible official will decide whether or not to implement the proposed action or an alternative to the proposed action, including the no action, and what monitoring will be appropriate.

**Scoping Process**

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. A scoping letter will be sent to interested and/or affected members of the public, non-profit organizations, and other agencies.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the Agency with the ability to provide the respondent with subsequent environmental documents.

Dated: November 19, 2014.

**Monte Fujishin,**

*Pomeroy District Ranger.*

[FR Doc. 2014–28069 Filed 11–26–14; 8:45 am]

BILLING CODE 3410–11–P

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

**[Docket No. NRCS–2014–0006]**

### Notice of Meeting of the Agricultural Air Quality Task Force

**AGENCY:** Natural Resources Conservation Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Department of Agriculture (USDA) Agricultural Air Quality Task Force (AAQTF) will meet for discussions on critical air quality issues relating to agriculture. Special emphasis will be placed on obtaining a greater understanding about the relationship between agricultural production and air quality. The meeting is open to the public, and a draft agenda is included in this notice.

**DATES:** The meeting will convene at 7:30 a.m. MST on Thursday and Friday, December 4–5, 2014. A public comment period will be held on the morning of December 5. The meeting will end at approximately noon on December 5.

**ADDRESSES:** The meeting will be held at the Hilton Ft. Collins, 425 West Prospect Road, Fort Collins, Colorado 80526; telephone: (970) 482–2626.

**FOR FURTHER INFORMATION CONTACT:** Questions and comments should be directed to Dr. Greg Johnson, Designated Federal Official, USDA, NRCS, 1201 Lloyd Boulevard, Suite 1000, Portland Oregon 97232; telephone: (503) 273–2424; fax: (503) 273–2401; or email: *greg.johnson@por.usda.gov.*

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Additional information concerning AAQTF, including any revised agendas for the December 4–5, 2014, meeting that occurs after this **Federal Register** Notice is published, may be found at: *www.nrcs.usda.gov/wps/portal/nrcs/detail/national/air/taskforce.*

**Draft Agenda Meeting of the AAQTF December 4–5, 2014, Fort Collins, Colorado**

A. Welcome remarks and introductions
B. Colorado air quality and agriculture
C. Update on agricultural air quality regulatory issues at the Environmental Protection Agency
D. AAQTF Subcommittee reports
E. Carbon credits and environmental markets
F. Rocky Mountain National Park Nitrogen Deposition Issues
G. Updates from USDA agencies (Forest Service, NRCS, NIFA, ARS)

H. Selected agricultural air quality research presentations

I. Public Input (Individual presentations limited to 5 minutes)

Please note that the timing of events in the agenda is subject to change to accommodate changing schedules of expected speakers and or extended discussions.

*Procedural*

This meeting is open to the public. On December 5 the public will have an opportunity to provide up to 5 minutes of input to the AAQTF.

*Information on Services for Individuals With Disabilities*

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, please contact Greg Johnson (contact information listed above). USDA prohibits discrimination in its programs and activities on the basis of race, color, national origin, gender, religion, age, sexual orientation, or disability. Additionally, discrimination on the basis of political beliefs and marital or family status is also prohibited by statutes enforced by USDA. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternate means for communication of program information (Braille, large print, audio tape, etc.) should contact the USDA's Target Center at (202) 720–2000 (voice and TDD).

Signed this 21st day of November 2014, in Washington, DC.

**Jason A. Weller,**

*Chief, Natural Resources Conservation Service.*

[FR Doc. 2014–28067 Filed 11–26–14; 8:45 am]

**BILLING CODE 3410–16–P**

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Energy Answers Arecibo Puerto Rico Renewable Energy Project: Notice of Cancellation of a Supplemental Final Environmental Impact Statement and Notice of Public Scoping and Intent To Prepare an Environmental Impact Statement

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of cancellation of a Supplemental Final Environmental Impact Statement and notice of public scoping and intent to prepare an Environmental Impact Statement.

**SUMMARY:** On April 12, 2013, Rural Utilities Service (RUS) published a Notice of Intent (NOI) announcing its intent to prepare a Supplemental Final Environmental Impact Statement (SFEIS) in association with a financial assistance request for a proposal submitted to the Agency by Energy Answers Arecibo, LLC (Energy Answers). RUS is cancelling its NOI for the SFEIS. RUS intends to conduct public scoping and prepare an Environmental Impact Statement (EIS) to meet its responsibilities under the National Environmental Policy Act (NEPA), the Council on Environmental Quality's regulations for implementing NEPA (40 CFR parts 1500–1508), and RUS's Environmental and Policies and Procedures (7 CFR part 1794) in connection with potential impacts related to the Energy Answers proposal. The proposal consists of constructing a waste-to-energy generation and resource recovery facility in the Cambalache Ward of Arecibo, Puerto Rico. RUS is providing notice of the intention to conduct public scoping and prepare an EIS related to the proposal submitted by Energy Answers.

RUS is considering funding this application, thereby making the proposal an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470(f), and its implementing regulation, ''Protection of Historic Properties'' (36 CFR part 800). Any party wishing to participate directly with RUS as a ''consulting party'' in Section 106 review may submit a written request to the RUS contact provided below. Pursuant to 36 CFR 800.3(f)(3), RUS will consider, and provide a timely response to, any and all requests for consulting party status. RUS will publish a Draft Environmental Impact Statement (EIS) in the **Federal Register** and in local newspapers to announce its review period.

**DATES:** Written requests to participate as a ''consulting party'' and/or comments concerning the public scoping or about this Notice of Intent must be received on or before December 29, 2014. A notice of availability of a Draft EIS will be published in the **Federal Register** and local newspapers announcing its review period.

**ADDRESSES:** Project-related information will be available at RUS's Web site located at: *http://www.rurdev.usda.gov/UWP-AreciboPuertoRico.html.* To request ''consulting party'' status, submit comments or for further information, please contact: Ms. Stephanie Strength, Environmental Protection Specialist, USDA/RUS, 1400 Independence Ave. SW., Room 2244–S, Stop 1571, Washington, DC 20250–1571, Telephone: (970) 403–3559, fax: (202) 690–0649, or email: *stephanie.strength@wdc.usda.gov.*

**SUPPLEMENTARY INFORMATION:** On April 12, 2013, RUS published a Notice of Intent (NOI) to prepare a Supplemental Final Impact Statement (SFEIS) in the **Federal Register**. RUS is canceling the SFEIS published on April 12, 2013, and is soliciting public comments on the scope of an EIS that it intends to prepare for Energy Answers' proposal. In accordance with 7 CFR 1794.74 and 40 CFR 1502.21, RUS intends to incorporate by reference the environmental impact analyses and documentation prepared by the Puerto Rico Industrial Development Company (PRIDCO). PRIDCO served as a lead agency in preparation of an EIS prepared under the Puerto Rico Environmental Public Policy Act, Article 4(B)(3), (Law No. 416, September 22, 2004). RUS has copies of this EIS and all associated appendices posted on this Web site: *http://www.rurdev.usda.gov/UWP-AreciboPuertoRico.html.* RUS also intends to incorporate by reference all of the environmental impact and air quality analyses and responses to public comments prepared by the U.S. Environmental Protection Agency (USEPA) as part of its Clean Air Act, Prevention of Significant Deterioration (PSD) permit. USEPA issued a final PSD permit on June 11, 2013, and information related to the PSD permit can be found on USEPA's Web site—see: *http://www.epa.gov/region02/air/permit/energyanswers/.*

RUS is in receipt of all past public involvement activities, public comments, and responses to public comments from both PRIDCO and USEPA actions. While RUS understands the concerns expressed in the past by the public, the Agency strongly encourages all interested parties to submit scoping comments to the RUS contact listed the **ADDRESSES** section of this Notice.

Energy Answers proposes to construct a waste-to-energy generation and resource recovery facility in the Cambalache Ward of Arecibo, Puerto Rico. The proposed facility would process approximately 2,100 tons of municipal waste per day and generate a net capacity of 77 megawatts (MW). The Puerto Rico Electric Power Authority will purchase the power generated from the facility. The preferred location of the facility is the former site of the Global Fibers Paper Mill and would encompass approximately 79.6 acres of the 90-acre parcel. The proposal would include the following facility components: a

municipal solid waste receiving and processing building; processed refuse fuel storage building; boiler and steam turbine; emission control system; ash processing and storage building; and other associated infrastructure and buildings. Two other connected actions, which would be constructed by other utilities, include installation of an approximately 2.0-mile raw water line and construction of a 38 kilovolt (kV) transmission line approximately 0.8 miles in length. The connected actions will be addressed in the EIS.

Among the alternatives that RUS will address in the EIS is the No Action alternative, under which the proposal would not be undertaken. In the EIS, the effects of the proposal will be compared to the existing conditions in the proposal area. Public health and safety, environmental impacts, and engineering aspects of the proposal will be considered in the EIS.

RUS is the lead Federal agency, as defined at 40 CFR 1501.5, for preparation of the EIS. With this Notice, Federal and State agencies and federally recognized Native American Tribes with jurisdiction or special expertise are invited to be cooperating agencies. Such agencies or tribes may make a request to RUS to be a cooperating agency by contacting the RUS contact provided in this Notice. Designated cooperating agencies have certain responsibilities to support the NEPA and scoping process, as specified at 40 CFR 1501.6(b).

As part of its broad environmental review process, RUS must take into account the effect of the proposal on historic properties in accordance with Section 106 of the National Historic Preservation Act (Section 106) and its implementing regulation, ''Protection of Historic Properties'' (36 CFR part 800). Pursuant to 36 CFR 800.2(d)(3), RUS is using its procedures for public involvement under NEPA to meet its responsibilities to solicit and consider the views of the public during Section 106 review. Accordingly, comments submitted in response to this Notice will inform RUS decision-making during Section 106 review.

As applicable, the EIS will document changes in the affected environment and environmental consequences that may have occurred since the PRIDCO-prepared Final EIS was published in 2010 and USEPA's PSD permit action. The PRIDCO-prepared Final EIS is available in both Spanish and English for review at the addresses provided in this Notice. USEPA PSD permit actions are available for review at the address provided in this notice. RUS's EIS will incorporate this documentation by reference and focus on those topics that have changed since PRIDCO's Final EIS was published. RUS's Draft EIS will be available for review and comment for 45 days. Following the 45-day review period, RUS will prepare a Final EIS. After a 30-day review period, RUS will publish a Record of Decision (ROD). Notices announcing the availability of the Draft EIS, Final EIS and the ROD will be published in the **Federal Register** and in local newspapers.

Any final action by RUS related to the proposal will be subject to, and contingent upon, compliance with all relevant executive orders and federal, state, and local environmental laws and regulations in addition to the completion of the environmental review requirements as prescribed in RUS's Environmental Policies and Procedures, 7 CFR part 1794, as amended.

Dated: November 19, 2014.

**Mark S. Plank,**

*Director, Engineering and Environmental Staff, USDA, Rural Utilities Service.*

[FR Doc. 2014–28101 Filed 11–26–14; 8:45 am]

BILLING CODE 3410–15–P

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Environmental Review of Telecommunications Program Projects

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Request for public comment.

**SUMMARY:** The Rural Utilities Service (RUS), an agency of the United States Department of Agriculture, hereinafter referred to as ''agency,'' seeks public and Federal agency comments regarding the preparation of a Programmatic Environmental Assessment for the development of a more efficient and effective environmental review process for the RUS Telecommunications Program—an environmental review process that is commensurate with the potential environmental impacts of both wired and wireless projects financed by the agency. RUS is seeking comment from interested stakeholders to contribute to the development of agency procedures for implementing the environmental review procedures of the Telecommunications Infrastructure Loan Program, Farm Bill Broadband Loan Program, Community Connect Grant Program, and Distance Learning and Telemedicine Program. The proposed review process will support the agency's mission of facilitating the development of affordable, reliable utility infrastructure to improve the quality of life and promote economic development in rural America.

**DATES:** Interested parties must submit written comments on or before January 27, 2015.

**ADDRESSES:** Submit comments, identified by docket number RUS–14–Telecom–0008, by any of the following methods:

*Federal eRulemaking Portal: http://www.regulations.gov.* Follow instructions for submitting comments.

*Postal Mail/Commercial Delivery/Hand Delivery:* Michele Brooks, Director, Program Development and Regulatory Analysis, USDA Rural Development, 1400 Independence Avenue SW., STOP 1522, Room 5159, Washington, DC 20250–1522.

RUS will post all comments received without change, including any personal information that is included with the comment, on *http://www.regulations.gov.* Comments will be available for inspection online at *http://www.regulations.gov* and at the address listed above between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of this publication is also available through the Rural Development homepage at *http://www.rurdev.usda.gov/RDU_FederalRegisterPubs.html.* Additional information about the Agency and its programs is available on the Internet at *http://www.rurdev.usda.gov/home.html.*

**FOR FURTHER INFORMATION CONTACT:** Emily Orler, USDA, Rural Utilities Service, 1400 Independence Avenue SW., Stop 1571, Room 2244–S, Washington, DC 20250–1570, Telephone (202) 720–1414 or email to: *Emily.Orler@wdc.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

The RUS Telecommunications Program provides a variety of loans and grants to build and expand broadband networks in rural America. Loans to build broadband networks and deliver service to households and businesses in rural communities provide a necessary source of capital for rural telecommunications companies, broadband, wireless companies, and fiber-to-the-home providers. Grant funding is awarded based on a number of factors relating to the benefits to be derived from the proposed broadband network project, as specified in applicable program regulations.

Eligible applicants for RUS loans and grants include for-profit and non-profit entities, tribes, municipalities, and cooperatives. The agency particularly encourages investment in tribal and economically disadvantaged areas. Through low-cost funding for broadband infrastructure, rural residents

can have access to broadband services that will close the digital divide between rural and urban communities, that is sustainable over time, and is crucial for economic development. Once funds are awarded, RUS monitors the projects to make sure they are completed in accordance with program requirements. Each loan and grant program has different applicants, project eligibility requirements, and program objectives.

The Telecommunications Program includes the following programs:

Telecommunications Infrastructure Loan Program provides loans for a variety of applicable technologies, for the costs of construction, improvement, expansion, and acquisition (some restrictions apply) of facilities and equipment to provide telecommunications services in rural areas;

Farm Bill Broadband Loan Program provides loans for a variety of applicable technologies, for costs of construction, improvement, expansion, and acquisition (some restrictions apply) of facilities and equipment to provide broadband service to eligible rural communities;

Community Connect Grant Program provides grants to eligible applicants for broadband access to rural communities currently without broadband service. Priority is given to areas where development of new broadband services will improve economic development and provide enhanced educational and healthcare opportunities. The program serves the most rural, lowest income communities without existing broadband access; and

Distance Learning and Telemedicine Grant Program provides grants for distance learning and telemedicine in rural areas through the use of telecommunications, computer networks, and related advanced technologies to be used by students, teachers, medical professionals, and other rural residents. Grants are awarded based on rurality and economic need through a competitive process and may be used to fund telecommunications-enabled information, audio, and video equipment.

In accordance with the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), the Endangered Species Act (ESA) and other applicable environmental statutes, regulations, and Executive Orders, RUS must evaluate the environmental impact of its actions prior to taking those actions. RUS actions include the approval of financial assistance for project proposals by eligible applicants within eligible service areas.

The application process for requesting financial assistance for the Telecommunications programs varies slightly from a competitive grant program, individual project proposals, or multi-year ''loan design'' applications. Accordingly, each program's application process and resulting environmental review process is administered differently. The agency seeks to synchronize future environmental review compliance processes for all Telecommunications Programs and develop a more efficient and effective environmental review process commensurate to the potential environmental impacts of Telecommunications Program projects.

The Programmatic Environmental Assessment of the Telecommunications Program will provide an analysis of the RUS administrative record of past Telecommunications Program projects regarding NEPA, NHPA, and ESA. The analysis will address telecommunication technologies and construction methods, and evaluate alternative program delivery processes for individual projects and loan design applications relevant to existing and future RUS Telecommunications Program projects. If appropriate, the Programmatic Environmental Assessment will provide a basis for preliminary environmental review decisions.

**Request for Comment**

Stakeholder input is vital to improving delivery of the Telecommunications Program to agency participants and the public. The following questions are intended to guide stakeholder comments; however, RUS welcomes pertinent comments beyond the scope of these questions. RUS is requesting comment and discussion from the following stakeholders:

*Interested or Affected Citizens*

1. What are your primary concerns with the construction of wired broadband infrastructure in or near road rights-of-way, on existing electrical distribution poles or towers, or on new poles or towers?

2. What environmental issues do you want studied as part of the environmental review of Telecommunications Program projects? Please address your recommendations for wired or wireless technology projects.

3. What environmental protection and design and construction standards would you like Telecommunications Program participants to use during project construction?

4. How would you like to be involved in RUS and applicant planning for broadband projects?

5. How would you benefit from broadband availability or improvements in your area?

*Broadband Providers*

1. What are your greatest challenges in completing environmental reviews, including NEPA, NHPA, and ESA for both wired and wireless technologies?

2. For projects requiring the use of Federal land, what are the greatest challenges in obtaining the necessary land use authorizations or permits?

3. What do you believe is a reasonable length of time for RUS to consider a completed loan application, including environmental reviews and compliance, before making a decision to fund a project?

4. What should RUS do to expedite the completion of environmental reviews and compliance during the review of project applications, particularly for projects that cross land with multiple ownership, *i.e.,* private, Federal, state, or tribal lands?

5. What additional guidance do you want from RUS field personnel to assist you in completing the necessary requirements for a loan or grant application, including environmental reviews and Federal land use permits if they are needed?

6. What environmental protection measures and/or design and construction standard operating procedures for environmental protection have you found to be most efficient and cost-effective?

*Federal Land Management and Other Agencies as Appropriate*

1. How and when would you like to be contacted regarding a pending Telecommunications Program project application that relates to or affects your agency's responsibilities?

2. Telecommunications Program projects at times require the use of Federal land, requiring authorization by the relevant Federal land management agency. The land use request prepared by the applicant is summarized in a SF–299 form with appropriate attachments. What information, studies, and reports are most important to you in fulfilling your agency's responsibilities for environmental review of the decision to authorize, modify, or deny a requested land use? Is there a difference in requested information if the proposal is a wired or wireless proposal?

3. If your agency requires an applicant to submit environmental information to

be evaluated during the consideration of a request to use Federal land, how is guidance provided to the applicant by your agency prior to completion of the SF–299? What role should the Telecommunications Program play in providing guidance to such applicants?

4. The Programmatic Environmental Assessment of the Telecommunications Program will outline the Federal land management agencies' categorical exclusions and procedures for identifying extraordinary circumstances. The RUS environmental document will also acknowledge that the use and occupancy of Federal land by some Telecommunications Program projects is necessary and, in particular circumstances with necessary authorizations, appropriate. What barriers do you envision in adopting a RUS environmental document in the consideration of your agency's decisions to authorize a special use permit by a Telecommunications Program participant?

5. How can RUS and other Federal agencies work together to share information as well as train managers and staff at the field levels regarding broadband issues and necessary environmental reviews and Federal decisionmaking, including land use authorizations?

Dated: November 4, 2014.

**Jasper Schneider,**

*Acting Administrator, Rural Utilities Service.*

[FR Doc. 2014–28100 Filed 11–26–14; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### In the Matter of: Lev Steinberg, 119 Mackenzie Street, Brooklyn, New York 11235; Order Denying Export Privileges

On February 25, 2014, in the U.S. District Court for the Southern District of New York, Lev Steinberg (''Steinberg'') was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)) (''IEEPA''). Specifically, Steinberg unlawfully, willfully and knowingly exported and attempted to export from the United States to Russia, items on the Commerce Control List, namely, an Eo-Tech 552 holographic weapons scope and other items, without first having obtained a license to do so from the United States Department of Commerce. Steinberg was sentenced to probation for a term of 12 months, criminal fine of $4000 and a $200 assessment.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

BIS has received notice of Steinberg's conviction for violating the IEEPA, and in accordance with Section 766.25 of the Regulations, BIS has provided notice and an opportunity for Steinberg to make a written submission to BIS. BIS has not received a submission from Steinberg.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Steinberg's export privileges under the Regulations for a period of two (2) years from the date of Steinberg's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Steinberg had an interest at the time of his conviction.

Accordingly, *it is hereby ordered:*

First, from the date of this Order until February 25, 2016, Lev Steinberg, with a last known address of 119 Mackenzie Street, Brooklyn, New York 11235, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2014). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 FR 46959 (August 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Steinberg by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Steinberg may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Steinberg. This Order shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until February 25, 2016.

Issued this 20th day of November, 2014.

**Karen H. Nies-Vogel,**

*Director, Office of Exporter Services.*

[FR Doc. 2014–28068 Filed 11–26–14; 8:45 am]

**BILLING CODE P**

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## DEPARTMENT OF COMMERCE

### International Trade Administration

### Initiation of Antidumping and Countervailing Duty Administrative Reviews

**AGENCY:** Enforcement and Compliance, International Trade Administration, Commerce.

**SUMMARY:** The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with October anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

**DATES:** *Effective* November 28, 2014.

**FOR FURTHER INFORMATION CONTACT:** Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with October anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

#### Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 60 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://iaaccess.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''Act''). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

#### Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within seven days of publication of this initiation notice and to make our decision regarding respondent selection within 21 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the applicable review. Rebuttal comments will be due five days after submission of initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (''Q&V'') Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

#### Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an

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[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

**Separate Rates**

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 60 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name [3], should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 60 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

**Initiation of Reviews**

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than October 31, 2015.

| | Period to be reviewed |
|---|---|
| **Antidumping Duty Proceedings** | |
| Mexico: | |
| Carbon and Certain Alloy Steel Wire Rod, A–201–830 | 10/1/13–9/30/14 |
| Deacero, S.A. de C.V. | |
| Deacero USA. | |
| Mid-Continent Nail Company. | |
| ArcelorMittal Las Truchas, S.A. de C.V. | |
| ArcelorMittal International America LLC. | |
| The People's Republic of China: | |
| Polyvinyl Alcohol, A–570–879 | 10/1/13–9/30/14 |
| Sinopec Sichuan Vinylon Works. | |
| The People's Republic of China: | |
| Steel Wire Garment Hangers, A–570–918 | 10/1/13–9/30/14 |
| Da Sheng Hanger Ind. Co., Ltd. | |
| Feirongda Weaving Material Co. Ltd. | |
| Hong Kong Wells Ltd. | |
| Hangzhou Qingqing Mechanical Co. Ltd. | |
| Hangzhou Yingqing Material Co. Ltd. | |

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

| | Period to be reviewed |
|---|---|
| Hongye (HK) Group Development Co. Ltd. | |
| Liaoning Metals & Mineral Imp/Exp Corp. | |
| Nantong Eason Foreign Trade Co., Ltd. | |
| Ningbo Bingcheng Import & Export Co. Ltd. | |
| Ningbo Dasheng Hanger Ind. Co., Ltd. | |
| Ningbo Peacebird Import & Export Co. Ltd. | |
| Shang Zhou Leather Shoes Plant. | |
| Shanghai Bao Heng Relay Making Co., Ltd. | |
| Shanghai Ding Ying Printing & Dyeing Co. Ltd. | |
| Shanghai Ganghun Beddiry Clothing Factory. | |
| Shanghai Guoxing Metal Products Co. Ltd. | |
| Shanghai Jianhai International Trade Co. Ltd. | |
| Shanghai Lian Development Co. Ltd. | |
| Shanghai Shuang Qiang Embroidery Factory Co. Ltd. | |
| Shanghai Tonghui. | |
| Shanghai Wells Hanger Co., Ltd. | |
| Shangyu Baoli Electro Chemical Aluminum Products Co., Ltd. | |
| Shangyu Baoxiang Metal Manufactured Co. Ltd. | |
| Shangyu Tongfang Labour Protective Articles Co., Ltd. | |
| Shaoxing Andrew Metal Manufactured Co. Ltd. | |
| Shaoxing Dingli Metal Clotheshorse Co. Ltd. | |
| Shaoxing Gangyuan Metal Manufactured Co. Ltd. | |
| Shaoxing Guochao Metallic Products Co., Ltd. | |
| Shaoxing Liangbao Metal Manufactured Co. Ltd. | |
| Shaoxing Meideli Hanger Co. Ltd. | |
| Shaoxing Shunji Metal Clotheshorse Co., Ltd. | |
| Shaoxing Shuren Tie Co. Ltd. | |
| Shaoxing Tongzhou Metal Manufactured Co. Ltd. | |
| Shaoxing Zhongbao Metal Manufactured Co. Ltd. | |
| Shaoxing Zhongdi Foreign Trade Co. Ltd. | |
| Tianjin Innovation International. | |
| Tianjin Tailai Import and Export Co. Ltd. | |
| Wesken International (Kunshan) Co. Ltd. | |
| Xia Fang Hanger (Cambodia) Co., Ltd. | |
| Zhejiang Hongfei Plastic Industry Co. Ltd. | |
| Zhejiang Jaguar Import & Export Co. Ltd. | |
| Zhejiang Lucky Cloud Hanger Co. Ltd. | |
| **Countervailing Duty Proceedings** | |
| None. | |
| **Suspension Agreements** | |
| None. | |

**Duty Absorption Reviews**

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

**Gap Period Liquidation**

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

**Administrative Protective Orders and Letters of Appearance**

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

**Revised Factual Information Requirements**

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors

under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[4] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. Ongoing segments of any antidumping duty or countervailing duty proceedings initiated on or after March 14, 2011 should use the formats for the revised certifications provided at the end of the *Interim Final Rule.*[5] All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[6] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

**Revised Extension of Time Limits Regulation**

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Final Rule,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: November 21, 2014.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2014–28148 Filed 11–26–14; 8:45 am]

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[4] *See* section 782(b) of the Act.

[5] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Final Rule''*), amending 19 CFR 351.303(g)(1) and (2); *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011).

[6] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule''*); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–552–801]**

### Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Continuation of Antidumping Duty Order

**AGENCY:** Enforcement and Compliance, International Trade Administration, Commerce.

**SUMMARY:** As a result of the determinations by the Department of Commerce (the ''Department'') and the International Trade Commission (the ''ITC'') that revocation of the antidumping duty order on certain frozen fish fillets (''fish fillets'') from the Socialist Republic of Vietnam (''Vietnam'') would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty order.

**DATED:** *Effective* November 28, 2014.

**FOR FURTHER INFORMATION CONTACT:** Paul Walker, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0413.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 2, 2014, the Department published a notice of initiation of the second sunset review of the antidumping duty order on fish fillets from Vietnam, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act'').[1] As a result of its review, the Department determined that revocation of the antidumping duty order on fish fillets from Vietnam would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins likely to prevail should the order be revoked.[2] On November 4,

[1] *See Initiation of Five-Year (''Sunset'') Review,* 79 FR 31306, 31306 (June 2, 2014).

[2] *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Expedited Second Sunset Review of the Antidumping Duty*

Continued

2014, the ITC published notice of its determination, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on fish fillets from Vietnam would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

**Scope of the Order**

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti, Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus.*

Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact (''regular'' fillets), boneless fillets with the belly flap removed (''shank'' fillets) and boneless shank fillets cut into strips (''fillet strips/finger''), which include fillets cut into strips, chunks, blocks, skewers, or any other shape.

Specifically excluded from the scope are frozen whole fish (whether or not dressed), frozen steaks, and frozen belly-flap nuggets. Frozen whole, dressed fish are deheaded, skinned, and eviscerated. Steaks are bone-in, cross-section cuts of dressed fish. Nuggets are the belly-flaps.

The subject merchandise will be hereinafter referred to as frozen ''basa'' and ''tra'' fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000, 1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000, 1604.19.5100, 1604.19.6100 and 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (''HTSUS'').[4]

The order covers all frozen fish fillets meeting the above specifications, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

**Continuation of the Order**

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping order on fish fillets from Vietnam. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year (''sunset'') review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: November 17, 2014.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2014–28149 Filed 11–26–14; 8:45 am]

**BILLING CODE 3510–DS–P**

*Order,* 79 FR 60452 (October 7, 2014) and accompanying Issues and Decision Memorandum.

[3] *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Determination,* 79 FR 65423 (November 4, 2014); *see also Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Investigation No. 731–TA–1012,* USITC Publication 4498 (October 2014).

[4] Until July 1, 2004 these products were classifiable under HTSUS 0304.20.6030 (Frozen Catfish Fillets), 0304.20.6096 (Frozen Fish Fillets, NESOI), 0304.20.6043 (Frozen Freshwater Fish Fillets) and 0304.20.6057 (Frozen Sole Fillets). Until February 1, 2007 these products were classifiable under HTSUS 0304.20.6033 (Frozen Fish Fillets of the species *Pangasius,* including basa and tra). On March 2, 2011 the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (''CBP''): 1604.19.2000 and 1604 19.3000. On January 30, 2012 the Department added eight HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Changes in Nautical Chart Catalog Format

**AGENCY:** National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Request for comments.

**SUMMARY:** The Office of Coast Survey is transitioning its nautical products to a wide range of digital formats and web mapping services to enable more frequent updating and allow easier uptake by users. With the end of lithographic printing of NOAA paper nautical charts in April 2014, we also stopped production of the five printed nautical chart catalogs which are created in the large paper format (35 inches by 55 inches). We have now transformed the chart catalogs into letter-sized documents that users can print at home. Downloads of the ''print-at-home'' chart catalog in PDF format are free from the Coast Survey Web site. An interactive chart catalog is also available on the Coast Survey Web site (*nauticalcharts.noaa.gov*) for users who prefer to point, click, and download their charts from online.

Coast Survey will consider making the front page of the large-format chart catalog. (We consider the reverse side, which lists chart agents, as obsolete and will not continue it.) Before making the decision, Coast Survey wants to know if demand remains for the large-format chart catalogs, and if users are willing to purchase these from commercial providers, such as NOAA-certified printing companies.

Coast Survey invites written comments about: (1) Maintaining the large-format paper catalog (with no reverse side) if they are available for purchase from commercial provider; (2) the new free ''print-at-home'' PDF chart catalog; and (3) the online interactive chart catalog on the homepage of the *nauticalcharts.noaa.gov* Web site.

**DATES:** Written, faxed, or emailed comments are due by midnight, April 30, 2015.

**ADDRESSES:** Email comments to *frank.powers@noaa.gov,* or fax to 301–713–9312. Written comments may be mailed to Frank Powers, Office of Coast Survey, 1315 East-West Highway, #6254, Silver Spring MD 20906.

**FOR FURTHER INFORMATION CONTACT:** Frank Powers, telephone 301–713–2750, ext. 173; email: *frank.powers@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

**1. Background**

Until April 2014, the Federal Aviation Administration had printed NOAA's nautical chart catalogs on oversized paper sheets (35 inches by 55 inches), folded them, and made them available to the public for free. Since the printing was done in bulk, and stored prior to distribution, the information on the reverse side of the catalogs was often out-of-date by the time catalogs reached customers. When the FAA ceased printing NOAA nautical charts in April, they also stopped printing the catalogs. Since then, NOAA's Office of Coast Survey has privatized paper chart production by expanding the number of

chart printing agents through the NOAA ''print-on-demand'' program. Questions remain on whether to transition the catalogs to a similar ''print-on-demand'' system where customers would pay for the catalogs.

**2. Current Status of the Chart Catalogs**

Coast Survey now makes letter-sized ''print-at-home'' PDF chart catalogs available for download, free, at *www.nauticalcharts.noaa.gov/catalog.* Produced with digital technology, the catalogs are easy-to-see, easy-to-use, easy-to-print, and are updated as changes occur. The new format has a higher resolution and more geographic names than the large-format catalog, and heavily trafficked waterways covered by multiple charts have their own dedicated pages.

If users prefer a Web-based search for charts, they can use the interactive catalog that Coast Survey established in early 2014. The interactive catalog is at *www.charts.noaa.gov/InteractiveCatalog/nrnc.shtml,* or it can be accessed from the Coast Survey home page at *nauticalcharts.noaa.gov.*

Coast Survey has stopped updating and producing the large-format chart catalogs since the federal government is no longer printing them. We will archive the latest versions in Coast Survey's Historical Map & Chart Collection (*nauticalcharts.noaa.gov/history*). We could re-start the updating process if there is a market demand and if commercial printing firms decided to carry the catalogs as for-sale products. The updated chart catalogs would only have the front side showing the areas covered by the catalog, with chart outlines and their corresponding chart numbers. They would not show anything on the reverse side. (The Coast Survey Web site *nauticalcharts.noaa.gov/staff/print_agents.html* now carries regularly updated information about NOAA-certified chart printers.)

**3. Public Comments**

The director of NOAA's Office of Coast Survey invites interested parties to submit comments to assist Coast Survey as it decides whether to maintain the one-sided large-format (35 inch by 55 inch) chart catalogs that could be made available for purchase from commercial providers, subject to their decision about whether to carry the product. Comments about the new letter-sized PDF catalogs and the interactive Web catalog are also welcome.

**Authority:** 33 U.S.C. Chapter 17, Coast and Geodetic Survey Act of 1947.

Dated: November 14, 2014.

**Rear Admiral Gerd Glang,**

*Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. 2014–28091 Filed 11–26–14; 8:45 am]

BILLING CODE 3510–JE–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD642**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Hearings

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

**ACTION:** Notice of public hearings, request for comments.

**SUMMARY:** The Mid-Atlantic Fishery Management Council is developing an Amendment to the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (called the Cost Recovery Amendment) that will address cost recovery in these fisheries, how stock status determination criteria are updated, and optimum yield ranges in the plan.

**DATES:** Written comments will be accepted from December 15, 2014 until January 16, 2015. Four public hearings will be held during this comment period. See **SUPPLEMENTARY INFORMATION** for dates, times, and locations.

**ADDRESSES:** Written comments may be sent by any of the following methods:

- *Email to the following address: nmfs.gar.SCOQAmendment@noaa.gov;* Include ''Cost Recovery Amendment Comments'' in the subject line;
- Mail or hand deliver to Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, Delaware 19901. Mark the outside of the envelope ''Cost Recovery Amendment Comments''; or
- Fax to (302) 674–5399.
- *A Web form for submitting comments is available on the Council's Web site: http://www.mafmc.org/comments/costrecoveryamendment.* The draft Amendment document may be obtained from the Council office at the previously provided address, or by request to the Council by telephone (302) 674–2331, or via the Internet at *http://www.mafmc.org.*
- Comments may also be provided verbally at any of the four public hearings. See **SUPPLEMENTARY INFORMATION** for dates, times, and locations.

**FOR FURTHER INFORMATION CONTACT:** Dr. Christopher M. Moore, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901, (telephone (302) 674–2331). The Council's Web site, *www.mafmc.org* also has details on the meeting location, webinar listen-in access, and public hearing materials.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Mid-Atlantic Fishery Management Council is developing this Amendment to the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (called the Cost Recovery Amendment) to implement (1) measures for collecting fees and recovering costs associated with the management of the Atlantic surfclam and ocean quahog individual transferrable quota fisheries, (2) measures that facilitate incorporation of revised stock status determination criteria (*i.e.,* biological reference points) for surfclams and ocean quahogs into the Fishery Management Plan, and (3) measures that would modify or eliminate the optimum yield (OY) ranges for surfclam and ocean quahog currently in the plan.

The Amendment contains a range of management alternatives under consideration by the Council, and their expected impacts as indicated by the Environmental Assessment. During the public comment period, which will include public hearings, the public may comment on any aspect of the draft Amendment. Following a review of the comments and further development of alternatives, the Council will choose preferred management measures and submit the Amendment to the Secretary of Commerce for approval and publication of proposed and final rules, both of which have additional comment periods.

**Public Hearings**

The dates and locations of the public hearings are as follows.

- Monday, January 12, 2015. 6:30 p.m. Hilton Garden Inn Providence Airport, 1 Thurber Street, Warwick, Rhode Island, 02886, telephone: (401) 734–9600;
- Tuesday, January 13, 2015. 6 p.m. Internet webinar, Connection information to be available at *http://www.mafmc.org* or by contacting the Council (see **ADDRESSES** above);
- Wednesday, January 14, 2015. 6:30 p.m. The Grand Hotel, 1045 Beach Avenue, Cape May, New Jersey 08204, telephone: (609) 884–5611; and

• Thursday, January 15, 2015. 6:00 p.m. Ocean Pines Branch Library, 11107 Cathell Road, Berlin, MD 21811, telephone: (410) 208–4014.

**Special Accommodations**

These public hearings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Collins, (302) 526–5253, at least 5 days prior to the meeting date.

Dated: November 21, 2014.

**Tracey L. Thompson,**

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

[FR Doc. 2014–28065 Filed 11–26–14; 8:45 am]

**BILLING CODE 3510–22–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List: Addition and Deletion

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Addition to and Deletion from the Procurement List.

**SUMMARY:** This action adds a product to the Procurement List that will be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities, and deletes a product from the Procurement List previously furnished by such agency.

**DATES:** *Effective Date:* 12/29/2014.

**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:**

**Addition**

On 10/24/2014 (79 FR 63605), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agency to provide the product and impact of the addition on the current or most recent contractor, the Committee has determined that the product listed below is 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 organization that will furnish the product to the Government.

2. The action will result in authorizing a small entity to furnish the product 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 product proposed for addition to the Procurement List.

**End of Certification**

Accordingly, the following product is added to the Procurement List:

*Product*

*NSN:* 7220–00–NIB–0439—Step/Ramp Kit, Anti-Slip Treads, Peel-and-Stick, Black, 6″ × 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.

**Deletion**

On 10/24/2014 (79 FR 63605), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletion from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the product listed below is 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 a small entity to furnish the product 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 product deleted from the Procurement List.

**End of Certification**

Accordingly, the following product is deleted from the Procurement List:

*Product*

*NSN:* 4910–00–441–8685—Tire Inflator Gage

*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. 2014–28116 Filed 11–26–14; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Additions to the Procurement List.

**SUMMARY:** The Committee is proposing to add products to the Procurement List that will be furnished by the nonprofit agencies employing persons who are blind or have other severe disabilities.

*Comments Must Be Received On or Before:* 12/29/2014.

**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 listed below from the nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

**Products**

*NSN:* 7520–00–NIB–2202—Presentation Easel, Magnetic Whiteboard/Flipchart, 27″ × 35″, Adjustable Height Tripod Base
*NSN:* 7520–00–NIB–2203—Presentation Easel, Dbl. Sided Melamine Whiteboard/Flipchart, 27″ × 34″, Blk. U-Shaped Adj. Base
*NSN:* 7520–00–NIB–2204—Presentation Easel, Dbl. Sided 26″ × 34″ White Board/Flipchart, Black Frame, Adj. U-Shaped Base
*NSN:* 7520–00–NIB–2253—Presentation Easel, Melamine, 29″ × 40″ White Board/Flipchart, Black 4-Legged Adjustable Frame
*NSN:* 7520–00–NIB–2254—Presentation Easel w/Pad, Magnetic Whiteboard, 27″ × 39″, Silver U-shaped Frame, Adj. Height & Arms
*NSN:* 7520–00–NIB–2256—Presentation Easel, Melamine Whiteboard/Flipchart, 26″ × 35″, Black Frame, Adjustable Height
*NPA:* The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA
*Contracting Activity:* General Services Administration, Arlington, VA
*Coverage:* A-List for the Total Government Requirement as aggregated by the General Services Administration, Arlington, VA.

*NSN:* MR 10666—Thermos, 25 oz, Licensed.
*NSN:* MR 10667—Tumbler, Drinking, 16 oz, Licensed.
*NSN:* MR 10668—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.

**Barry S. Lineback,**

*Director, Business Operations.*

[FR Doc. 2014–28115 Filed 11–26–14; 8:45 am]

BILLING CODE 6353–01–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Judicial Proceedings Since Fiscal Year 2012 Amendments Panel (Judicial Proceedings Panel); Notice of Federal Advisory Committee Meeting

**AGENCY:** Department of Defense.

**ACTION:** Notice of meeting.

**SUMMARY:** The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the Judicial Proceedings since Fiscal Year 2012 Amendments Panel (''the Judicial Proceedings Panel'' or ''the Panel''). The meeting is open to the public.

**DATES:** A meeting of the Judicial Proceedings Panel will be held on Friday, December 12, 2014. The Public Session will begin at 10:00 a.m. and end at 5:00 p.m.

**ADDRESSES:** The Holiday Inn Arlington at Ballston, 4610 N. Fairfax Drive, Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:** Ms. Julie Carson, Judicial Proceedings Panel, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, VA 22203. Email: *whs.pentagon.em.mbx.judicial-panel@mail.mil* Phone: (703) 693–3849. Web site: *http://jpp.whs.mil.*

**SUPPLEMENTARY INFORMATION:** Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the Judicial Proceedings since Fiscal Year 2012 Amendments Panel (''the Judicial Proceedings Panel'') was unable to provide public notification of its meeting of December 12, 2014, as required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR § 102–3.150(b), waives the 15-calendar day notification requirement.

This public meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

*Purpose of the Meeting:* At this meeting, the Judicial Proceedings Panel will deliberate on the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239), as amended, Section 576(a)(2) requirement to conduct an independent review and assessment of judicial proceedings conducted under the Uniform Code of Military Justice involving adult sexual assault and related offenses since the amendments made to the Uniform Code of Military Justice by section 541 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112—81; 125 Stat. 1404), for the purpose of developing recommendations for improvements to such proceedings. The Panel is interested in written and oral comments from the public, including non-governmental organizations, relevant to this tasking.

*Agenda:*

- 9:30 a.m.–10:00 a.m., Administrative Session (41 CFR 102–3.160, not subject to notice & open meeting requirements)
- 10:00 a.m.–10:45 a.m., Victim Advocacy Organization Perspectives on Special Victims' Counsel (SVC) Programs
  —*Speakers from: Protect our Defenders and Service Women's Action Network*
- 10:45 a.m.–12:00 p.m., Sexual Assault Response Coordinator (SARC) Perspectives on the SVC Programs
  —*Speakers: SARCs from each of the Services*
- 12:00 p.m.–1:00 p.m. Lunch
- 1:00 p.m.–2:15 p.m., Clients and their Special Victims' Counsel: Experiences From the Field
  —*Speakers: One SVC from each of the Services accompanied by one of their clients*
- 2:15 p.m.–3:45 p.m., Senior Judge Advocate Perspectives
  —*Speakers: The Judge Advocates General of the U.S. Army, U.S. Air Force, and U.S. Navy; the Staff Judge Advocate to the Commandant of the U.S. Marine Corps; and the Judge Advocate General and Chief Counsel, U.S. Coast Guard*
- 3:45 p.m.–4:45 p.m., Deliberations
- 4:45 p.m.–5:00 p.m., Public Comment

*Availability of Materials for the Meeting:* A copy of the December 12, 2014 meeting agenda or any updates to the agenda, to include individual speakers not identified at the time of this notice, as well as other materials presented related to the meeting, may be obtained at the meeting or from the Panel's Web site at *http://jpp.whs.mil.*

*Public's Accessibility to the Meeting:* Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis.

*Special Accommodations:* Individuals requiring special accommodations to access the public meeting should contact Ms. Julie Carson at *whs.pentagon.em.mbx.judicial-panel@mail.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

*Procedures for Providing Public Comments:* Pursuant to 41 CFR 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Panel about its mission and topics pertaining to this public session. Written comments must be received by Ms. Julie Carson at least five (5) business days prior to the meeting date so that they may be made available to the Judicial Proceedings Panel for their consideration prior to the meeting. Written comments should be submitted via email to Ms. Carson at *whs.pentagon.em.mbx.judicial-panel@mail.mil* in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the Judicial Proceedings Panel operates under the

provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. If members of the public are interested in making an oral statement, a written statement must be submitted along with a request to provide an oral statement. Oral presentations by members of the public will be permitted between 4:45 p.m. and 5:00 p.m. on December 12, 2014, in front of the Panel. The number of oral presentations to be made will depend on the number of requests received from members of the public on a first-come basis. After reviewing the requests for oral presentation, the Chairperson and the Designated Federal Officer will, having determined the statement to be relevant to the Panel's mission, allot five minutes to persons desiring to make an oral presentation.

*Committee's Designated Federal Officer:* The Board's Designated Federal Officer is Ms. Maria Fried, Judicial Proceedings Panel, 1600 Defense Pentagon, Room 3B747, Washington, DC 20301–1600.

Dated: November 24, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2014–28089 Filed 11–26–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Military Pay Allotment Policy Change Notice

**AGENCY:** Under Secretary of Defense (Comptroller), DoD.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Defense approved establishment of policy that prohibits the use of discretionary military pay allotments to acquire personal property. His purpose in doing so is to eliminate one mechanism that predatory lenders use to take advantage of service members who finance purchases using the military pay allotment system.

To address predatory practices, the changes will prohibit active duty service members from establishing new allotments for the purchase, lease, or rental of vehicles (*e.g.,* an automobile, motorcycle, or boat); appliances or household goods (*e.g.,* a washer, dryer, or furniture); electronics (*e.g.,* a laptop, tablet, cell phone, or television); or other consumer items that are tangible and movable. This change is effective January 1, 2015.

**DATES:** The policy change becomes effective January 1, 2015.

**ADDRESSES:** Written questions may be mailed to: Office of the Under Secretary of Defense (Comptroller), Attention: Director, Resource Issues, 1100 Defense Pentagon, Washington, DC 20301–1100.

**FOR FURTHER INFORMATION CONTACT:** For further information, please contact Ms. Sandra V. Richardson, Director, Resource Issues, Office of the Under Secretary of Defense (Comptroller), 1100 Defense Pentagon, Washington, DC 20301–1100, *sandra.v.richardson.civ@mail.mil,* (703) 697–7150.

**SUPPLEMENTARY INFORMATION:** Allotments remain authorized for service member payments to dependents and relatives, payment of premiums for insurance, repayment of indebtedness to the U.S. Government, mortgages, savings or other deposit accounts (for other than the prohibited purposes described above), and for Combined Federal Campaign charitable contributions, among other things.

Existing allotments involving the purchase, lease, or rental of personal property may remain in effect and the amount of such allotments may be changed. This policy change does not affect military retiree or Department of Defense civilian employee allotments. It affects active duty service members only.

This policy will be incorporated in the next published update to DoD Financial Management Regulation, Volume 7A, Chapters 40 and 42.

**Authority:** 10 U.S.C. 113.

Dated: November 24, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2014–28104 Filed 11–26–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

**[Docket ID: USA–2014–0041]**

### Proposed Collection; Comment Request

**AGENCY:** Army & Air Force Exchange Service (Exchange), DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995*, the Army & Air Force Exchange announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by January 27, 2015.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Army and Air Force Exchange Service, Office of the General Counsel, Compliance Division, Attn: Teresa Schreurs, 3911 South Walton Walker Blvd., Dallas, TX 75236–1598 or call the Exchange Compliance Division at 800–967–6067.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Exchange Retail Sales Transaction Data; Exchange Form 6800–023 ''Army and Air Force Exchange Service (Exchange) Sweepstakes

Acceptance Form'', Exchange Form 6800–002 ''Official Entry for Drawing'', Exchange Form 4150–120 ''Exchange Catalog On-Line'', Exchange Form 6200–010 ''Customer convenience Order Log'', Exchange Form 6450–032 ''Customer Service Counter Special Order Log'', Exchange Form 4200–009 ''concessionaire's Military Star Transaction Log'', Exchange Form 6550–009 ''Customer Daily Sales Register'', Exchange Form 6700–001 ''Exchange Service—Repair Log'', Exchange-Europe Form 6650–704 ''Work Order Home Repair Service'', Exchange Form 6500–093 ''Army & Air Force Exchange Service Anthony Pizza Order Form'', Exchange Form 4700–037 ''The Cherish Collection Diamond Lifetime Guarantee and Trade-up Certificate'', Exchange Form 6200–9 ''Customer Order Form'', Exchange Form 4150–082 ''Customer Special Order Repair Parts'', Exchange Form 6800–018(M) ''Exchange Catalog Sales'', Exchange Form 6800–003 ''Customer Service Counter Log'', Exchange Military Star Card Application Form; OMB Control Number 0702–XXXX.

*Needs and Uses:* The information collection requirement is necessary to aid the Exchange management in determining who are authorized patrons; to enable the Exchange to fulfill its mission and enhance the military community by providing a world-wide system of Exchanges with merchandise and household goods similar to commercial stores and services; for use in responding to individual patron inquiries, assessing aggregate patron satisfaction with the delivery of the Exchange benefit, and in determining the appropriate product availability meeting the Exchange customers' current/future needs and wants; to improve the efficiency and effectiveness of the Exchange's marketing programs; to determine actions required to settle customer complaints; to electronically notify potential customers, who voluntarily provide their email address, and other personal information to receive information about special events, sales, and other information about shopping at the Exchange using voluntary opt-in procedures; to collect debts due the United States in the event a patron's medium of payment is declined or returned unpaid.

*Affected Public:* Authorized or potentially authorized patrons of the Exchange.

*Annual Burden Hours:* 314,899.

*Number of Respondents:* 12,595,968.

*Responses per Respondent:* 1.

*Average Burden per Response:* 1.5 minute.

*Frequency:* On Occasion.

Authorized or potentially authorized customers of the Army and Air Force Exchange Service information, who provide comments, suggestions, complaints, concerns, opinions, observations or other information pertaining to Exchange operations. The Exchange collects information electronically transmitted, or provided by customers via paper forms completed by the customer or by phone, which allows the Exchange to contact the customer for special events, sales, address customer complaints as well as provide information about shopping at the Exchange. The information provides valuable data to the Exchange, which is used to enhance operations and improve efficiencies of the Exchange marketing program, and to generally enrich the customers' experience. If the Exchange does not receive the data, the Exchange efforts to improve the shopping experience would not be as effective, efficient or useful. Customer information is vital to the efficient and effective maintenance and improvement of Exchange operations.

Dated: November 21, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2014–28052 Filed 11–26–14; 8:45 am]

**BILLING CODE 5001–06–P**

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## DEPARTMENT OF DEFENSE

### Department of the Army

**[Docket ID: USA–2014–0036]**

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

**DATES:** Consideration will be given to all comments received by December 29, 2014.

**FOR FURTHER INFORMATION CONTACT:** Fred Licari, 571–372–0493.

**SUPPLEMENTARY INFORMATION:**

*Title, Associated Form and OMB Number:* Record of Arrivals and Departures of Vessels at Marine Terminals; ENG Form 3926; OMB Control Number 0710–0005.

*Type of Request:* Extension.

*Number of Respondents:* 300.

*Responses per Respondent:* 12.

*Annual Responses:* 3,600.

*Average Burden per Response:* 30 minutes.

*Annual Burden Hours:* 1,800 hours.

*Needs and Uses:* The information collection requirement is necessary to collect and obtain the data that is used to justify maintenance and improvements of Federal navigation projects and to produce annual tonnage and trip statistics for U.S. waterways and channels. The Corps of Engineers uses the ENG Form 3926 as a quality control instrument by comparing the data collected on the Corps Vessel Operation Report with that collected on ENG Form 3926. The information is voluntarily submitted by the respondents to assist the Waterborne Commerce Statistics Center in the identification of vessel operators who fail to report significant vessel moves and tonnage.

*Affected Public:* Business or other for-profit.

*Frequency:* Monthly.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Mr. Stuart Levenbach.

Written comments and recommendations on the proposed information collection should be sent to Mr. Stuart Levenbach at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

*DOD Clearance Officer:* Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: November 21, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2014–28041 Filed 11–26–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

**[ED–2014–ICCD–0153]**

### Agency Information Collection Activities; Comment Request; Campus Safety and Security Survey

**AGENCY:** Department of Education, ED; Office of Postsecondary Education, OPE.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before January 27, 2015.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0153 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov*. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW. LBJ, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Ashley Higgins, 202–219–7061.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Campus Safety and Security Survey.

*OMB Control Number:* 1840—NEW.

*Type of Review:* A new information collection.

*Respondents/Affected Public:* Private Sector, State, Local and Tribal Governments.

*Total Estimated Number of Annual Responses:* 7,135.

*Total Estimated Number of Annual Burden Hours:* 2,996.

*Abstract:* The collection of information through the Campus Safety and Security Survey is necessary under section 485 of the Higher Education Act of 1965, as amended, with the goal of increasing transparency surrounding college safety and security information for student, prospective students, parents, employees and the general public. The survey is a collection tool to compile the annual data on campus crime and fire safety. The data collected from the individual institutions by ED is made available to the public through the Campus Safety and Security Data Analysis and Cutting Tool as well as the College Navigator.

Dated: November 24, 2014.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2014–28094 Filed 11–26–14; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG15–17–000.
*Applicants:* Kay Wind, LLC.
*Description:* Self-Certification of EG or FC of Kay Wind, LLC.
*Filed Date:* 11/19/14.
*Accession Number:* 20141119–5086.
*Comments Due:* 5 p.m. ET 12/10/14.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER13–75–008.
*Applicants:* Public Service Company of Colorado.
*Description:* Compliance filing per 35: 2014–11–19_Att-R PSCo-Exhibit 1 Amend Filing to be effective 1/1/2015.
*Filed Date:* 11/19/14.
*Accession Number:* 20141119–5050.
*Comments Due:* 5 p.m. ET 12/10/14.

*Docket Numbers:* ER13–82–006.
*Applicants:* Arizona Public Service Company.
*Description:* Compliance filing per 35: Errata to Order No. 1000 Compliance Filing to be effective 1/1/2015.
*Filed Date:* 11/19/14.
*Accession Number:* 20141119–5092.
*Comments Due:* 5 p.m. ET 12/10/14.

*Docket Numbers:* ER13–311–002.
*Applicants:* MP2 Energy IL LLC.
*Description:* Notice of Change in Status of the MP2 Energy IL LLC.
*Filed Date:* 10/28/14.
*Accession Number:* 20141028–5018.
*Comments Due:* 5 p.m. ET 12/3/14.

*Docket Numbers:* ER14–2685–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* Report Filing: 2014–11–19_SA 2687 Response METC-New Covert FCA (T94) to be effective N/A.
*Filed Date:* 11/19/14.
*Accession Number:* 20141119–5105.
*Comments Due:* 5 p.m. ET 12/10/14.

*Docket Numbers:* ER15–193–001.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* Tariff Amendment per 35.17(b): 2014–11–19_ATC D–T Update Batch 3 Amendment to be effective 12/27/2014.
*Filed Date:* 11/19/14.
*Accession Number:* 20141119–5131.
*Comments Due:* 5 p.m. ET 12/10/14.

*Docket Numbers:* ER15–201–001.
*Applicants:* Pacific Gas and Electric Company.
*Description:* Tariff Amendment per 35.17(b): CCSF IA—47th Quarterly Filing Errata to be effective 9/30/2014.
*Filed Date:* 11/18/14.
*Accession Number:* 20141118–5211.
*Comments Due:* 5 p.m. ET 12/9/14.

*Docket Numbers:* ER15–436–000.
*Applicants:* Cedar Brakes I, L.L.C.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Revisions to market-based rate schedule to be effective 11/19/2014.
*Filed Date:* 11/18/14.
*Accession Number:* 20141118–5174.

*Comments Due:* 5 p.m. ET 12/9/14.

*Docket Numbers:* ER15–437–000.

*Applicants:* BE Alabama LLC.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Revisions to market-based rate schedule to be effective 11/19/2014.

*Filed Date:* 11/18/14.

*Accession Number:* 20141118–5175.

*Comments Due:* 5 p.m. ET 12/9/14.

*Docket Numbers:* ER15–438–000.

*Applicants:* Florida Power Development LLC.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Revisions to market-based rate schedule to be effective 11/19/2014.

*Filed Date:* 11/18/14.

*Accession Number:* 20141118–5177.

*Comments Due:* 5 p.m. ET 12/9/14.

*Docket Numbers:* ER15–439–000.

*Applicants:* J.P. Morgan Ventures Energy Corporation.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Revisions to market-based rate schedules to be effective 11/19/2014.

*Filed Date:* 11/18/14.

*Accession Number:* 20141118–5183.

*Comments Due:* 5 p.m. ET 12/9/14.

*Docket Numbers:* ER15–440–000.

*Applicants:* Utility Contract Funding, L.L.C.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Revisions to market-based rate schedule to be effective 11/19/2014.

*Filed Date:* 11/18/14.

*Accession Number:* 20141118–5184.

*Comments Due:* 5 p.m. ET 12/9/14.

*Docket Numbers:* ER15–441–000.

*Applicants:* Southern California Edison Company.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): LGIA with Altagas Sonoran Energy Inc. to be effective 11/20/2014.

*Filed Date:* 11/19/14.

*Accession Number:* 20141119–5000.

*Comments Due:* 5 p.m. ET 12/10/14.

*Docket Numbers:* ER15–442–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 3769; Queue No. X2–025 & X4–019 to be effective 10/20/2014.

*Filed Date:* 11/19/14.

*Accession Number:* 20141119–5067.

*Comments Due:* 5 p.m. ET 12/10/14.

*Docket Numbers:* ER15–443–000.

*Applicants:* PacifiCorp.

*Description:* Compliance filing per 35: NAESB Standards Compliance Filing to be effective 2/2/2015.

*Filed Date:* 11/19/14.

*Accession Number:* 20141119–5102.

*Comments Due:* 5 p.m. ET 12/10/14.

*Docket Numbers:* ER15–444–000.

*Applicants:* AEP Generation Resources Inc.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Reactive Supply and Voltage Control Mitchell Amendment to be effective 1/1/2015.

*Filed Date:* 11/19/14.

*Accession Number:* 20141119–5111.

*Comments Due:* 5 p.m. ET 12/10/14.

*Docket Numbers:* ER15–445–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 3345; Queue No. Z2–062 to be effective 10/20/2014.

*Filed Date:* 11/19/14.

*Accession Number:* 20141119–5115.

*Comments Due:* 5 p.m. ET 12/10/14.

*Docket Numbers:* ER15–446–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Original Service Agreement No. 4030; Queue No. X1–096 to be effective 10/16/2014.

*Filed Date:* 11/19/14.

*Accession Number:* 20141119–5133.

*Comments Due:* 5 p.m. ET 12/10/14.

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: November 19, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–28108 Filed 11–26–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER14–1248–001.

*Applicants:* Southwestern Electric Power Company.

*Description: Compliance filing per 35: SWEPCO—Hope PSA Amendment SPP IM Compliance to be effective 3/1/2014.*

*Filed Date:* 11/20/14.

*Accession Number:* 20141120–5135.

*Comments Due:* 5 p.m. ET 12/11/14.

*Docket Numbers:* ER14–1249–001.

*Applicants:* Southwestern Electric Power Company.

*Description: Compliance filing per 35: SWEPCO-Bentonville PSA Amendment SPP IM Compliance to be effective 3/1/2014.*

*Filed Date:* 11/20/14.

*Accession Number:* 20141120–5137.

*Comments Due:* 5 p.m. ET 12/11/14.

*Docket Numbers:* ER14–1250–001.

*Applicants:* Southwestern Electric Power Company.

*Description: Compliance filing per 35: SWEPCO-Prescott PSA Amendment SPP IM Compliance to be effective 3/1/2014.*

*Filed Date:* 11/20/14.

*Accession Number:* 20141120–5136.

*Comments Due:* 5 p.m. ET 12/11/14.

*Docket Numbers:* ER14–2599–001.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description: Compliance filing per 35: 2014–11–20 Bi-Directional EARS Compliance Filing to be effective 3/1/2015.*

*Filed Date:* 11/20/14.

*Accession Number:* 20141120–5133.

*Comments Due:* 5 p.m. ET 12/11/14.

*Docket Numbers:* ER15–452–000.

*Applicants:* Arizona Public Service Company.

*Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 303 Amendment 2 to be effective 10/21/2014.*

*Filed Date:* 11/20/14.

*Accession Number:* 20141120–5140.

*Comments Due:* 5 p.m. ET 12/11/14.

*Docket Numbers:* ER15–453–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 4033; Queue No. X3–008 to be effective 11/3/2014.*

*Filed Date:* 11/20/14.

*Accession Number:* 20141120–5157.

*Comments Due:* 5 p.m. ET 12/11/14.

*Docket Numbers:* ER15–454–000.
*Applicants:* Pacific Gas and Electric Company.
*Description: § 205(d) rate filing per 35.13(a)(2)(iii): Western-PWRPA WSID TFA Filing to be effective 11/21/2014.*
*Filed Date:* 11/20/14.
*Accession Number:* 20141120–5170.
*Comments Due:* 5 p.m. ET 12/11/14.

*Docket Numbers:* ER15–455–000.
*Applicants:* Lexington Power & Light, LLC.
*Description: § 205(d) rate filing per 35.13(a)(2)(iii): CIS & Tariff Revisions to be effective 1/19/2015.*
*Filed Date:* 11/20/14.
*Accession Number:* 20141120–5172.
*Comments Due:* 5 p.m. ET 12/11/14.

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: November 20, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–28110 Filed 11–26–14; 8:45 am]

**BILLING CODE 6717–01–P**

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## 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:* ER10–2881–016*; ER10–2882–016; ER10–2883–016; ER10–2884–016; ER10–2886–016; ER10–2641–016; ER10–2663–016; ER10–2886–016; ER13–1101–011; ER13–1541–010; ER14–787–004; ER14–661–003.*
*Applicants:* Alabama Power Company, Southern Power Company, Mississippi Power Company, Georgia Power Company, Gulf Power Company, Oleander Power Project, Limited Partnership, Southern Company—Florida LLC, Southern Turner Cimarron I, LLC, Spectrum Nevada Solar, LLC, Campo Verde Solar, LLC, Macho Springs Solar, LLC, SG2 Imperial Valley LLC.
*Description:* Notification of Non-Material of Change in Status of Alabama Power Company, et. al.
*Filed Date:* 11/20/14.
*Accession Number:* 20141120–5096.
*Comments Due:* 5 p.m. ET 12/11/14.

*Docket Numbers:* ER14–1386–004.
*Applicants:* California Independent System Operator Corporation.
*Description:* Compliance filing per 35: 2014–11–19_EIM_Compliance to be effective 10/24/2014.
*Filed Date:* 11/19/14.
*Accession Number:* 20141119–5160.
*Comments Due:* 5 p.m. ET 12/10/14.

*Docket Numbers:* ER14–2968–001.
*Applicants:* Louisville Gas and Electric Company.
*Description:* Tariff Amendment per 35.17(b): EKPC NITSA Amendment to be effective 12/1/2014.
*Filed Date:* 11/19/14.
*Accession Number:* 20141119–5158.
*Comments Due:* 5 p.m. ET 12/10/14.
*Docket Numbers:* ER15–447–000.
*Applicants:* Hawkes Meadow Energy, LLC.
*Description:* Request for Limited Waiver of Hawkes Meadow Energy, LLC.
*Filed Date:* 11/19/14.
*Accession Number:* 20141119–5195.
*Comments Due:* 5 p.m. ET 12/10/14.

*Docket Numbers:* ER15–448–000.
*Applicants:* SG2 Imperial Valley LLC.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): SG2 Amendment Filing to be effective 11/21/2014.
*Filed Date:* 11/20/14.
*Accession Number:* 20141120–5082.
*Comments Due:* 5 p.m. ET 12/11/14.

*Docket Numbers:* ER15–449–000.
*Applicants:* Southern California Edison Company.
*Description:* Tariff Withdrawal per 35.15: Notices of Cancellation of Several Service Agmts for Wholesale Distrb Service to be effective 1/20/2015.
*Filed Date:* 11/20/14.
*Accession Number:* 20141120–5101.
*Comments Due:* 5 p.m. ET 12/11/14.

*Docket Numbers:* ER15–450–000.
*Applicants:* Duke Energy Florida, Inc.
*Description:* Initial rate filing per 35.12 City of Fort Meade NITSA SA No. 152 to be effective 1/1/2015.
*Filed Date:* 11/20/14.
*Accession Number:* 20141120–5102.
*Comments Due:* 5 p.m. ET 12/11/14.

*Docket Numbers:* ER15–451–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): 2014–11–20_SA 2649 Termination Geronimo-ITC J281/J282 GIA to be effective 11/21/2014.
*Filed Date:* 11/20/14.
*Accession Number:* 20141120–5115.
*Comments Due:* 5 p.m. ET 12/11/14.

Take notice that the Commission received the following electric reliability filings:

*Docket Numbers:* RR15–3–000.
*Applicants:* North American Electric Reliability Corporation.
*Description:* North American Electric Reliability Corporation Petition for Approval of the Amendments to Exhibit B of the Amended and Restated Delegation Agreement with Florida Reliability Coordinating Council, Inc.-the FRCC Bylaws.
*Filed Date:* 11/19/14.
*Accession Number:* 20141119–5186.
*Comments Due:* 5 p.m. ET 12/10/14.

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: November 20, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–28109 Filed 11–26–14; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER15–357–000]**

### Chief Keystone Power, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Chief Keystone Power, LLC's application for market-based rate authority, with an

accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability is December 11, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 21, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–28112 Filed 11–26–14; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER15–356–000]**

### Chief Conemaugh Power, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Chief Conemaugh Power, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and *Procedure* (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is December 11, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 21, 2014.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2014–28111 Filed 11–26–14; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP14–638–000; CP14–125–000; CP14–126–000]**

### Atmos Energy Corporation v. American Midstream (Midla) LLC; Notice of Meeting

On March 24, 2014, in Docket No. RP14–638–000, Atmos Energy Corporation (Atmos) filed a complaint against American Midstream (Midla) LLC (Midla) alleging, among other things, that Midla's open season notice and process violate the requirements of section 7(b) of the Natural Gas Act. On March 28, 2014, in Docket No, CP14–125–000, Midla filed an application under section 7(b) of the NGA to abandon segments of its jurisdictional pipeline that are currently used to provide service to Atmos, as well as other shippers. Concurrently, Midla filed a prior notice filing in Docket No. CP14–126–000 requesting to abandon the remainder of its jurisdictional pipeline by sale to an affiliate. The parties in the active alternative dispute resolution proceeding have requested a meeting with Commission staff to ask procedural questions related to any forthcoming filings in the three docketed proceedings.

There will be a morning meeting on November 19, 2014 beginning at 10 a.m. in Hearing Room 5 at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC. The meeting will cover procedural questions related to any future filings. If a party has any questions and for access to the building, please contact Dispute Resolution Division, Support Specialist, Sara Klynsma, at (202) 502–8259.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–8659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

Dated: November 13, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–27551 Filed 11–26–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RM98–1–000]**

### Records Governing Off-the-Record Communications

### Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

| Docket No. | File date | Presenter or requester |
|---|---|---|
| *Prohibited:* | | |
| 1. CP14–17–000 | 11–1 to 11–14–14 | Grouped emails.[1] |
| 2. ER14–2862–000 | 11–6–14 | Doug & Dawn Campeau. |
| 3. CP13–113–000 | 11–12–14 | Eileen Hadley. |
| 4. CP14–96–000 | 11–12–14 | Susan Van Dolsen.[2] |
| 5. CP13–113–000 | 11–12–14 | Susan Ader. |
| 6. ER14–2862–000 | 11–18/19–14 | Grouped letters.[3] |
| 7. ER14–2862–000 | 11–20–14 | Paul Mancine. |
| *Exempt:* | | |
| 1. CP13–483–000, CP13–492–000 | 10–31–14 | FERC Staff.[4] |
| 2. CP13–483–000, CP13–492–000 | 11–5–14 | FERC Staff.[5] |
| 3. CP13–193–000 | 11–6–14 | FERC Staff.[6] |
| 4. CP13–193–000 | 11–12–14 | FERC Staff.[7] |
| 5. ER14–1242–000 | 11–12–14 | Kathy McDonough, Superintendent. |
| 6. CP14–497–000 | 11–12–14 | Hon. Carol I Chock. |
| 7. CP09–6–000 | 11–13–14 | FERC Staff.[8] |
| 8. CP13–499–000, CP13–502–000 | 11–17–14 | Hon. Tom Reed. |
| 9. CP14–96–000, PF14–22–000 | 11–17–14 | Alison Manugian, School Committee Chair. |
| 10. CP14–96–000, PF14–22–000 | 11–18–14 | Michelle Wu, Boston City Councilor. |
| 11. ER14–2862–000 | 11–18–14 | Hon. Gary L. Randall. |
| 12. ER14–2862–000 | 11–19–14 | Anthony D. Edlebeck, City Manager. |
| 13. ER14–2862–000 | 11–19–14 | Isaac Micheau, City of Iron Mountain, Clerk/Treasurer. |
| 14. ER14–2862–000 | 11–19–14 | Samantha Coron, Breitung Township Clerk. |
| 15. CP13–483–000, CP13–492–000 | 11–19–14 | Department of the Army. |

[1] Mass mailing: 108 emails have been sent to FERC Commissioners and staff under this docket number.
[2] Limited mass mailing: 3 letters have been sent to FERC Commissioners and staff under this docket number.
[3] Limited mass mailing: 9 letters have been sent to FERC Commissioners and staff under this docket number
[4] Email record.
[5] Phone record.
[6] Phone record.
[7] Phone record.
[8] Phone record.

Dated: November 21, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–28114 Filed 11–26–14; 8:45 am]

BILLING CODE 6717–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–9018–2]**

## 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 11/17/2014 Through 11/21/2014

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. 20140332, Final EIS, BR, NV,* Newlands Project Final Resource Management Plan, Review Period Ends: 12/29/2014, Contact: Bob Edwards 775–884–8342

*EIS No. 20140333, Draft EIS, BR, CA,* Central Valley Project Municipal and Industrial Water Shortage Policy, Comment Period Ends: 01/12/2015, Contact: Tim Rust 916–978–5516

*EIS No. 20140334, Final EIS, USAF, SD,* Powder River Training Complex Ellsworth Air Force Base, Review Period Ends: 12/29/2014, Contact: Judith Keith 210–925–3367

*EIS No. 20140335, Final EIS, USFS, CO,* Village at Wolf Creek Access Project, Review Period Ends: 01/05/2015, Contact: Adam Mendonca 719–852–6225

*EIS No. 20140336, Final EIS, NIH, MD,* Proposed 2013 Master Plan National Institutes of Health Bethesda Campus, Review Period Ends: 01/05/2015, Contact: Mark Radtke 301–451–6467

*EIS No. 20140337, Final EIS, USFWS, AZ,* Proposed Revision to the Regulations for the Nonessential Experimental Population of the Mexican Wolf (Canis lupus baileyi), Review Period Ends: 12/29/2014, Contact: Sherry Barrett 505–761–4704

*EIS No. 20140338, Draft EIS, USACE, CA,* Cordova Hills Project, Comment Period Ends: 01/12/2015, Contact: Lisa Gibson 916–557–5288

### Amended Notices

*EIS No. 20140298, Draft EIS, USACE, WA,* Puget Sound Nearshore Ecosystem Restoration, Comment Period Ends: 01/23/2015, Contact: Nancy C. Gleason 206–764–6577 Revision to FR Notice Published 10/10/2014; Extending Comment Period from 11/24/2014 to 01/23/2015

*EIS No. 20140314, Draft EIS, HUD, CA,* Potrero HOPE SF Master Plan Project, Comment Period Ends: 01/07/2015, Contact: Eugene Flannery 415–701–5598 Revision to FR Notice Published 11/07/2014; Extending Comment Period from 12/22/2014 to 01/07/2015

Dated: November 24, 2014.

**Cliff Rader,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2014–28152 Filed 11–26–14; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2014–0002; FRL–9918–85]**

## SFIREG Full Committee; Notice of Public Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Association of American Pesticide Control Officials (AAPCO)/State FIFRA Issues Research and Evaluation Group (SFIREG), Full Committee will hold a 2-day meeting, beginning on December 8, 2014 and ending December 9, 2014. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

**DATES:** The meeting will be held on Monday, December 8, 2014 from 8:30 a.m. to 5 p.m. and 8:30 a.m. to 12 noon on Tuesday, December 9, 2014.

To request accommodation for a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT,** preferably at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

**ADDRESSES:** The meeting will be held at EPA. One Potomac Yard (South Bldg.) 2777 Crystal Dr., Arlington VA. 1st Floor South Conference Room.

**FOR FURTHER INFORMATION CONTACT:** Ron Kendall, Field and External Affairs Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. 7506P., NW., Washington, DC 20460–0001; telephone number: (703) 305–5561; fax number: (703) 305–5884; email address: *kendall.ron@epa.gov.* or Grier Stayton, SFIREG Executive Secretary, P.O. Box 466, Milford DE 19963; telephone number (302) 422–8152; fax (302) 422–2435; email address: Grier Stayton at *aapco-sfireg@comcast.net.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

You may be potentially affected by this action if you are interested in pesticide regulation issues affecting States and any discussion between EPA and SFIREG on FIFRA field implementation issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process. You are invited and encouraged to attend the meetings and participate as appropriate. Potentially affected entities may include, but are not limited to:

Those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetics Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and those who sell, distribute or use pesticides, as well as any Non-Government Organization.

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How can I get copies of this document and other related information?*

The docket for this action, identified by docket ID number EPA–HQ–OPP–2014–0002 is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

### II. Tentative Agenda Topics

1. Discussion of State Pollinator Plans.
2. Update on AAPCO Pollinator Committee Progress.
3. Discussion on adjusting inspection time allocations in Inspection Guidance.
4. Discuss process for obtaining Federal credentials.
5. Update on Worker Protection Standard and Certification Rule Changes.

6. State Lead Agency primacy concerns with EPA inspections.
7. Program to Reduce Pesticide Drift and Protect People, Wildlife and the Environment.
8. Discussion on Enlist Duo registration and labeling.
9. Update on FIFRA project officer training.
10. Reports from regional pre-SFIREG meetings.

### III. How can I request to participate in this meeting?

This meeting is open for the public to attend. You may attend the meeting without further notification.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: November 4, 2014.

**Jaqueline E. Mosby,**

*Director, Field and External Affairs Division, Office of Pesticide Programs.*

[FR Doc. 2014–28162 Filed 11–26–14; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9919–90–OEI; EPA–HQ–OEI–2014–0820]**

## Notification of Deletion of System of Records: Confidential Business Information Tracking System, EPA–20

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is deleting the system of records for the Confidential Business Information Tracking System (EPA–20) published in the **Federal Register** on April 7, 2009, from its inventory of Privacy Act Systems. The system is no longer active.

**DATES:** This notice is effective on November 28, 2014.

**FOR FURTHER INFORMATION CONTACT:** Chandler Sirmons, (202) 564–1138.

**SUPPLEMENTARY INFORMATION:**

### General Information

The Confidential Business Information Tracking System (CBITS) was created to track confidential information that was available to Confidential Business Information (CBI) cleared federal and contractor personnel and other government staff members on a need to know basis. CBITS was decommissioned on December 31, 2013. The system has since been replaced by the Confidential Information System (CIS) that processes, tracks and stores Toxic Substances Control Act (TSCA) confidential information. CIS does not contain or store any personally identifiable information (PII).

*How can I get copies of this document and other related information?*

EPA has established a docket for this action under Docket ID No. [EPA–HQ–OEI–2014–0820]. Copies of the available docket materials are available at *www.regulations.gov* or in hard copy at 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. The telephone number for the Office of Environmental Information (OEI) Docket is (202) 566–1752.

*How can I get electronic access to this document?*

You may access this **Federal Register** document electronically under the ''**Federal Register**'' link on *www.regulations.gov*.

Dated: November 18, 2014.

**Renee P. Wynn,**

*Acting Assistant Administrator, and Acting Chief Information Officer.*

[FR Doc. 2014–28161 Filed 11–26–14; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–ORD–2014–0850; FRL–9919–81–ORD]**

## Regional Monitoring Networks To Detect Climate Change Effects in Stream Ecosystems

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of public comment period and letter peer review.

**SUMMARY:** EPA is announcing a 30-day public comment period for the draft document titled, ''Regional Monitoring Networks to Detect Climate Change Effects in Stream Ecosystems'' (EPA/600/R–14/341). The document was prepared by the National Center for Environmental Assessment within EPA's Office of Research and Development. The document describes the development of the current regional monitoring networks (RMNs) for small, freshwater wadeable streams.

EPA intends to forward the public comments that are submitted in accordance with this document to the external peer reviewers for their consideration during the letter review. When finalizing the draft document, EPA intends to consider any public comments received in accordance with this document. EPA is releasing this draft document solely for the purposes of public comment and in connection with pre-dissemination peer review. This draft document is not final as described in EPA's information quality guidelines, has not been publicly disseminated by the EPA, and does not represent and should not be construed to represent Agency policy or views.

The draft document is available via the Internet on the NCEA home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea.*

**DATES:** The 30-day public comment period begins November 28, 2014, and ends December 29, 2014. Comments should be in writing and must be received by EPA by December 29, 2014.

**ADDRESSES:** The draft document, ''Regional Monitoring Networks to Detect Climate Change Effects in Stream Ecosystems,'' is available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the Information Management Team, NCEA; telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title.

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** For information on the public comment period, contact the ORD Docket at the EPA Headquarters Docket Center; telephone: 202–566–1752; facsimile: 202–566–9744; or email: *Docket_ORD@epa.gov.*

For technical information, contact Britta Bierwagen, NCEA; telephone: 703–347–8613; facsimile: 703–347–8694; or email: *bierwagen.britta@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Information About the Project/Document

The U.S. Environmental Protection Agency (EPA) is working with its regional offices, states, tribes, and other organizations to establish regional monitoring networks (RMNs) at which biological, thermal, and hydrologic data will be collected from freshwater wadeable streams to quantify and

monitor changes in baseline conditions, including climate change effects. RMNs have been established in the Northeast, Mid-Atlantic, and Southeast, and efforts are expanding into other regions. The need for RMNs stems from the lack of long-term, contemporaneous biological, thermal, and hydrologic data, particularly at minimally disturbed sites. Data collected at RMNs will be used to detect temporal trends; investigate relationships between biological, thermal, and hydrologic data; explore ecosystem responses and recovery from extreme weather events; test hypotheses and predictive models related to climate change; and quantify natural variability. RMN surveys build on existing bioassessment efforts, with the goal of collecting comparable data that can be pooled efficiently at a regional level. This document describes the development of the current RMNs for small, freshwater wadeable streams. It contains information on selection of candidate sites, expectations for data collection, the rationale for collecting these data, and provides examples of how the RMN data will be used and analyzed.

**II. How To Submit Technical Comments to the Docket at *http://www.regulations.gov***

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2014–0850, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* EPA Docket Center [ORD Docket] (Mail Code: 28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460. The phone number is 202–566–1752. If you provide comments by mail, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.
- *Hand Delivery:* The ORD Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center's 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. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–ORD–2014–0850. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://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 *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center home page at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* 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.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the ORD Docket in the EPA Headquarters Docket Center.

Dated: November 20, 2014.

**Debra B. Walsh,**

*Acting Director, National Center for Environmental Assessment.*

[FR Doc. 2014–28154 Filed 11–26–14; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9919–84–OA]**

## Request for Nominations of Candidates for EPA's Science Advisory Board 2015; Scientific and Technological Achievement Awards Committee

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) invites nominations of scientific experts from a diverse range of disciplines to be considered for appointment to the Science Advisory Board's (SAB) 2015 Scientific and Technological Achievement Awards (STAA) Committee described in this notice.

**DATES:** Nominations should be submitted in time to arrive no later than December 19, 2014.

**FOR FURTHER INFORMATION CONTACT:** For further information about the SAB's STAA Committee membership appointment process and schedule, please contact Mr. Edward Hanlon, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–2134; by fax at (202) 565–2098 or via email at *hanlon.edward@epa.gov.*

General information concerning the EPA SAB can be found at the EPA SAB Web site at *http://www.epa.gov/sab.*

**SUPPLEMENTARY INFORMATION:**

*Background:* Established by statute, the SAB (42 U.S.C. 4365) is a chartered Federal Advisory Committee that provides independent scientific and technical peer review, advice and recommendations to the EPA Administrator on the technical basis for EPA actions. As a Federal Advisory Committee, the SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. The SAB and the 2015 STAA Committee will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

The EPA established the STAA in 1980 to recognize Agency scientists and

engineers who published their work in the peer-reviewed literature. The STAA Program is an agency-wide competition to promote and recognize scientific and technological achievements by EPA employees. The STAA program is administered and managed by the EPA's Office of Research and Development (ORD). Each year the SAB has been asked to review the EPA's STAA nominations and make recommendations to the Administrator for monetary awards. The SAB Staff Office is seeking nominations of experts for the SAB 2015 STAA Committee, which operates under the auspices of the SAB.

*Request for Nominations:* The SAB Staff Office is seeking nominations of experts to form the SAB 2015 STAA Committee in the following disciplines as they relate to human health and the environment: *Air pollution exposure; chemistry and geochemistry; chemical engineering; civil and environmental engineering; ecology; environmental economics; groundwater and surface water contaminant fate and transport; human health effects and risk assessment; hydrology and hydrogeology; monitoring and measurement methods for air and water; risk management; transport and fate of contaminants; water quality; and water and wastewater treatment processes.* The SAB Staff Office is especially interested in scientists with expertise described above who have knowledge and experience in *air quality; aquatic and ecological toxicology; chemical safety; climate change; community environmental health; dosimetry and inhalation toxicology; drinking water; ecological modeling; ecological risk assessment; ecosystem services; energy and the environment; epidemiology; green chemistry; homeland security; human health dosimetry; mechanisms of toxicity and carcinogenicity; metabolism; statistics; sustainability; toxicokinetics; toxicology; waste and waste management; and water re-use.*

*Process and Deadline for Submitting Nominations:* Any interested person or organization may nominate qualified individuals in the areas of expertise described above for possible service on the 2015 STAA Committee identified in this notice. Nominations should be submitted in electronic format (preferred over hard copy) following the instructions for Nomination to Advisory Panels and *Ad Hoc* Committees, provided on the SAB Web site (see the ''Nomination of Experts'' link on the blue navigational bar at *http://www.epa.gov/sab*). To receive full consideration, nominations should include the information requested below.

EPA's SAB Staff Office requests contact information about the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's resume or curriculum vitae; sources of recent grant and/or contract support; and a biographical sketch of the nominee indicating current position, educational background, research activities, and recent service on other national advisory committees or national professional organizations.

Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB Web site, should contact Mr. Edward Hanlon as indicated above in this notice. Nominations should be submitted in time to arrive no later than December 19, 2014. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

The EPA SAB Staff Office will acknowledge receipt of nominations. The names and biosketches of qualified nominees identified by respondents to this **Federal Register** notice, and additional experts identified by the SAB Staff, will be posted in a List of Candidates on the SAB Web site at *http://www.epa.gov/sab*. Public comments on the List of Candidates will be accepted for 21 days. The public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates.

For the EPA SAB Staff Office a balanced review committee includes candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. The SAB Staff Office will consider public comments on the List of Candidates, information provided by the candidates themselves, and background information independently gathered by the SAB Staff Office. Selection criteria to be used for committee membership include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) absence of an appearance of a loss of impartiality; (e) skills working in committees, subcommittees and advisory panels; and, (f) for the panel as a whole, diversity of expertise and scientific points of view.

The SAB Staff Office's evaluation of an absence of financial conflicts of interest will include a review of the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows government officials to determine whether there is a statutory conflict between a person's public responsibilities (which include membership on an EPA federal advisory committee) and private interests and activities, or the appearance of a loss of impartiality, as defined by federal regulation. The form may be viewed and downloaded from the following URL address *http://yosemite.epa.gov/sab/sabproduct.nsf/Web/ethics?OpenDocument*.

The approved policy under which the EPA SAB Office selects members for subcommittees and review panels is described in the following document, *Overview of the Panel Formation Process at the Environmental Protection Agency Science Advisory Board* (EPA–SAB–EC–02–010), which is posted on the SAB Web site at *http://www.epa.gov/sab/pdf/ec02010.pdf*.

Dated: November 20, 2014.

**Thomas Brennan,**

*Deputy Director, EPA Science Advisory Board Staff Office.*

[FR Doc. 2014–28157 Filed 11–26–14; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

### Notice of Publication of Federal Accounting Standards Advisory Board (FASAB) Annual Report and Three-Year Plan

**AGENCY:** Federal Accounting Standards Advisory Board.

**ACTION:** Notice.

*Board Action:* Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October, 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has published The Annual Report for Fiscal Year 2014 and Three-Year Plan. The combined report allows stakeholders to consider FASAB's progress and invites them to advise the Board about its plans. Your views regarding the content of the

annual report and the Board's project priorities for the next three years are requested by January 31, 2015.

The Report and Three-Year Plan are available at *http://www.fasab.gov/about/our-annual-reports/*.

**FOR FURTHER INFORMATION CONTACT:** Wendy M. Payne, Executive Director, 441 G St. NW., Mail Stop 6H19, Washington, DC 20548 or call 202–512–7350.

**Authority:** Federal Advisory Committee Act, Pub. L. 92–463.

Dated: November 21, 2014.

**Charles Jackson,**

*Federal Register Liaison Officer.*

[FR Doc. 2014–28058 Filed 11–26–14; 8:45 am]

**BILLING CODE 1610–02–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0208]**

### Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before December 29, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0208.

*Title:* Section 73.1870, Chief Operators.

*Form Number:* Not applicable.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business and other for-profit; Not-for-profit institutions.

*Number of Respondents and Responses:* 18,498 respondents; 36,996 responses.

*Estimated Time per Response:* 0.166–26 hours.

*Frequency of Response:* Recordkeeping requirement; Third party disclosure requirement.

*Total Annual Burden:* 484,019 hours.

*Total Annual Costs:* None.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Impact Assessment(s):* No impact(s).

*Needs and Uses:* 47 CFR 73.1870 requires that the licensee of an AM, FM, or TV broadcast station designate a chief operator of the station. Section 73.1870(b)(3) requires that this designation must be in writing and posted with the station license. Section 73.1870(c)(3) requires that the chief operator, or personnel delegated and supervised by the chief operator, review the station records at least once each week to determine if required entries are being made correctly, and verify that the station has been operated in accordance with FCC rules and the station authorization. Upon completion of the review, the chief operator must date and sign the log, initiate corrective action which may be necessary and advise the station licensee of any condition which is repetitive. The posting of the designation of the chief operator is used by interested parties to readily identify the chief operator. The review of the station records is used by the chief operator, and FCC staff in investigations, to ensure that the station is operating in accordance with its station authorization and the FCC rules and regulations.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary, Office of the Managing Director.*

[FR Doc. 2014–28159 Filed 11–26–14; 8:45 am]

**BILLING CODE 6712–01–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 December 23, 2014.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *First Southern Bancorp Stanford, Kentucky*; to acquire 100 percent of the voting shares of First United, Inc., Central City, Kentucky and thereby indirectly acquire First National Bank of Muhlenberg Kentucky, Central City, Kentucky.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Chemical Financial Corporation, Midland, Michigan*; to merge with Monarch Community Bancorp, Inc., Coldwater, Michigan, and thereby indirectly acquire control of Monarch Community Bank, Coldwater, Michigan.

C. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *First National Bank* in *Wadena, Minnesota*; Employee Stock Ownership Plan and Trust, to acquire 30.95 percent of the voting shares of FNB Acquisition Holding Corporation, Wadena, Minnesota and thereby indirectly acquire ownership of The First National Bank, in Wadena, Minnesota.

Board of Governors of the Federal Reserve System, November 21, 2014.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2014–28046 Filed 11–26–14; 8:45 am]

**BILLING CODE 6210–01–P**

## GENERAL SERVICES ADMINISTRATION

**[Notice CPL–2014–03; Docket No. 2014–0002; Sequence 36]**

## GSA Labor-Management Relations Council Meeting

**AGENCY:** General Services Administration.

**ACTION:** Notice of meeting cancellation.

**SUMMARY:** The GSA Labor-Management Relations Council (GLMRC) previously announced in its November 14, 2014 **Federal Register** notice that it planned to hold a meeting Tuesday, December 2, 2014 and Wednesday, December 3, 2014. That meeting is being cancelled. A new notice will be posted in the **Federal Register** announcing the date and time when rescheduled.

**FOR FURTHER INFORMATION CONTACT:** Ms. Temple L. Wilson, GLMRC Designated Federal Officer (DFO) at the General Services Administration, OHRM, 1800 F Street NW., Washington, DC 20405; phone at 202–969–7110, or email at *gmlrc@gsa.gov.*

Dated: November 24, 2014.

**Temple L. Wilson,**

*GSA Labor-Management Relations Council, Designated Federal Officer.*

[FR Doc. 2014–28117 Filed 11–26–14; 8:45 am]

**BILLING CODE 6820–34–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Medicare & Medicaid Services

**[Document Identifiers: CMS–10542, CMS–10543 and CMS–209]**

## Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by January 27, 2015.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.

3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786–1326.

**SUPPLEMENTARY INFORMATION:**

### Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS 10542 Hospital Consumer Assessment of Healthcare Providers

and Systems (HCAHPS) Survey Mode Experiment

CMS 10543 Emergency Department Patient Experience of Care (EDPEC) Survey Mode Experiment

CMS 209 Laboratory Personnel Report (CLIA) and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection1.

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) Survey Mode Experiment; *Use:* Hospital-level scores derived from national implementation of Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) Survey are publicly reported quality data on CMS' Hospital Compare Web site. Our HCAHPS initiative allows vendors to select one mode of survey administration from four approved administration protocols (mail only, telephone only, mail-telephone mixed mode, and touch-tone IVR only). Before public reporting, HCAHPS scores are adjusted for the selected mode of administration, using mail administration as the comparison mode, to correct for any inflation or deflation of scores that are a result of mode. The current mode adjustments employed for HCAHPS are the product of two separate mode experiments conducted using different versions of the survey and different sample. The purpose of the planned HCAHPS mode experiment is to conduct a mode experiment of sufficient sample and scale to determine if the mode adjustments currently employed for the 32-item HCAHPS core survey need revision. An additional goal is to collect empirical evidence on the effect of the number of additional supplemental items on survey response rate and patterns of response to the HCAHPS core demographic items (known as ''About You'' items). *Form Number:* CMS–10542 (OMB control number 0938–New); *Frequency:* Once; *Affected Public:* Individuals and households; *Number of Respondents:* 8,160; *Total Annual Responses:* 8,160; *Total Annual Hours:* 1,322. (For policy questions regarding this collection contact Elizabeth Flow-Delwiche at 410–786–1718).

2. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Emergency Department Patient Experience of Care (EDPEC) Survey Mode Experiment; *Use:* This survey supports the six national priorities for improving care from the National Quality Strategy developed by the Department of Health and Human Services that was called for under the Affordable Care Act to create national aims and priorities to guide local, state, and national efforts to improve the quality of health care. The six priorities include: making care safer by reducing harm caused by the delivery of care; ensuring that each person and family are engaged as partners in their care; promoting effective communication and coordination of care; promoting the most effective prevention and treatment practices for the leading causes of mortality, starting with cardiovascular disease; working with communities to promote wide use of best practices to enable healthy living; and making quality care more affordable for individuals, families, employers, and governments by developing and spreading new health care delivery models. In 2012, we launched the development of the Emergency Department Patient Experience of Care Survey (EDPEC) to measure the experiences of patients (18 and older) with emergency department care. This survey will provide patient experience with care data that enables comparisons of emergency department and support for improving the quality of patient experience in the emergency department. *Form Number:* CMS–10543 (OMB control number 0938–New); *Frequency:* Once; *Affected Public:* Individuals and households; *Number of Respondents:* 4,951; *Total Annual Responses:* 4,951; *Total Annual Hours:* 923. (For policy questions regarding this collection contact Elizabeth Flow-Delwiche at 410–786–1718).

3. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Laboratory Personnel Report (CLIA) and Supporting Regulations; *Use:* The information collected on this survey form is used in the administrative pursuit of the Congressionally-mandated program with regard to regulation of laboratories participating in CLIA. The surveyor will provide the laboratory with the CMS–209 form. While the surveyor performs other aspects of the survey, the laboratory will complete the CMS–209 by recording the personnel data needed to support their compliance with the personnel requirements of CLIA. The surveyor will then use this information in choosing a sample of personnel to verify compliance with the personnel requirements. Information on personnel qualifications of all technical personnel is needed to ensure the sample is representative of the entire laboratory; *Form Number:* CMS–209 (OMB control number 0938–0151); *Frequency:* Biennially; *Affected Public:* Private Sector—State, Local, or Tribal Governments; and Federal Government; *Number of Respondents:* 19,051; *Total Annual Responses:* 9,526; *Total Annual Hours:* 4,763. (For policy questions regarding this collection contact Kathleen Todd at 410–786–3385.)

Dated: November 24, 2014.

**Martique Jones,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2014–28137 Filed 11–26–14; 8:45 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–7034–N]**

### Health Insurance Marketplace, Medicare, Medicaid, and Children's Health Insurance Programs; Meeting of the Advisory Panel on Outreach and Education (APOE), December 15, 2014

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel) in accordance with the Federal Advisory Committee Act. The Panel advises and makes recommendations to the Secretary of the U.S. Department of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services on opportunities to enhance the effectiveness of consumer education strategies concerning the Health

Insurance Marketplace, Medicare, Medicaid, and the Children's Health Insurance Program (CHIP). This meeting is open to the public.

**DATES:** *Meeting Date:* Monday, December 15, 2014, 8:30 a.m. to 4:00 p.m. eastern standard time (e.s.t.).

*Deadline for Meeting Registration, Presentations and Comments:* Monday, December 1, 2014, 5:00 p.m., e.s.t.

*Deadline for Requesting Special Accommodations:* Monday, December 1, 2014, 5:00 p.m., e.s.t.

**ADDRESSES:** *Meeting Location:* U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue SW., Room 738 G, Conference Room, Washington, DC 20201.

*Presentations and Written Comments:* Kirsten Knutson, Acting Designated Federal Official (DFO), Division of Forum and Conference Development, Office of Communications, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop S1–13–05, Baltimore, MD 21244–1850 or contact Ms. Knutson via email at *Kirsten.Knutson@cms.hhs.gov.*

*Registration:* The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register at the Web site *https://www.regonline.com/apoedec2014meeting* or by contacting the DFO at the address listed in the **ADDRESSES** section of this notice or by telephone at number listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, by the date listed in the **DATES** section of this notice. Individuals requiring sign language interpretation or other special accommodations should contact the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Kirsten Knutson, (410) 786–5886. Additional information about the APOE is available on the Internet at: *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/APOE.html*

Press inquiries are handled through the CMS Press Office at (202) 690–6145.

**SUPPLEMENTARY INFORMATION:** In accordance with section 10(a) of the Federal Advisory Committee Act (FACA), this notice announces a meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel). Section 9(a)(2) of the Federal Advisory Committee Act authorizes the Secretary of the U.S. Department of Health and Human Services (the Secretary) to establish an advisory panel if the Secretary determines that the panel is ''in the public interest in connection with the performance of duties imposed . . . by law.'' Such duties are imposed by section 1804 of the Social Security Act (the Act), requiring the Secretary to provide informational materials to Medicare beneficiaries about the Medicare program, and section 1851(d) of the Act, requiring the Secretary to provide for ''activities . . . to broadly disseminate information to [M]edicare beneficiaries . . . on the coverage options provided under [Medicare Advantage] in order to promote an active, informed selection among such options.''

The Panel is also authorized by section 1114(f) of the Act (42 U.S.C. 1314(f)) and section 222 of the Public Health Service Act (42 U.S.C. 217a). The Secretary signed the charter establishing this Panel on January 21, 1999 (64 FR 7899, February 17, 1999) and approved the renewal of the charter on December 18, 2012 (78 FR 32661, May, 31, 2013).

The Affordable Care Act (Patient Protection and Affordable Care Act, Pub. L. 111–148 and Health Care and Education Reconciliation Act of 2010, Pub. L. 111–152) enacted a number of changes to Medicare as well as to Medicaid and the Children's Health Insurance Program (CHIP), and also expanded the availability of other options for health care coverage. In order to effectively implement and administer these changes, we must provide information to Medicare, Medicaid, and CHIP consumers, providers and other stakeholders pursuant to education and outreach programs regarding how these programs will change and the expanded range of health coverage options available. The Advisory Panel on Outreach and Education allows us to consider a broad range of views and information from interested audiences in connection with this effort and to identify opportunities to enhance the effectiveness of education strategies concerning the Affordable Care Act.

This Federal Advisory Committee Act (FACA) group also advises on issues pertaining to education of providers and stakeholders with respect to health care reform and certain provisions of the Health Information Technology for Economic and Clinical Health (HITECH) Act, enacted as part of the American Recovery and Reinvestment Act of 2009 (ARRA).

Pursuant to the amended charter, the Panel advises and makes recommendations to the Secretary of Health and Human Services (HHS) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) concerning optimal strategies for the following:

- Developing and implementing education and outreach programs for individuals enrolled in, or eligible for Medicare, Medicaid, and the Children's Health Insurance Program (CHIP).
- Enhancing the federal government's effectiveness in informing Medicare, Medicaid, and CHIP consumers, providers, and stakeholders pursuant to education and outreach programs of issues regarding these and other health coverage programs, including the appropriate use of public-private partnerships to leverage the resources of the private sector in educating beneficiaries, providers, and stakeholders.
- Expanding outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of Medicare, Medicaid, and CHIP education programs.
- Assembling and sharing an information base of ''best practices'' for helping consumers evaluate health plan options.
- Building and leveraging existing community infrastructures for information, counseling, and assistance.
- Drawing the program link between outreach and education, promoting consumer understanding of health care coverage choices and facilitating consumer selection/enrollment, which in turn support the overarching goal of improved access to quality care, including prevention services, envisioned under health care reform.

The current members of the Panel are: Samantha Artiga, Principal Policy Analyst, Kaiser Family Foundation; Joseph Baker, President, Medicare Rights Center; Kellan Baker, Senior Fellow, Center for American Progress; Philip Bergquist, Manager, Health Center Operations, CHIPRA Outreach & Enrollment Project and Director, Michigan Primary Care Association; Marjorie Cadogan, Executive Deputy Commissioner, Department of Social Services; Jonathan Dauphine, Senior Vice President, AARP; Barbara Ferrer, Chief Strategy Officer, W. K. Kellogg Foundation; Shelby Gonzales, Senior Health Outreach Associate, Center on Budget & Policy Priorities; Jan Henning, Benefits Counseling & Special Projects Coordinator, North Central Texas Council of Governments' Area Agency on Aging; Louise Knight, Director, The Sidney Kimmel Comprehensive Cancer Center at Johns Hopkins; Miriam Mobley-Smith, Dean, Chicago State University, College of Pharmacy; Ana Natale-Pereira, Associate Professor of Medicine, Rutgers-New Jersey Medical School; Roanne Osborne-Gaskin, M.D., Associate Medical Director, Neighborhood Health Plan of Rhode

Island; Megan Padden, Vice President, Sentara Health Plans; Jeanne Ryer, Director, New Hampshire Citizens Health Initiative, University of New Hampshire; Carla Smith, Executive Vice President, Healthcare Information and Management Systems Society (HIMSS); Winston Wong, Medical Director, Community Benefit Director, Kaiser Permanente and Darlene Yee-Melichar, Professor & Coordinator, San Francisco State University.

The agenda for the December 15, 2014 meeting will include the following:

- Welcome and listening session with CMS leadership
- Recap of the previous (May 22, 2014) meeting
- Affordable Care Act initiatives
- An opportunity for public comment
- Meeting summary, review of recommendations and next steps

Individuals or organizations that wish to make a 5-minute oral presentation on an agenda topic should submit a written copy of the oral presentation to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. The number of oral presentations may be limited by the time available. Individuals not wishing to make an oral presentation may submit written comments to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

**Authority:** Sec. 222 of the Public Health Service Act (42 U.S.C. 217a) and sec. 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, sec. 10(a) and 41 CFR 102–3).

Dated: November 25, 2014.

**Marilyn Tavenner,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2014–28217 Filed 11–26–14; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Notice of Allotment Percentages to States for Child Welfare Services State Grants

**AGENCY:** Administration on Children, Youth and Families, Administration for Children and Families, Department of Health and Human Services.

**ACTION:** Biennial publication of allotment percentages for States under the Title IV–B subpart 1, Child Welfare Services State Grants Program (CFDA No. 93.645).

**SUMMARY:** As required by section 423(c) of the Social Security Act (42 U.S.C. 623(c)), the Department is publishing the allotment percentage for each State under the Title IV–B Subpart 1, Child Welfare Services State Grants Program. Under section 423(a), the allotment percentages are one of the factors used in the computation of the Federal grants awarded under the Program.

**DATES:** *Effective Dates:* The allotment percentages shall be effective for Fiscal Years 2016 and 2017.

**FOR FURTHER INFORMATION CONTACT:** Deborah Bell, Grants Fiscal Management Specialist, Office of Grants Management, Office of Administration, Administration for Children and Families, telephone (202) 401–4611.

**SUPPLEMENTARY INFORMATION:** The allotment percentage for each State is determined on the basis of paragraphs (b) and (c) of section 423 of the Act. These figures are available on the ACF homepage on the internet: *http://www.acf.dhhs.gov/programs/cb/*. The allotment percentage for each State is as follows:

| State | Allotment percentage |
|---|---|
| Alabama | 59.09 |
| Alaska | 43.55 |
| Arizona | 58.45 |
| Arkansas | 59.17 |
| California | 46.42 |
| Colorado | 47.68 |
| Connecticut | 32.05 |
| Delaware | 49.91 |
| District of Columbia | 14.17 |
| Florida | 53.25 |
| Georgia | 57.54 |
| Hawaii | 49.44 |
| Idaho | 60.03 |
| Illinois | 47.77 |
| Indiana | 56.92 |
| Iowa | 49.95 |
| Kansas | 50.53 |
| Kentucky | 59.39 |
| Louisiana | 54.18 |
| Maine | 54.46 |
| Maryland | 39.19 |
| Massachusetts | 35.95 |
| Michigan | 56.28 |
| Minnesota | 46.65 |
| Mississippi | 62.12 |
| Missouri | 54.83 |
| Montana | 56.05 |
| Nebraska | 47.91 |
| Nevada | 55.86 |
| New Hampshire | 43.36 |
| New Jersey | 37.68 |
| New Mexico | 59.43 |
| New York | 38.88 |
| North Carolina | 56.69 |
| North Dakota | 40.07 |
| Ohio | 54.34 |
| Oklahoma | 53.45 |
| Oregon | 55.52 |
| Pennsylvania | 48.37 |
| Rhode Island | 47.52 |
| South Carolina | 59.92 |
| South Dakota | 48.15 |
| Tennessee | 55.94 |
| Texas | 51.20 |
| Utah | 59.34 |
| Vermont | 49.39 |
| Virginia | 44.92 |
| Washington | 46.94 |
| West Virginia | 60.16 |
| Wisconsin | 51.83 |
| Wyoming | 41.14 |
| American Samoa | 70.00 |
| Guam | 70.00 |
| N. Mariana Islands | 70.00 |
| Puerto Rico | 70.00 |
| Virgin Islands | 70.00 |

**Christopher Beach,**

*Senior Grants Policy Specialist, Division of Grants Policy, Office of Administration.*

[FR Doc. 2014–28135 Filed 11–26–14; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2014–N–0987]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Generic Clearance for the Collection of Quantitative Data on Tobacco Products and Communications

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by December 29, 2014.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–NEW and title ''Generic Clearance for the Collection of Quantitative Data on Tobacco Products and Communications.'' Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

**Generic Clearance for the Collection of Quantitative Data on Tobacco Products and Communications—(OMB Control Number 0910—NEW)**

In order to conduct educational and public information programs relating to tobacco use as authorized by section 1003(d)(2)(D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(d)(2)(D)), FDA's Center for Tobacco Products (CTP) will create and use a variety of media to inform and educate the public, tobacco retailers, and health professionals about the risks of tobacco use, how to quit using tobacco products, and FDA's role in regulating tobacco.

To ensure that these health communication messages have the highest potential to be received, understood, and accepted by those for whom they are intended, the Center for Tobacco Products will conduct research and studies relating to the control and prevention of disease. In conducting such research, FDA will employ formative pretests. Formative pretests are conducted on a small scale, and their focus is on developing and assessing the likely effectiveness of communications with specific target audiences. This type of research involves: (1) Assessing audience knowledge, attitudes, behaviors, and other characteristics for the purpose of determining the need for and developing health messages, communication strategies, and public information programs and (2) pretesting these health messages, strategies, and program components while they are in developmental form to assess audience comprehension, reactions, and perceptions.

Formative pretesting is a staple of best practices in communications research. Obtaining feedback from intended audiences during the development of messages and materials is crucial for the success of every communication program. The purpose of obtaining information from formative pretesting is that it allows FDA to improve materials and strategies while revisions are still affordable and possible. Formative pretesting can also avoid potentially expensive and dangerous unintended outcomes caused by audiences' interpreting messages in a way that was not intended by the drafters. By maximizing the effectiveness of messages and strategies for reaching targeted audiences, the frequency with which tobacco communication messages need to be modified should be greatly reduced.

The information collected will serve the primary purpose of providing FDA information about the perceived effectiveness of messages, advertisements, and materials in reaching and successfully communicating with their intended audiences. Quantitative testing messages and other materials with a sample of the target audience will allow FDA to refine messages, advertisements, and materials, including questionnaires or images, directed at consumers while the materials are still in the developmental stage.

In the **Federal Register** of July 17, 2014 (79 FR 41696), FDA published a 60-day notice requesting public comment on the proposed collection of information. Four comments were received, but only two comments were PRA-related.

(Comment 1) One comment was supportive of the information collection, stating they ''support CTP's proposal to conduct formative pretests to ensure that health communication messages are received, understood and accepted by the intended audiences'' and that they believe the proposed information collection is necessary and will have practical utility. The comment also stated that CTP's projection of the burden of the proposed collection effort seems reasonable. In addition, the comment suggested that FDA consult with FDA's Risk Communication Advisory Committee on proposed information collections.

(Response) FDA agrees that the request in this collection of information is necessary and that the proposed burden is reasonable. Consultation with other U.S. Department of Health and Human Services (HHS) Agencies, FDA advisory committees, and/or the public will occur when appropriate.

(Comment 2) One comment was supportive of the data collection stating that the ''collections are, in fact, essential.'' That comment also made suggestions about what the specific goals of messages tested in information collections included under this generic collection should focus on, and suggested that those collections be made available for further public comments.

(Response) FDA agrees that the request in this collection of information is essential to the mission of FDA as a science-based Agency in its implementation of the Tobacco Control Act. Although we appreciate suggestions for the content of future submissions submitted under this generic clearance, ultimately such decisions will be driven by needs determined by the Agency in consultation with other HHS Agencies and the public when appropriate.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| Activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Self-Administered Surveys | 30,300 | 1 | 30,300 | 0.33 (20 minutes) | 9,999 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The number of respondents to be included in each new survey will vary, depending on the nature of the material or message being tested and the target audience.

Dated: November 20, 2014.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2014–28106 Filed 11–26–14; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2014–N–1904]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Comparing Food Safety Knowledge, Attitude, and Behavior Among English-Dominant Hispanics, Spanish-Dominant Hispanics, and Other Consumers

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on our proposed collection of certain information. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies must publish a notice in the **Federal Register** concerning each proposed collection of information and allow 60 days for public comment. This notice invites comments on the proposed data collection entitled ''Comparing Food Safety Knowledge, Attitude, and Behavior Among English-Dominant Hispanics, Spanish-Dominant Hispanics, and Other Consumers.''

**DATES:** Submit either electronic or written comments on the collection of information by January 27, 2015.

**ADDRESSES:** Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

### Comparing Food Safety Knowledge, Attitude, and Behavior Among English-Dominant Hispanics, Spanish-Dominant Hispanics, and Other Consumers—(OMB Control Number 0910—NEW)

We conduct research and educational and public information programs relating to food safety and nutrition under our broad statutory authority, set forth in section 903(b)(2) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 393(b)(2)), to protect the public health by ensuring that foods are ''safe, wholesome, sanitary, and properly labeled,'' and in section 903(d)(2)(C) of the FD&C Act (21 U.S.C. 393(d)(2)(C)), to conduct research relating to foods, drugs, cosmetics, and devices.

Our current food safety education and outreach programs and materials generally are developed and provided for the English-speaking population in the United States (Ref. 1). To better protect public health and to help consumers practice safe food handling, we need empirical data on how different population groups understand, perceive, and practice food safety and food handling. An emerging and important demographic trend in the United States is the increase in Hispanics. Recent estimates suggest that Hispanics (defined as those who identify themselves as of Hispanic or Latino origin) are the largest and fastest growing minority group in the nation; the proportion of the U.S. population that was Hispanic was 14 percent in 2005 and is projected to increase to 29 percent in 2050 (Ref. 2).

Data from the Centers for Disease Control and Prevention indicate that, in the past two decades, Hispanics were one of the population groups that often experienced higher incidence rates (per 100,000 population) of bacterial causes of foodborne illness than Caucasians (Ref. 3). These bacterial causes include *Campylobacter, Listeria monocytogenes, Shigella,* and *Salmonella.* While some Hispanics living in the United States use the English language exclusively, or more often than Spanish (English-dominant Hispanics), other U.S. Hispanics predominantly use the Spanish language in their daily lives (Spanish-dominant Hispanics) (Ref. 4). Since most U.S. food labels, including safe food handling instructions, are in English, Spanish-dominant Hispanics' understanding and use of safe food handling instructions may differ from that of English-dominant Hispanics and of non-Hispanics who use English exclusively. In addition, Hispanics may have certain food handling practices that may increase their risk of foodborne illness (Ref. 5).

FDA needs an understanding of how different population groups perceive and behave in terms of food safety and food handling to inform possible measures that we may take to better protect public health and to help consumers practice safe food handling. FDA is aware of no consumer research on a nationwide level on how different population groups understand, perceive, and practice food safety and food handling. This study is intended to provide answers to research questions such as whether and how much Spanish-dominant Hispanics, English-dominant Hispanics, and English-speaking non-Hispanics differ in their knowledge, attitude, and behavior toward food safety and food handling among the three population groups, and the role that demographic and other factors may play in any differences.

The proposed study will use a Web-based instrument to collect information

from 3,000 adult members in online consumer panels maintained by a contractor. The study plans to randomly select 800 panel members in each of three groups: Spanish-dominant Hispanics, English-dominant Hispanics, and English-speaking non-Hispanics. Both English and Spanish questionnaires will be used, as appropriate. The study plans to include topics such as: (1) Food safety knowledge and attitude and (2) food handling and consumption practice. To help us understand the data, the study will also collect information on respondents' background, including, but not limited to, health status and demographic characteristics, such as age, gender, education, and income, and degree of acculturation among Hispanic respondents using a measure developed by Marin, et al. (Ref. 6).

The study is part of our continuing effort to protect the public health. We will not use the results of the study to develop population estimates. We will use the results of the study to develop followup quantitative and qualitative research to gauge the prevalence and extent of differences in food safety knowledge and behaviors between the three mentioned population groups. We will use the results of the followup research to help inform the design of effective education and outreach initiatives aimed at helping reduce the risk of foodborne illness for the general U.S. population as well as Hispanics.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| Activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Cognitive interview screener | 72 | 1 | 72 | 0.083 (5 minutes) | 6 |
| Cognitive interview | 9 | 1 | 9 | 0.5 (30 minutes) | 5 |
| Pretest invitation | 1,440 | 1 | 1,440 | 0.033 (2 minutes) | 48 |
| Pretest | 180 | 1 | 180 | 0.25 (15 minutes) | 45 |
| Study invitation | 24,000 | 1 | 24,000 | 0.033 (2 minutes) | 792 |
| Study | 3,000 | 1 | 3,000 | 0.25 (15 minutes) | 750 |
| Total | | | | | 1,646 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We base our estimates on prior experience with research that is similar to this proposed study. We will use a cognitive interview screener with 72 individuals to recruit prospective interview participants. We estimate that it will take a screener respondent approximately 5 minutes (0.083 hours) to complete the cognitive interview screener, for a total of 5.976 hours, rounded to 6 hours. We will conduct cognitive interviews with nine participants. We estimate that it will take a participant approximately 30 minutes to complete the interview, for a total of 4.5 hours, rounded to 5 hours. We also plan to conduct a pretest to identify and resolve potential survey administration problems. We will send a pretest invitation to 1,440 prospective pretest participants and estimate that it will take a respondent approximately 2 minutes (0.033 hours) to complete the invitation, for a total of 47.52 hours, rounded to 48 hours. We will administer the pretest with 180 participants and estimate that it will take a participant 15 minutes (0.25 hours) to complete the pretest, for a total of 45 hours. We will send a study invitation to 24,000 prospective participants and estimate that it will take a respondent approximately 2 minutes (0.033 hours) to complete the invitation, for a total of 792 hours. We will administer the study with 3,000 participants and estimate that it will take a participant 15 minutes (0.25 hours) to complete the study, for a total of 750 hours. The total estimated burden for all the study activities is 1,646 hours.

## II. References


1. FDA. ''Foodborne Illness & Contaminants.'' June 9, 2014. Available at *http://www.fda.gov/Food/FoodborneIllnessContaminants/default.htm.*
2. Passel, J. S. and D'V. Cohn. ''U.S. Population Projections: 2005–2050.'' Pew Research Center. Washington, DC February 11, 2008. Available at *http://pewhispanic.org/files/reports/85.pdf.*
3. Quinlan, J. J. ''Foodborne Illness Incidence Rates and Food Safety Risks for Populations of Low Socioeconomic Status and Minority Race/Ethnicity: A Review of the Literature.'' *International Journal of Environmental Research and Public Health,* 10(8): 3634–3652. 2013.
4. Taylor, P., M. H. Lopez, J. Martínez, and G. Velasco. ''Language Use Among Latinos.'' Pew Research Center. Washington, DC April 4, 2012. Available at *http://www.pewhispanic.org/2012/04/04/iv-language-use-among-latinos/.*
5. Henley, S. C., S. E. Stein, and J. J. Quinlan. ''Identification of Unique Food Handling Practices That Could Represent Food Safety Risks for Minority Consumers.'' *Journal of Food Protection,* 75: 2050–2054. 2012.
6. Marin, G., F. Sabogal, B. V. Marin, et al. ''Development of a Short Acculturation Scale for Hispanics.'' *Hispanic Journal of Behavioral Sciences,* 9(2): 183–205. 1987.


Dated: November 21, 2014.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2014–28088 Filed 11–26–14; 8:45 am]

BILLING CODE 4164–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–1152]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Petition To Request an Exemption From 100 Percent Identity Testing of Dietary Ingredients: Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by December 29, 2014.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0608. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd.; COLE–14526, Silver Spring, MD 20993–0002 *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Petition to Request an Exemption from 100 Percent Identity Testing of Dietary Ingredients:

**Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements—21 CFR 111.75(a)(1)(ii) (OMB Control Number 0910–0608)—Reinstatement**

The Dietary Supplement Health and Education Act (DSHEA) (Pub. L. 103–417) added section 402(g) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 342(g)), which provides, in part, that the Secretary of Health and Human Services (the Secretary) may, by regulation, prescribe good manufacturing practices for dietary supplements. Section 402(g)(1) of the FD&C Act states that a dietary supplement is adulterated if ''it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations.'' Section 701(a) of the FD&C Act (21 U.S.C. 371(a)) gives us the authority to issue regulations for the efficient enforcement of the FD&C Act.

Part 111 of our regulations (21 CFR part 111) establishes the minimum current good manufacturing practice (CGMP) necessary for activities related to manufacturing, packaging, labeling, or holding dietary supplements to ensure the quality of the dietary supplement. Section 111.75(a)(1) of our regulations establishes a procedure for a petition to request an exemption from 100 percent identity testing of dietary ingredients. In accordance with § 111.75(a)(1)(ii), manufacturers may request an exemption from the requirements set forth in § 111.75(a)(1)(i) when the dietary ingredient is obtained from one or more suppliers identified in the petition. The regulation clarifies that we are willing to consider, on a case-by-case basis, a manufacturer's conclusion, supported by appropriate data and information in the petition submission, that it has developed a system that it would implement as a sound, consistent means of establishing, with no material diminution of assurance compared to the assurance provided by 100 percent identity testing, the identity of the dietary ingredient before use.

Section 111.75(a)(1) reflects our determination that manufacturers that test or examine 100 percent of the incoming dietary ingredients for identity can be assured of the identity of the ingredient. However, we recognize that it may be possible for a manufacturer to demonstrate, through various methods and processes in use over time for its particular operation, that a system of less than 100 percent identity testing would result in no material diminution of assurance of the identity of the dietary ingredient as compared to the assurance provided by 100 percent identity testing. To provide an opportunity for a manufacturer to make such a showing and reduce the frequency of identity testing of components that are dietary ingredients from 100 percent to some lower frequency, we added to § 111.75(a)(1), an exemption from the requirement of 100 percent identity testing when a manufacturer petitions the Agency for such an exemption to 100 percent identity testing under § 10.30 and the Agency grants such exemption. Such a procedure would be consistent with our stated goal, as described in the CGMP final rule, of providing flexibility in the CGMP requirements. Section 111.75(a)(1)(ii) sets forth the information a manufacturer is required to submit in such a petition. The regulation also contains a requirement to ensure that the manufacturer keeps our response to a petition submitted under § 111.75(a)(1)(ii) as a record under § 111.95. The collection of information in § 111.95 has been approved under OMB control number 0910–0606.

*Description of Respondents:* The respondents to this collection of information are firms in the dietary supplement industry, including dietary supplement manufacturers, packagers and re-packagers, holders, labelers and re-labelers, distributors, warehouses, exporters, importers, large businesses, and small businesses.

In the **Federal Register** of November 14, 2013 (78 FR 68453), FDA published a 60-day notice requesting public comment on the proposed collection of information. While three comments were received, none were responsive to the four collection of information topics solicited in the notice and therefore are not discussed in this document. Additionally, although FDA was unable to publish a 30 day notice before the information collection expiration and is therefore requesting its reinstatement, the Agency has not conducted or sponsored any collection of information under OMB control number 0910–0608 in the interim period.

We estimate the annual burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR Section; CGMP requirements for dietary supplements | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| 111.75(a)(1)(ii) | 1 | 1 | 1 | 8 | 8 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In the last 3 years, we have not received any new petitions to request an exemption from 100 percent identity testing of dietary ingredients; therefore, the Agency estimates that one or fewer petitions will be submitted annually. Based on our experience with petition processes, we estimate it will take a requestor about 8 hours to prepare the factual and legal information necessary to support a petition for exemption and to prepare the petition. Although we have not received any new petitions to request an exemption from 100 percent identity testing of dietary ingredients in

the last 3 years, we believe that OMB approval of these information collection provisions should be extended to provide for the potential future need of a firm in the dietary supplement industry to petition for an exemption from 100 percent identity testing of dietary ingredients.

Dated: November 21, 2014.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2014–28087 Filed 11–26–14; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2014–D–1981]**

### The Drug Supply Chain Security Act Standards for the Interoperable Exchange of Information for Tracing of Certain Human, Finished, Prescription Drugs: How To Exchange Product Tracing Information; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''DSCSA Standards for the Interoperable Exchange of Information for Tracing of Certain Human, Finished, Prescription Drugs: How To Exchange Product Tracing Information.'' The draft guidance addresses the drug supply chain security provisions of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), which requires the Secretary of the Department of Health and Human Services to establish initial standards for the interoperable exchange of transaction information, transaction history, and transaction statements, in paper or electronic format. Specifically, the guidance establishes standards for how transaction information, transaction history, and transaction statements should be exchanged among trading partners through the extension and/or use of current systems and processes.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by January 27, 2015. Submit either electronic or written comments concerning the collection of information proposed in the draft guidance by January 27, 2015.

**ADDRESSES:** Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993; or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3100, *drugtrackandtrace@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

On November 27, 2013, the Drug Supply Chain Security Act (Title II of Public Law 113–54) was signed into law. Section 202 of the Drug Supply Chain Security Act (DSCSA), which adds new sections 581 and 582 to the FD&C Act (21 U.S.C. 360eee and 360eee–1), sets forth new definitions and requirements related to product tracing. The DSCSA outlines critical steps to build an electronic, interoperable system by November 27, 2023, that will identify and trace certain prescription drugs as they are distributed within the United States.

Starting in 2015, certain trading partners (manufacturers, wholesale distributors, dispensers, and repackagers) are required under sections 582(b)(1), (c)(1), (d)(1), and (e)(1) of the FD&C Act to capture, maintain, and provide the subsequent purchaser with transaction information, transaction history, and a transaction statement (product tracing information) for certain prescription drug products. Manufacturers, wholesale distributors, and repackagers must meet these requirements by January 1, 2015; dispensers must meet them by July 1, 2015. In addition, each manufacturer, wholesale distributor, dispenser, and repackager must comply with all applicable requirements in the event they meet the definition of more than one trading partner under section 582(a)(1), but trading partners are not required to duplicate requirements. Section 582(a)(2)(A) of the FD&C Act directs FDA to establish initial standards to facilitate the interoperable exchange of transaction information, transaction history, and transaction statements between trading partners.

FDA obtained stakeholder input on the development of the initial standards for the interoperable exchange of product tracing information, in paper and electronic formats, through a public docket established in February 2014, as required under section 582(a)(2)(B), and a public workshop that was held May 8 and 9, 2014. The public workshop provided a forum for FDA to obtain input from stakeholders in the pharmaceutical distribution supply chain on how trading partners can best comply with the requirements for the interoperable exchange of product tracing information beginning in 2015, using currently available standards or practices. Comments to the public dockets and from the workshop were considered in the development of this guidance, and will be considered in developing additional guidance to further elaborate on the standards for the interoperable exchange of product tracing information.

This initial draft guidance establishes standards to help trading partners comply with the requirements of sections 582(b)(1), (c)(1), (d)(1), and (e)(1) of the FD&C Act to provide the subsequent trading partners with product tracing information, in paper or electronic format, through the extension and/or use of current systems and processes. Under these provisions, trading partners are also required to capture and maintain the applicable product tracing information for not less than 6 years after the date of the transaction. Implementation of these provisions will help further improve the security of the pharmaceutical distribution supply chain and increase confidence in the safety and authenticity of human prescription drugs. FDA intends to issue additional guidance to facilitate the interoperable exchange of product tracing information through standardization of data and documentation practices.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance is marked as a ''draft'' consistent with its description in section 582(a)(2)(A) of the FD&C Act.

Under section 582(h)(4) of the FD&C Act, FDA intends to eventually ''update . . ., as necessary and appropriate, and finalize'' this document to reflect standards for interoperable data exchange at the package level. Because the DSCSA clearly intends for stakeholders to rely upon this guidance document before finalization, however, FDA is immediately implementing this document under 21 CFR 10.115(g)(2). As a result, it reflects FDA's current thinking on this topic and is intended to provide guidance to stakeholders as they implement the DSCSA. Guidance documents generally do not create or confer any rights for or on any person and do not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

This draft guidance includes information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). FDA intends to solicit public comment and obtain OMB approval for any information collections recommended in this guidance that are new or that would represent modifications to those previously approved collections of information found in FDA regulations or guidances.

## III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

## IV. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.regulations.gov.*

Dated: November 21, 2014.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2014–28085 Filed 11–26–14; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2014–D–1862]**

### Recommended Warning for Over-the-Counter Acetaminophen-Containing Drug Products and Labeling Statements Regarding Serious Skin Reactions; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Recommended Warning for Over-the-Counter Acetaminophen-Containing Drug Products and Labeling Statements Regarding Serious Skin Reactions.'' The draft guidance is intended to inform manufacturers, members of the medical and scientific community, and other interested persons that at this time we do not intend to object to the marketing of single- and combination-ingredient, acetaminophen-containing, nonprescription (commonly referred to as over-the-counter (OTC)) drug products bearing a warning as described in the draft guidance alerting consumers that the use of acetaminophen may cause severe skin reactions.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final guidance, submit either electronic or written comments on the draft guidance by January 27, 2015.

**ADDRESSES:** Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Sudha Shukla, Office of Unapproved Drugs and Labeling Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3110, *Sudha.Shukla@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Recommended Warning for Over-the-Counter Acetaminophen-Containing Drug Products and Labeling Statements Regarding Serious Skin Reactions.'' Acetaminophen, included in many prescription and OTC products, is a common active ingredient indicated to treat pain and reduce fever. On August 1, 2013, FDA issued a Drug Safety Communication (DSC) informing the public that use of acetaminophen has been associated with a risk of rare but serious skin reactions.[1] These skin reactions, including Stevens-Johnson Syndrome, toxic epidermal necrolysis, and acute generalized exanthematous pustulosis, can be fatal.

The DSC explained that reddening of the skin, rash, blisters, and detachment of the upper surface of the skin can occur with the use of drug products that contain acetaminophen. These skin reactions can occur with the first-time use of acetaminophen or at any time while it is being taken. FDA advised health care professionals to be aware of this rare risk and consider acetaminophen, along with other drugs already known to have such an association, when assessing patients with potentially drug-induced skin reactions. FDA also advised that anyone who develops a skin rash or reaction while using acetaminophen or any other pain reliever/fever reducer should stop taking the drug and seek medical attention right away. Furthermore, the announcement advised that anyone who has experienced a serious skin reaction when taking acetaminophen in the past should not take the drug again and should contact their health care professional to discuss alternative pain relievers/fever reducers.

In the announcement, FDA stated that it planned to require manufacturers of acetaminophen-containing prescription

[1] FDA Drug Safety Communication: FDA warns of rare but serious skin reactions with the pain reliever/fever reducer acetaminophen. *http://www.fda.gov/Drugs/DrugSafety/ucm363041.htm.*

drug products to include a warning statement on the product labels to address the risk of serious skin reactions and that it would request the same warning be added by manufacturers of OTC acetaminophen-containing drug products marketed under an approved application. In the fall of 2013, FDA sent letters to manufacturers holding new drug applications (NDA) and abbreviated new drug applications (ANDA) requiring in some cases and requesting in others that the language recommended below be included on the labeling for all products (both prescription and OTC) containing acetaminophen marketed under NDAs and ANDAs. At this time, most of the requested labeling changes have been made by the relevant manufacturers.

FDA also indicated that it planned to encourage manufacturers of acetaminophen-containing drug products marketed under the Tentative Final Monograph for Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use, published in the **Federal Register** (53 FR 46204, November 16, 1988) to similarly add a warning about serious skin reactions to the product labels. As noted above, this draft guidance informs manufacturers, members of the medical and scientific community, and other interested persons that at this time we do not intend to object to the marketing of single- and combination-ingredient, acetaminophen-containing, nonprescription (commonly referred to as OTC) drug products bearing a warning as described in the draft guidance alerting consumers that the use of acetaminophen may cause severe skin reactions.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on the recommended warning for OTC acetaminophen-containing drug products and labeling statements regarding serious skin reactions. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

## II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

## III. Paperwork Reduction Act of 1995

Under the draft guidance, manufacturers may add to their drug product labeling a warning statement supplied by FDA that pertains to acetaminophen to address the risk of serious skin reactions. Inclusion of the warning statement on the labels for these drug products would be exempt from review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) because the public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within the definition of ''collection of information'' (see 5 CFR 1320.3(c)(2)).

## IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: November 21, 2014.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2014–28086 Filed 11–26–14; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

*Date:* December 16, 2014.

*Time:* 9:00 a.m. to 12:30 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institutes of Health, Room 4F100, 5601 Fishers Lane, Rockville, MD (Telephone Conference Call).

*Contact Person:* Vasundhara Varthakavi, DVM, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, Rockville, MD, 301–496–2550, *varthakaviv@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 21, 2014.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–28074 Filed 11–26–14; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIH Support for Conferences and Scientific Meetings (Parent R13/U13).

*Date:* December 15–19, 2014.

*Time:* 9:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Room 3G62, 5601 Fishers Lane, Rockville, MD 20852, (Virtual Meeting).

*Contact Person:* Travis J. Taylor, Ph.D., Scientific Review Program DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, Rockville, MD 20892, 240–669–5082, *Travis.Taylor@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 21, 2014.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–28075 Filed 11–26–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review, Special Emphasis Panel, Cardiovascular and Respiratory Sciences, AREA Review.

*Date:* December 10–11, 2014.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Kimm Hamann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118A, MSC 7814, Bethesda, MD 20892, 301–435–5575, *hamannkj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review, Special Emphasis Panel, Member Conflict: Molecular Neuroscience.

*Date:* December 17, 2014.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7850, Bethesda, MD 20892, (301) 213–9887, *hamelinc@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 21, 2014.

**Anna Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–28073 Filed 11–26–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID: FEMA–2014–0033; OMB No. 1660–0132]**

### Agency Information Collection Activities: Proposed Collection; Comment Request, Level 1 Assessment Form, Level 3 Evaluation Form for Students, and Level 3 Evaluation Form for Supervisors

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice; correction.

On November 19, 2014, the Federal Emergency Management Agency (FEMA) published an agency information collection notice in the **Federal Register** at 79 FR 68896. In the **ADDRESSES** section, FEMA inadvertently listed the docket ID in (1) *Online* as FEMA–2014–XXXX. The correct Docket ID is FEMA 2014–0033.

Dated: November 24, 2014.

**Charlene D. Myrthil,**

*Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2014–28129 Filed 11–26–14; 8:45 am]

**BILLING CODE 9111–53–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### Announcement of eBond Test

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This notice announces U.S. Customs and Border Protection's (CBP's) plan to conduct a voluntary National Customs Automation Program test concerning automation of CBP's bond program (eBond test). The eBond test utilizes an automated system (eBond system) that provides for the transmission of electronic bond contracts (eBonds) between principals and sureties, with CBP as third-party beneficiary, in the Automated Commercial Environment (ACE) for the purpose of linking those eBonds to the transactions they are intended to secure. All eBonds transmitted pursuant to this test must be transmitted to ACE electronically, either via the CBP-approved Electronic Data Interchange (EDI) or emailed to CBP for manual input into ACE. The transmission of eBonds to CBP must be made by a surety or surety agent. The eBond system works with ACE to ensure that transactions secured by an eBond have the proper bond coverage to protect the revenue and secure legal compliance. The eBond system is intended to establish a single repository for the centralization of all eBonds within the Office of Administration's Revenue Division, to harmonize and enhance CBP's bond processes, and to eliminate flaws in the execution of customs bonds, which may lead to increased legal risk for CBP. It is anticipated that the eBond test will reduce paper processing, expedite cargo release, allow for bonds to be transmitted beyond regular CBP business hours, and enhance traceability for audit purposes. The eBond test is intended to evaluate the automation of CBP's bond program, its impact on trade, and CBP's ability to enforce applicable laws and protect the revenue. This notice invites public comment concerning any aspect of the test, describes the eligibility, procedural and documentation requirements for voluntary participation in the test, and outlines the development and evaluation methodology to be used in the test.

**DATES:** The eBond test will commence on January 3, 2015, and will run for approximately two years, subject to any extension, modification, or early

termination as announced by way of notice in the **Federal Register**. CBP's evaluation of the test will be ongoing during the test period. Requests to participate and comments on any aspect of the test may be submitted to CBP for the duration of the test. CBP will notify an interested surety via email of its test participation status upon receipt and review of the surety's eBond test participation request.

**ADDRESSES:** Comments and/or questions concerning this notice or any aspect of the test may be submitted to CBP via email to *eBondTest@cbp.dhs.gov,* with the subject line identifier reading ''Comment/Questions on eBond test.'' Requests for a surety filer code, and surety requests to participate in the eBond test should be sent to *Conrad.l.henry@cbp.dhs.gov,* with a subject line identifier specifying either ''Surety filer code request'' or ''Surety request to participate in eBond test.'' eBonds transmitted to CBP for manual input into ACE by the Office of Administration's Revenue Division should be sent to *cbp.bondquestions@dhs.gov,* with the specific email header information set forth in CBP's ''eBond Policies and Procedures'' Web page located at *http://www.cbp.gov/trade/trade-community/programs-administration/bonds/ebond*.

**FOR FURTHER INFORMATION CONTACT:** For policy related questions, contact Kara Welty, Chief, Debt Management Branch, Revenue Division, Office of Administration, at *kara.welty@dhs.gov*. For technical questions, contact John Everett, Entry Summary, Accounts, and Revenue Branch, ACE Business Office, Office of International Trade, at *john.everett@dhs.gov*.

**SUPPLEMENTARY INFORMATION:**

## Background

### *National Customs Automation Program: Electronic Bonds as Planned Component*

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Public Law 103–182, 107 Stat. 2057 (Dec. 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subtitle B of title VI establishes the National Customs Automation Program (NCAP), an automated and electronic system for the processing of commercial importations. Section 631 in Subtitle B of the Act creates section 411 through 414 of the Tariff Act of 1930 (19 U.S.C. 1411–1414). These sections define and list the existing and planned components of the NCAP (section 411), promulgate program goals (section 412), provide for the implementation and evaluation of the program (section 413), and provide for Remote Location Filing (section 414). Section 411(a)(2)(D) lists the electronic filing of bonds as a planned NCAP component.

A primary objective of the NCAP is customs modernization through trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing, which is intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for CBP and stakeholders. The ability to meet these objectives depends on successfully modernizing CBP's business functions and the information technology that supports those functions.

### *Development of the Electronic Bond Concept*

CBP's bond program has been the subject of several evaluations, including a CBP-commissioned 2003 independent report that examined the efficacy of the agency's continuous bond program. *See* ''Grant Thornton Review of Customs Continuous Transaction (Entry) Bonds'' dated April 3, 2003. That report recommended that CBP centralize its continuous bond program to increase efficiency and uniformity. In 2011, the Department of Homeland Security's Office of the Inspector General conducted an audit of CBP's single transaction bond (STB) program, and found deficiencies in bond retention, accuracy and completion, valuation, as well as problems with cargo being released prior to execution of bonds. *See* ''Efficacy of Customs and Border Protection's Bonding Process,'' OIG 11–92, dated June 27, 2011, available for viewing at *http://www.oig.dhs.gov/assets/Mgmt/OIG_11-92_Jun11.pdf*. The OIG recommended centralization and automation of the STB program and this objective was adopted as a CBP mission priority.

A Notice of Proposed Rulemaking (NPRM) entitled ''Customs and Border Protection's Bond Program'' was published in the **Federal Register** (75 FR 266) on January 5, 2010. The document proposed amendments to the CBP regulations in title 19 of the Code of Federal Regulations (CFR) to modernize CBP's bond program by centralizing the filing, review and approval of continuous bonds at CBP's Revenue Division (RD) within the Office of Administration in Indianapolis, and by removing or amending certain bond requirements. It is anticipated that a final rule adopting the proposed amendments that pertain to centralization of the continuous bond program at the RD and permitting the electronic transmission of both continuous bonds and STBs to CBP via the Electronic Data Interchange (EDI) will be published in the **Federal Register** in the near future.

In preparation for the development and deployment of an automated bond program, CBP engaged in regular outreach with stakeholders, including sureties, surety agents, customs brokers, trade groups and other government agencies with a view to obtaining meaningful feedback on existing systems and operations in order to build a mutually beneficial automated bond system. In early 2014, CBP began building the eBond system. CBP developed the eBond system with ongoing feedback from the trade and subject matter experts. The eBond system serves to harmonize and enhance CBP bond processes pertaining to transmission, validation, maintenance, retention, and periodic review of all customs bonds, and establishes a single electronic repository for the centralization of those bonds within the RD. The eBond system benefits both CBP and the trade by reducing paper processing, expediting cargo release, expanding bond transmission capabilities beyond regular CBP business hours, and enhancing traceability for audit purposes.

In June 2014, CBP released a Customs and Trade Automated Interface Requirements (CATAIR) document providing updated conventional trade interface information for the future deployment of electronic bond data functionality in ACE. The CATAIR update provides input and output EDI record formation for the electronic transmission of bonds to CBP. The document presents both the bond input transaction proprietary records used by sureties and surety agents to file and maintain an eBond as well as the output transaction proprietary records returned in response. The input record layouts describe the data elements required by the automated EDI interface. The output record layouts describe a response to filing as generated and returned by the automated EDI interface. CBP has posted these technical specifications on the CBP Web site at the following link: *http://www.cbp.gov/document/guidance/customs-ebond-createupdate-catair-chapter.*

As additional functionality is released in ACE, CBP will continue to integrate these new capabilities with eBonds and

their associated transactions. Any updates to the technical formats will be posted at the above link. The trade community is encouraged to subscribe to the Cargo Systems Messaging Service (CSMS) at *http://apps.cbp.gov/csms/csms.asp?display_page=1* to receive timely notifications on ACE as well as to receive any future changes or updates to these technical specifications.

*Description of the eBond Test*

Pursuant to 19 U.S.C. 1623(b), bonds may be transmitted electronically to CBP pursuant to an authorized EDI system. As stated in 19 U.S.C. 1623(d), any bond transmitted to CBP through an authorized EDI system shall have the same force and effect and be binding upon the parties (*e.g.,* the principal(s) and surety(ies)) as if the bond were manually executed, signed, and filed. CBP's eBond system is an automated environment that provides for the transmission of electronic bond contracts (eBonds) between principals and sureties, with CBP as third-party beneficiary, in ACE through an authorized EDI system for the purpose of linking those eBonds to the transactions they are intended to secure. CBP's eBond system is available for all bond requirements set out in Chapter 1 of title 19 of the CFR, including but not limited to bonds under 19 CFR 141.20 and 19 CFR 142.4, with the exceptions noted below.

This notice announces CBP's plan to conduct a voluntary NCAP test of the eBond system. The test is intended to evaluate CBP's eBond system, its impact on trade, and CBP's ability to enforce applicable laws and protect the revenue. The eBond test will commence on January 3, 2015, and will run for approximately two years, subject to any extension or early termination as announced by way of notice in the **Federal Register**.

For purposes of the eBond test, the following definitions, conditions and criteria apply:

Definitions

• *eBond.* The term ''eBond'' means an electronic bond contract between principal(s) and surety(ies), with CBP as third-party beneficiary, that is comprised of data elements required by the eBond system and that is transmitted by a surety or surety agent to CBP under the eBond test. Pursuant to 19 U.S.C. 1623(d), an eBond has the same force and effect and is binding upon the principal(s) and surety(ies) thereto as if such eBond had been manually executed, signed, and filed in full compliance with 19 CFR part 113.

• *eBond system.* The term ''eBond system'' means CBP's automated system for the transmission of eBonds in ACE for the purpose of linking those eBonds to the transactions they are intended to secure.

• *eSTB.* The term ''eSTB'' means a single transaction eBond.

• *eBond rider.* The term ''eBond rider'' means an electronic bond rider between principal(s) and surety(ies), with CBP as third-party beneficiary, that is comprised of data elements required by the eBond system and that is transmitted by a surety or surety agent to CBP under the eBond test. An eBond rider modifies an eBond in the same way that a bond rider modifies a customs bond. Pursuant to 19 U.S.C. 1623(d), an eBond rider has the same force and effect and is binding upon the principal(s) and surety(ies) thereto as if such eBond rider had been manually executed, signed, and filed in full compliance with 19 CFR part 113.

Method and Content of eBond and eBond Rider Transmission

The transmission of all eBonds and eBond riders in ACE for purposes of this eBond test must be made by a surety or surety agent pursuant to one of the two methods described below.

(1) *EDI:* eBonds and eBond riders may be transmitted in ACE electronically via EDI, and must contain the required data elements set forth in the CATAIR which comprise a reduced subset of the OMB-approved information collected on the CBP Form 301. The complete list of data elements for purposes of the eBond test can be found in the ACE ABI CATAIR—Customs eBond Create/Update Chapter at *http://www.cbp.gov/trade/ace/catair.*

EDI is only available for the transmission of single transaction eBonds with the following Activity Codes:

SINGLE TRANSACTION BONDS

| Activity code | Activity name |
|---|---|
| 1 | Importer or Broker. |
| 1A | Drawback Payments Refunds. |
| 3 | International Carrier. |
| 6 | Wool & Fur Products. |
| 7 | Bill of Lading. |
| 8 | Detention of Copyrighted Material. |
| 10 | Court Costs for Condemned Goods. |
| 16 | Importer Security Filing (ISF). |

EDI is only available for the transmission of continuous eBonds and continuous eBond riders with the following Activity Codes:

CONTINUOUS BONDS

| Activity code | Activity name |
|---|---|
| 1 | Importer or Broker. |
| 1A | Drawback Payments Refunds. |
| 2 | Custodian of Bonded Merchandise. |
| 3 | International Carrier. |
| 3A | Instruments of International Traffic. |

CONTINUOUS BONDS—Continued

| Activity code | Activity name |
|---|---|
| 3A3 | Carrier of International Traffic. |
| 4 | Foreign Trade Zone Operator. |
| 5 | Public Gauger. |
| 11 | Airport Security Bond. |
| 16 | Importer Security Filing (ISF). |

(2) *Email:* eBonds and eBond riders may be emailed to CBP at *cbp.bondquestions@dhs.gov* for manual input into ACE by the RD. eBonds transmitted via email must be on a CBP Form 301 signed by the principal(s) and surety(ies). eSTBs must include direction to CBP as to how the eSTB is to be used and the entry type the eSTB will secure. Email transmission is available for eBonds and eBond riders with any Activity Code. eBonds and eBond riders transmitted by this method are subject to policies and procedures issued by the Office of Administration for the manual input of eBonds and eBond riders.

Terms and Conditions for eBonds

As stated in 19 U.S.C. 1623(d), any bond transmitted to CBP through an authorized EDI system shall have the same force and effect and be binding upon the parties (*e.g.,* the principal(s) and surety(ies)) as if the bond were manually executed, signed, and filed.

In order to secure payment of any duty, tax or charge and compliance with law or regulation as a result of activity covered by any condition identified in an eBond, the principal(s) and surety(ies) identified on the eBond bind themselves (jointly and severally) to the United States in the amount or amounts set forth in the eBond.

A continuous eBond remains in force for one year beginning with the effective date and for each succeeding annual period, or until terminated. This continuous eBond constitutes a separate bond for each annual period in the amount(s) listed on the eBond for liabilities that accrue in each annual period. The intention to terminate this continuous eBond must be conveyed within the annual period and in the manner prescribed in this test notice.

The principal(s) and surety(ies) agree that any charge against the eBond under any of the listed names is as though it was made by the principal(s). The principal(s) and surety(ies) agree that they are bound to the same extent as if they executed a separate eBond covering each set of conditions incorporated by reference to the CBP regulations into this eBond. If the surety(ies) fails to appoint an agent under Title 31, United States Code, Section 9306, the

surety(ies) consents to service on the Clerk of any United States District Court or the U.S. Court of International Trade, where suit is brought on this bond.

Additional terms and conditions for each eBond are identified by the Activity Code for the eBond selected by the transmitting surety/surety agent. The additional terms and conditions for each Activity Code mirror the correlating terms and conditions found on the CBP Form 301. Selection of an Activity Code constitutes the agreement of the surety(ies) and principal(s) to be bound by the terms and conditions in the corresponding regulation:

| Activity code | Activity name | CBP Regulations in which conditions are codified |
|---|---|---|
| 1 | Importer or broker | 19 CFR 113.62. |
| 1A | Drawback Payments Refunds | 19 CFR 113.65. |
| 2 | Custodian of Bonded Merchandise (continuous bond only) | 19 CFR 113.63. |
| 3 | International Carrier | 19 CFR 113.64. |
| 3A | Instruments of International Traffic; (continuous bond only) | 19 CFR 113.66. |
| 3A3 | Carrier of International Traffic | 19 CFR 113.64, 113.66. |
| 4 | Foreign Trade Zone; (continuous bond only) | 19 CFR 113.73. |
| 5 | Public Gauger | 19 CFR 113.67. |
| 6 | Wool & Fur Products Labeling Acts Importation (single transaction only) | 19 CFR 113.68. |
| 7 | Bill of Lading (single transaction only) | 19 CFR 113.69. |
| 8 | Detention of Copyrighted Material (single transaction only) | 19 CFR 113.70. |
| 9 | Neutrality (single transaction only) | 19 CFR 113.71. |
| 10 | Court Costs for Condemned Goods (single transaction only) | 19 CFR 113.72. |
| 11 | Airport Security Bond | 19 CFR Part 113 App A. |
| 16 | Importer Security Filing (ISF) | 19 CFR Part 113 App D. |

eBonds associated with the Activity Codes listed below contain additional unique terms and conditions; as such, they can only be emailed to the RD. CBP cannot accept eBonds associated with these Activity Codes via EDI at this time.

| | | |
|---|---|---|
| 12 | International Trade Commission (ITC) Exclusion Bond | 19 CFR Part 113 App B. |
| 14 | In-Bond Export Consolidation Bond. | |
| 15 | Intellectual Property Rights (IPR). | |
| 17 | Marine Terminal Operator (continuous bond only). | |

Bond Requirements for Entry/Entry Summary Filing

Beginning on January 3, 2015, participants in the eBond test will be the only parties able to transmit required bond coverage (in the form of eBonds) for the following entry/entry summary scenarios:

| | ACE entry (simplified entry) followed by ACE entry summary | ACE entry summary certified for ACE cargo release | ACS entry followed by ACE entry summary | ACE entry summary certified for ACS cargo release | ACS entry followed by ACS entry summary | ACS entry summary certified for cargo release |
|---|---|---|---|---|---|---|
| Single Transaction Bond. | YES | YES | NO | NO | NO | NO. |
| Continuous Bond | YES | YES | YES | YES | YES | YES. |

For the scenarios in which the word ''yes'' appears, the entry/entry summary must be matched (validated) to an existing eBond that was previously transmitted in ACE for the purpose of securing that transaction. If an appropriate eBond is not on file in ACE for that transaction, the entry/entry summary will be rejected. For the scenarios in which the word ''no'' appears, CBP will not permit bond coverage to be transmitted under the eBond test and a CBP Form 301 subject to 19 CFR part 113 will be required instead. On November 1, 2015, CBP expects to retire ACS for most electronic entry/entry summary transactions, and at that time, the eBond test is expected to expand to all scenarios set forth in the chart above.

Terms and Conditions for eBond Riders

The surety/surety agent transmitting an eBond rider must identify the eBond being amended and the type of eBond rider selected, as well as other data elements required by the eBond system. The principal(s) and surety(ies) of the identified eBond agree to be bound (jointly and severally) by amendments to the eBond corresponding to the type of eBond rider the surety/surety agent has selected. Except for the amendments described below for the selected eBond rider, the principal(s) and surety(ies) agree that all other terms and conditions of the identified eBond remain unchanged.

(1) *Addition eBond rider.* The principal(s) and surety(ies) agree that the names transmitted with this eBond rider are unincorporated units of the identified principal or are trade or business names used by the identified principal in its business, that the identified eBond covers its business, and that the identified eBond covers any act done in those names to the same extent as though done in the name of the identified principal. The principal(s)

and surety(ies) agree that any such act shall be considered to be the act of the identified principal.

(2) *Deletion eBond rider.* The principal(s) and surety(ies) agree that the names transmitted with this eBond rider of unincorporated units of the identified principal or trade or business names used by the identified principal in its business are deleted from the identified eBond effective upon the date of approval of this eBond rider by the appropriate CBP bond approval official.

(3) *Reconciliation eBond rider.* The principal(s) and surety(ies) agree that the identified eBond covers all Reconciliations pursuant to 19 U.S.C. 1484(b) that are elected on any entries secured by the identified eBond, and that all conditions set out in 19 CFR 113.62 are applicable to the identified eBond. *See also,* 63 FR 6257 (Feb. 6, 1998); 63 FR 44303 (Aug. 18, 1998); and 67 FR 61200 (Sept. 27, 2002). The principal(s) and surety(ies) also agree that, when an Aggregate Reconciliation under this eBond rider lists entries occurring in more than one bond period, any liabilities to CBP reflected in that Aggregate Reconciliation will be attributable (up to the full available bond amount) to any or all of those bond periods.

(4) *U.S. Virgin Islands eBond rider.* The principal(s) and surety(ies) agree that the words ''United States,'' whenever used in the terms and conditions of the identified eBond, include the U.S. Virgin Islands.

eBond and eBond Rider Transmission as Binding Representation to CBP of Authority To Bind Both Surety and Principal to eBond or eBond Rider

In accordance with 19 U.S.C. 1623(d), and consistent with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 *et seq.,* in place of signatures memorializing the parties' intent to be bound, the principals and sureties who execute eBonds under this test certify that the surety's/surety agent's act of transmitting an eBond or eBond rider to CBP in ACE to secure a transaction constitutes a binding representation to CBP that:

(1) The transmitting surety/surety agent has the authority to bind both the surety(ies) and the principal(s) identified in the eBond or eBond rider; and

(2) Pursuant to the surety/surety agent's authority, both the surety(ies) and the principal(s) intend to be bound by the transmitted eBond or eBond rider, under the terms and conditions set forth in this notice. Furthermore, any transaction that identifies or uses an eBond as security constitutes the re-affirmation of the principal responsible for the transaction that it intends to be bound by the terms and conditions of the identified or used eBond.

Name and Address Change Bond Riders Not Supported in eBond

For purposes of the eBond test, CBP will not be collecting information regarding the name and address of the principal or surety on the eBond as this data will be available to CBP via other components of ACE. For this reason, bond riders pertaining to a principal's name or address change (*see* 19 CFR 113.24(a)(1)(2)) are not supported in ACE as this information is not transmitted on the eBond.

Continuous Bonds Executed Prior to eBond Test Will Be Accessible in eBond System

Continuous bonds executed on CBP Form 301 prior to the eBond test deployment date of January 3, 2015, will be accessible in the eBond system for ease of CBP's administration of all continuous bonds. However, continuous bonds executed on CBP Form 301 prior to January 3, 2015, will not be subject to the rules set forth in this notice but will remain subject to the CBP bond regulations in 19 CFR part 113. Therefore, bond riders for these pre-January 3, 2015 continuous bonds must still be submitted to the RD in the format and manner detailed in 19 CFR part 113. Effective January 3, 2015, CBP will no longer accept name/address change bond riders for these pre-January 3, 2015 continuous bonds. The importer identification number and surety number will continue to be the primary identification markers used by CBP when verifying adequate bond coverage for activities that require it. Principals or sureties who wish to change the name or address on a pre-January 3, 2015 continuous bond must terminate the bond and provide a new bond (depending on the entry/entry summary scenario, this may be an eBond or a STB on CBP Form 301).

Termination of an eBond

A surety may, with or without the consent of the principal, electronically terminate an eBond on which it is obligated. The effective date of the termination must be stated in the electronic notice of termination and must be at least 15 calendar days after the date of the electronic notice of termination. If an eBond is terminated, no new customs transactions may be charged against the eBond. The surety, as well as the principal, remains liable on a terminated eBond for obligations incurred prior to termination.

eBond Status Updates

eBond status updates will be provided electronically to the surety/surety agent and any party identified on the eBond as a ''Secondary Notify Party''.

*Authorization for the eBond Test*

CBP's eBond test is authorized under § 101.9(b) of title 19 of the Code of Federal Regulations (19 CFR 101.9(b)), which provides for the testing of NCAP programs or procedures.

*eBond Test Participant Eligibility*

Participation in the eBond test is voluntary and may include surety(ies)/surety agents as well as principals who authorize a surety/surety agent to transmit an eBond. In order for a surety/surety agent to be eligible to participate in eBond, the surety/surety agent must obtain a filer code from CBP. A request for a filer code should be submitted to *Conrad.l.henry@cbp.dhs.gov.* Once the filer code is issued by CBP, it will be associated with the surety code which will be maintained by CBP. Principals and/or importers may participate in the eBond test by contacting a participating surety and obtaining an eBond.

*eBond Test Selection Criteria*

Participation in the eBond test is open to all sureties/surety agents who have a surety filer code and who have requested permission to participate in the test and received CBP approval, as well as any principal who authorizes a surety/surety agent to transmit an eBond. A surety or surety agent interested in voluntary participation in the eBond test must submit an email request to *Conrad.l.henry@cbp.dhs.gov* with the subject line identifier ''Request to participate in eBond test.'' CBP will notify interested sureties of their test participation status upon receipt of the email requesting participation in the test. A principal who authorizes a surety/surety agent to transmit an eBond during this test is considered an eBond test participant and is bound by the terms and conditions of this notice.

*eBond Test Dates*

The eBond test will commence on January 3, 2015, and will run approximately two years, subject to any extension, modification or early termination as announced by way of notice in the **Federal Register**.

*Regulatory Provisions Suspended*

The regulatory provisions set forth in Chapter 1 of title 19 of the CFR will be suspended to the extent that they

conflict with the terms of the eBond test. The regulatory suspensions will remain in effect for the duration of this test and will only apply to eBond test participants; the regulatory provisions remain in effect for all non-test participants.

*Test Evaluation*

The eBond test is intended to evaluate the automation of CBP's bond program pursuant to the processes described in this notice, its impact on trade, and CBP's ability to enforce applicable laws and protect the revenue. CBP's evaluation of the test, including the review of any comments submitted to CBP for the duration of the test, will be ongoing with a view to possible extension or expansion of the test. Notice of any extension, modification or expansion of the test will be published in the **Federal Register**.

*Test Evaluation Criteria*

The following is a non-exhaustive list of evaluation factors that CBP may use to assess the merits of the eBond test:

1. Workload impact;
2. Policy and procedure accommodations;
3. Cost savings;
4. Trade compliance impact;
5. System efficiency;
6. Operational efficiency; or
7. Other issues raised by public comment or by the test participants.

Results of the eBond test will be formulated at the conclusion of the test and will be made available to the public upon request.

*Misconduct Under the Test*

An eBond test participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, and/or discontinuance from participation in this test for any of the following:

- Failure to follow the terms and conditions of this test.
- Failure to exercise reasonable care in the execution of participant obligations.
- Failure to abide by applicable laws and regulations that have not been waived.
- Failure to deposit duties or fees in a timely manner.

If the Director, Business Transformation, ACE Business Office (ABO), Office of International Trade, finds that there is a basis for discontinuance of test participation privileges, the test participant will be provided a written notice proposing the discontinuance with a description of the facts or conduct supporting the proposal. The test participant will be offered the opportunity to respond to the Director's proposal in writing within 10 calendar days of the date of the written notice. The response must be submitted to the Executive Director, ACE Business Office, Office of International Trade. The Executive Director will issue a decision in writing on the proposed action within 30 business days after receiving a timely filed response from the test participant. If no timely response is received, the proposed notice becomes the final decision of the Agency as of the date that the response period expires. A proposed discontinuance of a test participant's privileges will not take effect unless the response process under this paragraph has been concluded with a written decision adverse to the test participant.

Where the public health, interest, or safety so requires, or to protect the revenue, the Director, Business Transformation, ACE Business Office (ABO), Office of International Trade, may immediately discontinue the test participant's privileges upon written notice to the test participant. The notice will contain a description of the facts or conduct warranting the Director's decision. The test participant will be offered the opportunity to appeal the Director's decision within 10 calendar days of the date of the written notice providing for immediate discontinuance. The appeal must be submitted to the Executive Director, ACE Business Office, Office of International Trade. The immediate discontinuance will remain in effect during the appeal period. The Executive Director will issue a decision in writing on the appeal within 15 business days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the notice becomes the final decision of CBP as of the date that the appeal period expires.

Dated: November 24, 2014.

**Brenda Smith,**

*Assistant Commissioner, Office of International Trade.*

[FR Doc. 2014–28146 Filed 11–26–14; 8:45 am]

BILLING CODE 9111–14–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5760–N–03]**

## 60-Day Notice of Proposed Information Collection: Community Challenge Planning Grant Program

**AGENCY:** Office of Economic Resilience (OER), HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

The Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10, approved April 15, 2011) (Appropriations Act), provided a total of $100,000,000 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning. Of that total, $70,000,000 is available for the Sustainable Communities Regional Planning Grant Program, and $30,000,000 is available for the Community Challenge Planning Grant Program.

The Consolidated Appropriations Act, 2010 (Pub. L. 111–117, December 16, 2009), provided a total of $150 million in fiscal year 2010 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning.

HUD is seeking renewal of its Community Challenge Planning Grant Program. The changes of this renewal from its original approval will be a reduction in burden hours. This reduction is due to no new award funds for the program; thus, form HUD–96011 and form HUD–2880 are no longer needed. Those two forms were utilized during the awarding process of the program. With no new award funds expected, these forms will be no longer needed for this program. Only form HUD–424–CBW will continue to be needed as this form is used to record and manage detailed budgetary expenditures and projections of HUD award funds and match funds spent toward grant activities.

**DATES:** *Comments Due Date: January 27, 2015.*

**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:** Kathryn Dykgraaf, Office of Economic Resilience, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–6731 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

## A. Overview of Information Collection

*Title of Information Collection:* Community Challenge Planning Grant Program.

*OMB Approval Number:* 2501–0025.

*Type of Request:* Extension of currently approved collection.

*Form Number:* HUD–424–CBW.

*Description of the need for the information and proposed use:* HUD is seeking approval from OMB for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

The Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10, approved April 15, 2011) (Appropriations Act), provided a total of $100,000,000 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning. Of that total, $70,000,000 is available for the Sustainable Communities Regional Planning Grant Program, and $30,000,000 is available for the Community Challenge Planning Grant Program.

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HUD is seeking renewal of its Community Challenge Planning Grant Program. The changes of this renewal from its original approval will be a reduction in burden hours. This reduction is due to no new award funds for the program; thus, form HUD–96011 and form HUD–2880 are no longer needed. Those two forms were utilized during the awarding process of the program. With no new award funds expected, these forms will be no longer needed for this program. Only form HUD–424–CBW will continue to be needed as this form is used to record and manage detailed budgetary expenditures and projections of HUD award funds and match funds spent toward grant activities.

*Respondents:* Community Challenge Planning Grant Program recipients (grantees).

| Information collection | Number of respondents | Frequency of response | Responses per annum | Burden hour per response | Annual burden hours | Hourly cost per response | Annual cost |
|---|---|---|---|---|---|---|---|
| Total ..... | 56 | 1 | 56 | 0.5 | 28 | $40.00 | $1,120.00 |

## 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: November 12, 2014.

**Harriet Tregoning,**

*Director, Office of Economic Resilience, Department of Housing and Urban Development.*

[FR Doc. 2014–28138 Filed 11–26–14; 8:45 am]

**BILLING CODE 4210–67–P**

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5750–N–48]**

## 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: AGRICULTURE: Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202) 720–8873; COAST GUARD: Commandant, United States Coast Guard, Attn: Jennifer Stomber, 2703 Martin Luther King Jr. Ave., SE Stop 7714 Washington, DC 20593; (202) 475–5609; GSA: Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040 Washington, DC 20405, (202) 501–0084; (These are not toll-free numbers).

Dated: November 20, 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 11/28/2014**

**Suitable/Available Properties**

*Building*

Maryland

Metro West
300 N. Green St.
Baltimore MD 21201
Landholding Agency: GSA
Property Number: 54201440004
Status: Excess
GSA Number: 4–G–MD–0624AA
Directions: 2 Federal office buildings totaling 1,085,741 sq. ft.
Comments: bldgs. located on 11 acres; 7 months vacant; good to fair conditions; includes garage w/410 spaces; coordinate access w/landholding agency's facilities management; contact GSA for more information

**Unsuitable Properties**

*Building*

Iowa

Bldg. 400 (formerly NVSL/CVB Central)
#32127 Ames-NVSL
Ames IA 50010
Landholding Agency: Agriculture
Property Number: 15201440004
Status: Unutilized
Comments: research based; public access denied and no alternative method to gain access w/out compromising national security
Reasons: Secured Area

**Unsuitable Properties**

*Building*

Massachusetts

Shed (RPUID 9077)
Garage (RPUID 9078)
133 Eastern Point Blvd.
Gloucester MA 01930
Landholding Agency: Coast Guard
Property Number: 88201440002
Status: Unutilized
Comments: Documented deficiencies: severely damaged by storm Sandy; structural damage; clear threat to physical safety
Reasons: Extensive deterioration

[FR Doc. 2014–27924 Filed 11–26–14; 8:45 am]

**BILLING CODE 4210–67–P**

# DEPARTMENT OF THE INTERIOR

## Office of the Secretary

**[15XD0120AF: DT10110000: DST000000.54A00: 252R]**

## Request for Nominations To Serve on the Special Trustee Advisory Board

**AGENCY:** Office of the Secretary, Office of the Special Trustee for American Indians, Interior.

**ACTION:** Request for nominations.

**SUMMARY:** The Special Trustee for American Indians requests nominations of candidates to serve on the Special Trustee Advisory Board (Advisory Board). The Advisory Board provides advice on all matters within the jurisdiction of the Special Trustee and consists of nine members.

**DATES:** Submit nominations by December 29, 2014.

**ADDRESSES:** Submit nominations to Office of the Special Trustee for American Indians, Attn: Lee Frazier, Department of the Interior, 1849 C Street NW., Room 3253, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Lee Frazier, Office of the Special Trustee for American Indians, *lee_frazier@ost.doi.gov,* (202) 208–7587.

**SUPPLEMENTARY INFORMATION:** Pursuant to 25 U.S.C. 4046, the Special Trustee for American Indians requests nominations of candidates to serve on the Special Trustee Advisory Board.

The Advisory Board, which provides advice on all matters within the jurisdiction of the Special Trustee, consists of nine members with the following qualifications:

(1) Five members represent trust fund account holders, including both tribal and Individual Indian Money accounts;

(2) Two members must have practical experience in trust fund and financial management;

(3) One member must have practical experience in fiduciary investment management; and

(4) One member, from academia, must have knowledge of general management of large organizations.

Board members receive no compensation and serve a term of two years. Nominations should include a resume or other documents demonstrating the nominee's qualifications for at least one of the board member categories as described in this notice.

The Advisory Board is not subject to the Federal Advisory Committee Act (FACA).

**Vincent G. Logan,**

*Special Trustee for American Indians.*

[FR Doc. 2014–28139 Filed 11–26–14; 8:45 am]

**BILLING CODE 4310–2W–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R8–ES–2014–N234]; [FXES11130800000–156–FF08E00000]**

### Endangered Species Recovery Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit applications; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing recovery permits to conduct certain activities with endangered species.

**DATES:** Comments on these permit applications must be received on or before December 29, 2014.

**ADDRESSES:** Written data or comments should be submitted to the Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Daniel Marquez, Fish and Wildlife Biologist; see **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

**SUPPLEMENTARY INFORMATION:** The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests.

**Applicants**

*Permit No. TE–062125*

Applicant: Bureau of Land Management, El Dorado Hills, California

The applicant requests a permit renewal to take (survey, capture, handle, and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) in conjunction with survey activities throughout the range of the species in El Dorado, Sacramento, and San Joaquin Counties, California, and to remove/reduce to possession the *Calystegia stebbinsii* (Stebbins' morning-glory), *Ceanothus roderickii* (Pine Hill ceanothus), *Eriogonum apricum* (incl. vars. *apricum* and *prostratum*) (Ione buckwheat and Irish Hill buckwheat), *Fremontodendron decumbens* (*F. californicum* subsp. *d.*) (Pine Hill flannelbush), and *Galium californicum* subsp. *sierrae* (El Dorado bedstraw) in conjunction with demographic studies and habitat restoration activities on Federal lands throughout the range of each plant species within the jurisdiction of the Sacramento Fish and Wildlife Service Office for the purpose of enhancing the species' survival.

*Permit No. TE–43643B*

Applicant: Barbara P. Weiser, Northridge, California

The applicant requests a permit to take (harass by survey, capture, handle, and release) the tidewater goby (*Eucyclogobius newberryi*) in conjunction with research activities in San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, and San Diego Counties, California, for the purpose of enhancing the species' survival.

*Permit No. TE–35440B*

Applicant: Bureau of Reclamation, Albuquerque, New Mexico

The applicant requests a permit amendment to take (harass by survey, locate, and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with surveys and population monitoring activities throughout the range of the species in California and Nevada for the purpose of enhancing the species' survival.

*Permit No. TE–54614A*

Applicant: California Department of Fish and Wildlife, Rancho Cordova, California

The applicant requests a permit to take (survey, capture, handle, transport, translocate, attach radio transmitters, and release) the Amargosa vole (*Microtus californicus scirpensis*) in conjunction with population monitoring activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–14237A*

Applicant: Wildlife Science Consulting, Livermore, California

The applicant requests a permit to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County Distinct Population Segment (DPS) and Sonoma County DPS) (*Ambystoma californiense*) in conjunction with surveys and population monitoring throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–07064A*

Applicant: Wesley K. Savage, Cambridge, Massachusetts

The applicant requests a permit renewal to take (capture, handle, mark, photograph, and release; collect tissue for genetic analysis; and collect voucher specimens) the California tiger salamander (Santa Barbara County DPS and Sonoma County DPS) (*Ambystoma californiense*) and Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*), and take (capture, photograph, and release; and collect adult specimens) the callippe silverspot butterfly (*Speyeria callippe callippe*) in conjunction with surveys, research activities, and phylogenetic study for the butterfly throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–35000A*

Applicant: University of California, Davis, California

The applicant requests an amendment to a permit to take (survey, capture, handle, release, and collect genetic samples) the giant kangaroo rat (*Dipodomys ingens*) in conjunction with surveys and population monitoring activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–128462*

Applicant: Jonathan S. Feenstra, Altadena, California

The applicant requests a permit renewal to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–43911B*

Applicant: Jared I. Reed, Temecula, California

The applicant requests a permit to take (capture, handle, and release) the San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*) and Stephens' kangaroo rat (*Dipodomys stephensi*) in conjunction with survey and population monitoring activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–745541*

Applicant: Stephen J. Montgomery, Flagstaff, Arizona

The applicant requests a permit renewal to take (capture, handle, and release) the Stephens' kangaroo rat (*Dipodomys stephensi*) and Pacific pocket mouse (*Perognathus longimembris pacificus*), take (capture, handle, and release) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*), take (capture, handle, release, and collect tissue and hair) the Amargosa vole (*Microtus californicus scirpensis*), and take (harass by survey) the Yuma Ridgway's rail (*Rallus obsoletus yumanensis*) (originally listed as Yuma clapper rail (*Rallus longirostris yumanensis*)) in conjunction with survey and population monitoring activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–43937B*

Applicant: Robert L. Sloan, San Luis Obispo, California

The applicant requests a permit to take (locate, capture, handle, measure, release, and relocate) the Morro shoulderband snail (*Helminthoglypta walkeriana*) in conjunction with surveys and habitat monitoring activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–02496A*

Applicant: Kevin K. Ghalambor, Rancho Cordova, California

The applicant requests a permit renewal to take (capture, collect, and collect vouchers) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–50510A*

Applicant: Geoffrey D. Cline, Mariposa, California

The applicant requests an amendment to a permit to take (survey, capture, handle, and release) the giant kangaroo rat (*Dipodomys ingens*), Fresno kangaroo rat (*Dipodomys nitratoides exilis*), and Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*) in conjunction with surveys and population monitoring activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–114928*

Applicant: John A. Howe, Sacramento, California

The applicant requests a permit renewal to take (capture, collect, and collect vouchers) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–439449*

Applicant: Brenton T. Spies, Simi Valley, California

The applicant requests a permit amendment to take (harass by survey, capture, handle, tag, release, use enclosures, collect, transport, hold in captivity, propagate, and exhibit) the tidewater goby (*Eucyclogobius newberryi*), in conjunction with research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–50895B*

Applicant: Angeles National Forest, Arcadia, California

The applicant requests a permit to take (harass by survey and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*), take (monitor nests) the least Bell's vireo (*Vireo bellii pusillus*), and take (survey, capture, handle, relocate, and release) the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*), arroyo toad (arroyo southwestern) (*Anaxyrus californicus*), and mountain yellow-legged frog (southern California DPS) (*Rana muscosa*), in conjunction with surveys, population monitoring, and invasive removal activities throughout the range of the species in California for the purpose of enhancing the species' survival.

**Public Comments**

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

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.

**Michael Long,**

*Acting Regional Director, Pacific Southwest Region, Sacramento, California.*

[FR Doc. 2014–28099 Filed 11–26–14; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLNM930000 L51010000 ER0000 LVRWG09G0690]**

### Notice of Availability of the Environmental Assessment for the Proposed SunZia Southwest Transmission Project, New Mexico

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969, as amended, the Bureau of Land

Management (BLM) has prepared an Environmental Assessment (EA) to determine whether newly identified measures to mitigate potential impacts caused by the proposed SunZia Southwest Transmission Line Project to military operations and readiness activities require the BLM to prepare a supplement to the Final Environmental Impact Statement (EIS), which the BLM published in June 2013. The mitigation proposed by the Department of Defense (DOD) would involve the burial of three segments that total approximately 5 miles of the SunZia Southwest Transmission Line Project within the area identified as the ''call up area'' north of the White Sands Missile Range along and within the preferred alternative corridor analyzed in the Final EIS. This notice announces the opening of a public comment period for the EA.

**DATES:** To ensure that comments will be considered, the BLM must receive written comments on the EA by December 29, 2014.

**ADDRESSES:** You may submit comments related to the EA by any of the following methods:

- *Email: NMSunZiaProject@blm.gov.*
- *Mail:* Bureau of Land Management, New Mexico State Office, Attention: SunZia Southwest Transmission Project, P.O. Box 27115, Santa Fe, NM 87502–0115.
- *Courier or hand delivery:* Bureau of Land Management, New Mexico State Office, Attention: Adrian Garcia, 301 Dinosaur Trail, Santa Fe, NM 87508–1560.

Copies of the EA are available in the New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87502, and online at *www.blm.gov/nm/sunzia.*

**FOR FURTHER INFORMATION CONTACT:** Adrian Garcia, telephone 505–954–2199; address 301 Dinosaur Trail, Santa Fe, NM 87502; email *agarcia@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** SunZia Transmission, LLC proposes to construct, operate, and maintain two parallel overhead 500 kilovolt transmission lines located on Federal, State, and private lands from the proposed SunZia East Substation in Lincoln County, New Mexico, to the existing Pinal Central Substation in Pinal County, Arizona. If approved, the length of the transmission lines would range from 460 miles to over 500 miles depending on which route alignment is selected. The project has the potential to add 3,000 to 4,500 megawatts of electric capacity to the desert southwest region of the United States.

In June 2013, the BLM published a Notice of Availability for the Final EIS in the **Federal Register** and released the Final EIS. Following the publication of the Final EIS, the DOD raised objections to the BLM's Preferred Alternative Route through the ''call-up area'' north of the White Sands Missile Range. On May 27, 2014, the DOD proposed mitigation measures that, if adopted, would address the DOD's prior objections to the SunZia project by resolving potential impacts to military operations and readiness activities, including the burial of three segments of the proposed transmission line for approximately 5 miles in the ''call-up area.'' In response to DOD's proposal, the BLM has prepared an EA to examine whether the mitigation proposal requires the BLM to prepare a supplement to the Final EIS. In accordance with the Council on Environmental Quality's NEPA regulations, 40 CFR 1501.3(b) and 1502.9(c)(1), the EA examines whether DOD's proposed mitigation to bury three segments of the proposed transmission line represent ''substantial changes in the proposed action'' or ''significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts'' from what the BLM analyzed in the Final EIS. The EA's scope is therefore limited to analyzing the impacts of DOD's mitigation proposal, which is to bury three short segments totaling approximately 5 miles of the transmission line along the BLM's preferred alternative route within the ''call-up area.'' The EA describes the burial of the three segments, provides a detailed inventory of resources and the potential direct, indirect, and cumulative impacts resulting from the SunZia project with the mitigation proposal, and compares whether, and to what extent, the impacts from the burial differ from the impacts analyzed in the Final EIS.

The BLM initiated the EA in June 2014 and has subsequently coordinated with potentally affected landowners, project representatives, the New Mexico State Land Office, and DOD personnel. Cooperating agencies involved in the development of the EA include the Department of the Army, White Sands Missile Range, the DOD Siting Clearinghouse, Office of the Deputy Under Secretary (Installations and Environment), and the New Mexico State Land Office. The EA refers to the three proposed buried segments as the Eastern, Central, and Western segments. The Eastern Segment is located on State land in Torrance County, New Mexico; the Central Segment is located on State, BLM, and private land in Socorro County, New Mexico; and the Western Segment is located on BLM and private land in Socorro County, New Mexico. In the EA, the BLM compares the impacts associated with the burial of the three segments of the transmission line with the construction and operation of an above-ground transmission line as described in the Preferred Alternative in the June 2013 SunZia Final EIS.

The BLM has reached a preliminary Finding of No New Significant Impact (FONNSI), as the analysis in the EA supports a conclusion that the Mitigation Proposal is not a substantial change from the Preferred Alternative and would not have new impacts significantly different from those analyzed for the Preferred Alternative in the SunZia Final EIS. Based on these findings, the BLM would intend to proceed with the Preferred Alternative identified in the SunZia Final EIS as modified by the Mitigation Proposal. A draft unsigned FONNSI is attached to the EA for review.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays. Also note that only those comments that relate to the proposed mitigation measure being analyzed in the EA (burial of three segments of the transmission line in the call-up area) will be considered by the BLM. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.10.

**Aden L. Seidlitz,**

*Associate State Director, New Mexico.*

[FR Doc. 2014–28098 Filed 11–26–14; 8:45 am]

BILLING CODE 4310–FB–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLNVC00000.L16100000.DP0000 LXSS155F0000; 14–08807; MO# 4500065255]**

### Notice of Availability of the Carson City District Draft Resource Management Plan and Draft Environmental Impact Statement, NV

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared the Carson City District Draft Resource Management Plan (RMP) and Draft Environmental Impact Statement (EIS) for the Carson City District Office, Sierra Front and Stillwater Field Offices, and by this notice is announcing the opening of the comment period.

**DATES:** To ensure that comments will be considered, the BLM must receive written comments on the Carson City District Draft RMP and Draft EIS within 120 days following the date the Environmental Protection Agency publishes this notice of the Draft RMP/Draft EIS in the **Federal Register.**

**ADDRESSES:** You may submit comments related to the Carson City District Draft RMP/Draft EIS by any of the following methods:

- *Web site: http://www.blm.gov/nv/st/en/fo/carson_city_field.html.*
- *Email: BLM_NV_CCDO_RMP@blm.gov.*
- *Fax:* 775–885–6147.
- *Mail:* BLM Carson City District, Attn: CCD RMP, 5665 Morgan Mill Rd., Carson City, NV 89701.

Copies of the Carson City District Draft RMP/Draft EIS are available in the Carson City District Office at the above address or on the following Web site: *http://www.blm.gov/nv/st/en/fo/carson_city_field.html.*

**FOR FURTHER INFORMATION CONTACT:** Colleen Sievers, RMP Project Manager, telephone: 775–885–6168; address: 5665 Morgan Mill Rd., Carson City, NV 89701; email: *BLM_NV_CCDO_RMP@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Carson City District Draft RMP/Draft EIS would replace the existing 2001 Carson City Field Office Consolidated RMP. The Draft RMP/Draft EIS was developed through a collaborative planning process. The Carson City District Draft RMP decision area encompasses approximately 4.8 million acres of public land administered by the BLM Carson City District in portions of 11 counties within 2 States (Washoe, Storey, Carson City, Douglas, Lyon, Churchill, Mineral, and Nye counties in Nevada; and Alpine, Plumas, and Lassen counties in California). It does not include private lands, State lands, Indian reservations, or Federal lands not administered by BLM.

The Carson City District Draft RMP/Draft EIS includes goals, objectives and management actions for protecting and preserving natural resources which includes air quality, soil and water resources, vegetation, fish and wildlife, special status species, wild horses and burros, wildland fire management, cultural and paleontological resources, and visual resource values. Multiple resource uses are addressed which include management and forage allocations for livestock grazing; delineation of lands open, closed, or subject to special stipulations or mitigation measures for minerals development; recreation and travel management designations; management of lands and realty actions, including delineation of avoidance and exclusion areas applicable to rights-of-ways, land tenure adjustments, and solar and wind energy development. Eligible river segments will be identified for suitability designation as components of the National Wild and Scenic River System and 24 Areas of Critical Environmental Concern (ACECs) are proposed. The ACECs are proposed to protect biological, botanical, historic, cultural, paleontological and scenic values.

The Draft RMP/Draft EIS analyzes five management alternatives. Alternative A is the No Action Alternative, which is the continuation of current management under the existing 2001 Consolidated RMP and subsequent amendments. This alternative describes the current goals and actions for management of resources and land uses in the planning area. The management direction could also be modified by current laws, regulations, and policies. Alternative B emphasizes opportunities to use and develop resources within the planning area. It would provide for motorized access and commodity production with minimal restrictions while providing protection of natural and cultural resources to the extent required by law, regulation, and policy. This alternative would largely rely on existing laws, regulations, and policies, rather than special management or special designations, to protect sensitive resources. Alternative C emphasizes the protection of the planning area's resource values while allowing commodity uses as consistent with current laws, regulations, and policies. Management actions would emphasize resource values such as habitat for wildlife and plant species (including special status species), protection of riparian areas and water quality, preservation of ecologically important areas, maintenance of wilderness characteristics, and protection of scientifically important cultural and paleontological sites. Access to and development of resources within the planning area could occur with intensive management and mitigation of surface-disturbing and disruptive activities. Alternative D emphasizes the increased demand on BLM-administered lands within the urban interface area. The interface is a set of conditions that affect resources and how they can be managed, rather than a geographic place. Enhanced community development through a change in land tenure is reflected in this alternative. Alternative D provides for increased management of recreational opportunities in areas of high use while reducing conflict between use of the BLM-administered land and adjacent private landowners. Specific measures would also be applied to manage for increased pressures on the land and a higher demand from the public while minimizing adverse effects on local communities. Alternative E emphasizes a balance between resource protection and resource use, which provides opportunities to use and develop resources within the planning area while ensuring resource protection. The BLM Carson City District's preferred alternative is Alternative E.

Pursuant to 43 CFR 1610.7–2(b), this notice announces a concurrent public comment period for potential ACECs. There are 4 existing and 9 new ACECs proposed in Alternative B, 5 existing and 18 new ACECs proposed in Alternative C, 3 existing and 8 new ACECs proposed in Alternative D, and 4 existing and 4 new ACECs in Alternative E. The ACECs are proposed to protect biological, botanical, historic, cultural, paleontological and scenic values. Alternatives B, D, and E all

propose to remove the ACEC designation from the current Carson Wandering Skipper ACEC (330 acres). Alternative D proposes to remove the ACEC designation from the Stewart Valley Paleontological ACEC (15,900 acres). Additionally, Alternatives B, C, D, and E propose to remove the ACEC designation from the Steamboat Hot Springs Geyer Basin ACEC (40 acres). One existing ACEC is proposed to be expanded under Alternatives B, C, D and E.

The new potential ACECs in Alternative B include: Black Mountain/Pistone Archaeological District (3,400 acres), Churchill Narrows Buckwheat Botanical (6,600 acres), Fox Peak Cultural (48,400 acres), Greater Sand Mountain (17,000 acres), Grimes Point Archaeological District (15,900 acres), Namazii Wunu Cultural (158,300 acres), Ruhenstroth Paleontological (2,300 acres), Tagim asa Cultural (81,800 acres), and the Virginia City National Landmark Historic District (14,700 acres). Alternative B would retain the existing Incandescent Rocks Scenic (1,100 acres), Stewart Valley Paleontological (15,900 acres), and the Virginia Range Williams Combleaf Botanical (470 acres) ACECs and would expand the Pah Rah High Basin Petroglyph ACEC (5,300 acres).

The new potential ACECs in Alternative C include: Black Mountain/Pistone Archaeological District (3,400 acres), Churchill Narrows Buckwheat Botanical (6,600 acres), Clan Alpine Greater Sage-Grouse (98,400 acres), Desatoya Greater Sage-Grouse (105,100 acres), Dixie Valley Toad (410 acres), Fox Peak Cultural (48,400 acres), Greater Sand Mountain (17,000 acres), Grimes Point Archaeological District (15,900 acres), Lassen Red Rock Scenic (800 acres), Namazii Wunu Cultural (158,300 acres), Pine Nut Bi-State Sage-Grouse (100,400 acres), Pine Nut Mountains Williams Combleaf Botanical (330 acres), Ruhenstroth Paleontological (2,300 acres), Sand Springs Desert Study Area (50 acres), Steamboat Buckwheat Botanical (80 acres), Tagim asa Cultural (81,800 acres), Virginia City National Landmark Historic District (14,700 acres) and the Virginia Mountains Greater Sage-Grouse (109,200 acres). Alternative C would retain the existing Carson Wandering Skipper (330 acres), Incandescent Rocks Scenic (1,100 acres), Stewart Valley Paleontological (15,900 acres), and the Virginia Range Williams Combleaf Botanical (470 acres) ACECs and would expand the Pah Rah High Basin Petroglyph ACEC (5,300 acres).

The new potential ACECs in Alternative D include: Black Mountain/Pistone Archaeological District (3,400 acres), Churchill Narrows Buckwheat Botanical (6,600 acres), Fox Peak Cultural (48,400 acres), Grimes Point Archaeological District (15,900 acres), Pine Nut Mountains Williams Combleaf Botanical (330 acres), Ruhenstroth Paleontological (2,300 acres), Tagim asa Cultural (81,800 acres), and the Virginia City National Landmark Historic District (14,700 acres). Alternative D would retain the existing Incandescent Rocks Scenic (1,100 acres) and the Virginia Range Williams Combleaf Botanical (470 acres) ACECs and would expand the Pah Rah High Basin Petroglyph ACEC (5,300 acres).

The new potential ACECs in Alternative E include: Churchill Narrows Buckwheat Botanical (6,600 acres), Fox Peak Cultural (48,400 acres), Grimes Point Archaeological District (15,900 acres), and the Ruhenstroth Paleontological (2,300 acres). Alternative E would retain the existing Incandescent Rocks Scenic (1,100 acres), Stewart Valley Paleontological (15,900 acres), and the Virginia Range Williams Combleaf Botanical (470 acres) ACECs and would expand the Pah Rah High Basin Petroglyph ACEC (5,300 acres).

The following management prescriptions could apply to potential ACECs, if formally designated, depending on each individual ACEC: avoid or exclude linear ROWs; avoid or exclude site-type ROWs; close to or place use constraints on fluid leasable mineral development; close to solid leasable mineral development; recommend withdrawal of locatable mineral development; close to saleable mineral development; not available for livestock grazing; manage as VRM Class II; Special Recreation Permits would not be issued; close to camping; closed or limited to designated routes for motorized travel; place seasonal restrictions of ground disturbing actions; prohibit the collection of vegetation; and seasonally closed for Native American cultural/religious use.

Public meetings on the Draft RMP/Draft EIS are currently scheduled for 5:00 to 7:00 p.m.; on January 13, at the John Ascuaga's Nugget (1100 Nugget Ave.) in Sparks, Nevada; on January 15, at the Fallon Convention Center (100 Campus Way) in Fallon, Nevada; on January 20, at the Mineral County Library (First & A Street) in Hawthorne, Nevada; on January 22, at the Carson Valley Inn (1627 US Hwy 395 N) in Minden, Nevada; and on January 29, at the Yerington Elementary School (112 N. California St.) in Yerington, Nevada. An additional public meeting will be held from 2:00 to 4:00 p.m., on January 24, at the Carson City Plaza Hotel and Event Center (801 South Carson Street) in Carson City, Nevada. Additional public meetings are anticipated in coordination with local County Commissions and Boards of Supervisors. Any such additional meetings will be announced at least 15 days in advance through public notices, media releases, and/or mailings.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2

**Marci Todd,**

*Associate State Director, Nevada.*

[FR Doc. 2014–28004 Filed 11–26–14; 8:45 am]

BILLING CODE 4310–HC–P

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[LLOR912000.L10600000.DF0000. 15XL1109AF; HAG15–0032]**

## Notice of Intent To Establish the Southwest Oregon RAC, the Northwest Oregon RAC, and the Coastal Oregon RAC

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management (BLM) is publishing this notice in accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act (FACA). The BLM gives notice that the Secretary of the Interior is establishing the Southwest Oregon Resource Advisory Council (RAC), the Northwest Oregon RAC, and the Coastal Oregon RAC. These RACs will provide advice to the Secretary of the Interior concerning the planning and

management of the public lands located in western Oregon's five BLM districts.

**FOR FURTHER INFORMATION CONTACT:** Stephen Baker, BLM Oregon RAC Lead, 1220 SW., 3rd Avenue, Portland, OR 97204, 503–808–6306. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question for the above individual. The FIRS is available 24 hours a day, 7 days a week. Replies are provided during normal business hours.

**SUPPLEMENTARY INFORMATION:** The FLPMA directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the BLM. Section 309 of FLPMA (43 U.S.C. 1739) directs the Secretary to establish 10- to 15-member citizen-based RACs that are consistent with FACA. The rules governing RACs are found at 43 CFR Subpart 1784. As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of public lands. These three new RACs will operate on the principle of collaborative decision making and strive for consensus before making official recommendations to the BLM. The RACs will operate under one set of Standard Operating Procedures and will be chartered by the Secretary of the Interior. Members of these three new RACs will be appointed by the Secretary to represent the following three interest groups:

*Group 1—Persons Who:*

1. Represent energy and mineral development (with a special emphasis on transportation or rights-of-way interests);
2. represent the commercial timber industry;
3. represent organized labor or non-timber forest product harvester groups;
4. represent developed outdoor recreation, off-highway vehicle users, or commercial recreation (with a special emphasis on commercial or recreation fishing); or
5. hold Federal grazing or other land permits or represent nonindustrial private forest land owners.

*Group 2—Persons Who Represent:*

1. Nationally recognized environmental organizations;
2. regionally or locally recognized environmental organizations;
3. dispersed recreational activities;
4. archaeological and historical interests; or
5. nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

*Group 3—Persons Who:*

1. Hold state elected office;
2. hold county or local elected office;
3. represent Indian tribes within or adjacent to the area for which the Council is organized;
4. are school officials or teachers with knowledge in natural resource management or the natural sciences; or
5. represent the affected public-at-large and/or are employed by a state agency responsible for the management of natural resources, land or water.

Members will be appointed to staggered 3-year terms. All members serve at the discretion of the Secretary. A call for nominations to recruit new members will be held in 2015 once the RACs are established.

**Authority:** 43 CFR 1784.4–1.

**Jerome E. Perez,**

*State Director, Oregon/Washington.*

[FR Doc. 2014–28140 Filed 11–26–14; 8:45 am]

**BILLING CODE 4310–33–P**

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLCAD01000L12100000. MD000015XL1109AF]**

### Call for Nominations for the California Desert District Advisory Council

**SUMMARY:** The Bureau of Land Management's (BLM) California Desert District is soliciting nominations from the public for six members to its District Advisory Council to serve three-year terms. Council members provide advice and recommendations to the BLM on the management of public lands in Southern California.

**ADDRESSES:** Nominations should be sent to Teresa Raml, District Manager, Bureau of Land Management, California Desert District Office, 22835 Calle San Juan De Los Lagos, Moreno Valley, CA 92553.

**FOR FURTHER INFORMATION CONTACT:** Stephen Razo, BLM California Desert District External Affairs, 22835 Calle San Juan De Los Lagos, Moreno Valley, California 92553–9046, (951) 697–5217. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The California Desert District Advisory Council is comprised of 15 private individuals who represent different interests and advise BLM officials on policies and programs concerning the management of over 10 million acres of public land in Southern California. The Council meets in formal session three to four times each year in various locations throughout the California Desert District. Council members serve without compensation other than travel expenses. Members serve three-year terms and may reapply to be nominated for reappointment to an additional three-year term.

Section 309 of the Federal Land Policy and Management Act directs the Secretary of the Interior to involve the public in planning and issues related to management of BLM-administered lands. The Secretary also selects Council nominees consistent with the requirements of the Federal Advisory Committee Act (FACA), which requires nominees appointed to the Council be balanced in terms of points of view and representative of the various interests concerned with the management of the public lands.

The Council also is balanced geographically, and the BLM will try to find qualified representatives from areas throughout the California Desert District. The District covers portions of eight counties, and includes more than 10 million acres of public land in the California Desert Conservation Area of Mono, Inyo, Kern, Los Angeles, San Bernardino, Riverside, and Imperial counties, as well as 300,000 acres of scattered parcels in San Diego, western Riverside, western San Bernardino, and Los Angeles counties (known as the South Coast).

Public notice begins with the publication date of this notice and nominations will be accepted for 45 days from the date of this notice. The six positions to be filled include one elected official, one representative of non-renewable resources groups or organizations, one representative of recreation groups or organizations, one representative of wildlife groups or organizations, and two representatives of the public-at-large. These six positions become vacant on Dec. 7, 2014.

Any group or individual may nominate a qualified person, based upon education, training, and knowledge of the BLM, the California Desert, and the issues involving BLM-administered public lands throughout Southern California. Qualified individuals may also nominate themselves.

The nomination form may be found on the Desert Advisory Council Web

page: *http://www.blm.gov/ca/st/en/info/rac/dac.html.* The following must accompany the form for all nominations:

- Letters of reference from represented interests or organizations.
- A completed background information nomination form.
- Any other information that addresses the nominee's qualifications.

Nominees unable to download the nomination form may contact the BLM California Desert District External Affairs staff at (951) 697–5217 to request a copy. Advisory Council members are appointed by the Secretary of the Interior. The Obama Administration prohibits individuals who are currently federally registered lobbyists to serve on all FACA and non-FACA boards, committees or councils.

(Authority: 43 CFR 1784.4–1)

**Timothy J. Wakefield,**

*Associate California Desert District Manager.*

[FR Doc. 2014–28102 Filed 11–26–14; 8:45 am]

**BILLING CODE 4310–40–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Graphics Processing Chips, Systems on a Chip, and Products Containing the Same, DN 3042;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section § 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR § 210.8(b)).

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *EDIS*,[1] and 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 United States International Trade Commission (USITC) at *USITC.*[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *USITC.*[3] 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 has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Samsung Electronics Co., Ltd. and Samsung Austin Semiconductor, LLC on November 21, 2014. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain graphics processing chips, systems on a chip, and products containing the same. The complaint names as respondents NVIDIA Corporation of Santa Clara, CA; Biostar Microtech International Corp. of Taiwan; Biostar Microtech (U.S.A.) Corp. of City of Industry, CA; Elitegroup Computer Systems Co. Ltd. of Taiwan; Elitegroup Computer Systems, Inc. of Newark, CA; EVGA Corp. of Brea, CA; Fuhu, Inc. of El Segundo, CA; Jaton Corp. of Fremont, CA; Mad Catz, Inc. of San Diego, CA; OUYA, Inc. of Santa Monica, CA; Sparkle Computer Co., Ltd. of Taiwan; Toradex, Inc. of Seattle, WA; Wikipad, Inc. of Westlake Village, CA; ZOTAC International (MCO) Ltd. of Hong Kong; and ZOTAC USA, Inc. of Chino CA. The complainant requests that the Commission issue an exclusion order, cease and desist orders, and a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR § 210.4(f)). Submissions should refer to the docket number (''Docket No. 3042'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *Electronic Filing Procedures.*[4]) Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

statement of the reasons why the Commission should grant such treatment. *See* 19 CFR § 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on *EDIS*.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR §§ 201.10, 210.8(c)).

By order of the Commission.

Issued: November 24, 2014.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2014–28119 Filed 11–26–14; 8:45 am]

**BILLING CODE 7020–02–P**

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On November 21, 2014, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Texas in the lawsuit titled *United States, et al.,* v. *Ashland Inc., et al.,* Civil Action No. 14–cv–574.

The United States, on behalf of the U.S. Environmental Protection Agency, filed this lawsuit pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601–9675, to recover response costs incurred, and obtain a declaratory judgment as to liability for response costs to be incurred, for responding to the releases and threatened releases of hazardous substances at and from the Palmer Barge Superfund Site in Port Arthur, Texas (''the Site''). The Complaint names as defendants Ashland Inc.; E.I. du Pont de Nemours and Co.; Exxon Mobil Corp.; ExxonMobil Oil Corp.; Houston Ship Repair, Inc.; Kirby Corp.; Kirby Inland Marine, LP; Phillips 66 Co.; and Texaco Inc. In the Complaint, which the State of Texas joined, the United States alleges that defendants (or their predecessors in interest) arranged for the disposal of hazardous substances at the Site.

The Consent Decree resolves the United States' claims against each of the named defendants as entities that arranged for disposal of hazardous wastes at the site and, in addition, against defendants Kirby Corp., Kirby Inland Marine, and Phillips 66 as successors in interest to other entities identified in the Consent Decree with CERCLA liabilities at the Site. The Consent Decree also settles potential claims related to the Site that could be brought by the defendants against the United States related to the United States Maritime Administration (''MARAD''), which hired defendant Houston Ship Repair, Inc., to decommission MARAD vessels.

Under the Consent Decree, the settling parties will pay response costs to the United States as follows: Ashland Inc., E.I. du Pont de Nemours and Co., Exxon Mobil Corp., ExxonMobil Oil Corp., Kirby Corp., Kirby Inland Marine, and Phillips 66, collectively, will pay $1,874,804.22; Houston Ship Repair will pay $599,938.12; and MARAD will pay $399,958.75. In return for these payments, the United States agrees not to sue the defendants or the above-described predecessors in interest of Kirby Corp., Kirby Inland Marine, and the Phillips 66, under section 106 or 107 of CERCLA, 42 U.S.C. 9606, § 9607, in connection with the Site.

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, et al.* v. *Ashland Inc., et al.,* D.J. Ref. No. 90–11–2–08876. 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 e-mail ..... | *pubcomment-ees.enrd@usdoj.gov.* |
| By mail ..... | Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 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 $10.75 (25 cents per page reproduction cost) payable to the United States Treasury.

**Thomas P. Carroll,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2014–28133 Filed 11–26–14; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decrees Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on November 21, 2014, a proposed Consent Decree in *United States* v. *Antilles Gas Corp., et al.,* Civil Action No. 1:14–cv–00100, was lodged in the United States District Court, District of the Virgin Islands, between the United States and the following Settling Defendants: Antilles Gas Corp.; Bohlke International Airways, Inc.; The Buccaneer, Inc.; Bunkers of St. Croix, Inc.; CarMar, Inc.; Chico's Rental of Equipment; Coral World Ocean Park; Cruzan Rum VIRIL; Dan's Trucking and Removal; Devcon International Corp.; Government of the United States Virgin Islands; La Reine Service Station; Mackay Enterprises; Merchant's Market of St. Croix, Inc.; Metro Motors SC, Inc.; Monarch Heavy Equipment; The Other End Enterprises, Inc.; Paradise Waste Systems, Inc.; Quality Electric Supply, Inc.; Seaborne Virgin Islands, Inc.; St. Croix Marine Corp.; Topa Equities VI Corporation (d/b/a West Indies Company); Tropic View Estates, LTD (d/b/a H.H. Tire and Battery); United Corporation; VI Cement and Building Products, Inc.; V.I. Housing Authority; V.I. Port Authority; and V.I. Telephone Corp.

In this action brought under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9607 (''CERCLA''), the United States seeks to recover costs incurred by the United States Environmental Protection Agency at the TC Waste Oil Superfund Site in St. Croix, U.S. Virgin Islands (the ''Site''). Through the proposed Consent Decree, 23 private companies, three Virgin Islands government entities or public corporations, and five Settling Federal Agencies shall reimburse the United States a combined $1,874,849.

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* v. *Antilles Gas Corp., et al.* (D.V.I.) Ref. No. 90–11–3–10248. 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 e-mail ..... | *pubcomment-ees.enrd@usdoj.gov.* |
| By mail ..... | Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 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 paper copies 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 $12.25 (25 cents per page reproduction cost) payable to the United States Treasury.

**Robert E. Maher, Jr.,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2014–28103 Filed 11–26–14; 8:45 am]

BILLING CODE 4410–15–P

## NEIGHBORHOOD REINVESTMENT CORPORATION

### Regular Board of Directors Meeting; Sunshine Act

**TIME AND DATE:** 3:30 p.m., Thursday, December 4, 2014.

**PLACE:** NeighborWorks America—Gramlich Boardroom, 999 North Capitol Street NE., Washington, DC 20002.

**STATUS:** Open (with the exception of Executive Session).

**CONTACT PERSON:** Jeffrey Bryson, General Counsel/Secretary, (202) 760–4101; *jbryson@nw.org.*

**AGENDA:**

I. Call to Order
II. Recognition of Carol Galante
III. Approval of Minutes
IV. Executive Session: CEO Search Update
V. Executive Session: Transition Update
VI. Executive Session: Bank of America Settlement Update
VII. Executive Session: Corporate Administration Committee Update Items
VIII. Board Appointments
IX. Sustainable Homeownership Project Phase 2 Extension
X. Success Measures Data Systems Approval
XI. Board Meetings Scheduling
XII. Organizational Underwriting & Grants to Network
XIII. New Strategic Plan
XIV. Financial & Audit Update
XV. Management Updates
XIV. Adjourment

**Jeffrey T. Bryson,**

*EVP & General Counsel/Corporate Secretary.*

[FR Doc. 2014–28262 Filed 11–25–14; 4:15 pm]

BILLING CODE 7570–02–P

## NUCLEAR REGULATORY COMMISSION

**[NRC–2014–0232]**

### Applicability of ASME Code Case N–770–1, as Conditioned by Federal Regulation, to Branch Connection Butt Welds

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory issue summary; extension of comment period.

**SUMMARY:** On October 23, 2014, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on draft regulatory issue summary (RIS) 2014–XX. The purpose of this draft RIS is to inform addressees about reactor coolant system Alloy 82/182 branch connection dissimilar metal nozzle welds that may be of a butt weld configuration and therefore require inspection under the NRC's regulations. The public comment period was originally scheduled to close on December 8, 2014. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

**DATES:** The comment period in the notice published on October 23, 2014 (79 FR 63446), is extended. Comments should be filed no later than December 22, 2014. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID **NRC–2014–0232.** Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN, 06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Tanya Mensah, telephone: 301–415–3610, email: *Tanya.Mensah@nrc.gov*; or Jay Collins, telephone: 301–415–4038, email: *Jay.Collins@nrc.gov.* Both are of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*I. Obtaining Information*

Please refer to Docket ID **NRC–2014–0232** when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID **NRC–2014–0232.**
- *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 draft RIS is available in ADAMS under Accession No. ML14196A065.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

*B. Submitting Comments*

Please include Docket ID **NRC–2014–0232** in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

*II. Discussion*

On October 23, 2014, the NRC published for comment draft RIS 2014–XX. The purpose of draft RIS 2014–XX, ''Applicability of ASME Code Case N–770–1 As Conditioned In 10 CFR [Title 10 of the *Code of Federal Regulations*] 50.55a, 'Codes and Standards,' To Branch Connection Butt Welds,'' is to inform addressees about reactor coolant system Alloy 82/182 branch connection dissimilar metal nozzle welds that may be of a butt weld configuration and therefore require inspection under 10 CFR 50.55a(g)(6)(ii)(F). The RIS, if issued in final form, would be used by all holders of an operating license or construction permit for a pressurized water nuclear power reactor under 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities,'' except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel. The draft RIS explains that these entities should review this information for applicability to their Alloy 600 management plan to ensure all applicable butt welds are being inspected.

The public comment period was originally scheduled to close on December 8, 2014. The NRC has decided to extend the public comment period to allow more time for members of the public to submit their comments. The deadline for submitting comments is extended to December 22, 2014.

Dated at Rockville, Maryland, this 24th day of November 2014.

For the Nuclear Regulatory Commission.

**Sheldon D. Stuchell,**

*Chief, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.*

[FR Doc. 2014–28122 Filed 11–28–14; 8:45 am]

**BILLING CODE 7590–01–P**

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## NUCLEAR REGULATORY COMMISSION

**[NRC–2014–0253]**

## Fitness-for-Duty Programs for New Nuclear Power Plant Construction Sites

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory guide; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–5036, ''Fitness-for-Duty [FFD] Programs at New Reactor Construction Sites.'' This DG provides new guidance for implementing fitness for duty requirements at nuclear power plant construction sites.

**DATES:** Submit comments by January 27, 2015. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0253. 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.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: 3WFN 06A–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Wesley W. Held, Office of Nuclear Security and Incident Response, telephone: 301–415–1583, email: *wesley.held@nrc.gov*, or Richard A. Jervey, Office of Nuclear Regulatory Research, telephone: 301–251–7404, email: *richard.jervey@nrc.gov*. U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2014–0253 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document, by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0253. 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 NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The draft regulatory guide is available electronically in ADAMS under Accession No. ML14205A141.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

*B. Submitting Comments*

Please include Docket ID NRC–2014–0253 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

## II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, ''Fitness-for-Duty Programs at New Reactor Construction Sites,'' is temporarily identified by its task number, DG–5036. This guidance is provided to ensure the effective and consistent implementation of the requirements in subpart K, ''FFD Programs for Construction,'' of part 26, ''Fitness-for-Duty Programs,'' in Title 10 of the *Code of Federal Regulations* (10 CFR). Part 26 requires certain individuals involved in the construction of nuclear power plants to be fit-for-duty. The requirements in part 26 are prescriptive in a number of areas, such as drug and alcohol testing; however, in other areas, such as those associated with subpart K, ''FFD Program for Construction,'' the regulations contain less prescriptive, performance-based requirements. The performance-based regulations in subpart K enable licensees, applicants, and other entities to develop, implement, and/or maintain site-specific (or fleet-wide) FFD programs in a manner that best suits their needs while still meeting regulatory requirements. However, this flexibility, without regulatory guidance, can challenge consistent and effective rule implementation. For example, a licensee can implement sanctions for FFD policy violations that are markedly more or less severe than sanctions for an equivalent violation at another licensee's construction site. This DG endorses the methodologies described in industry guidance document Nuclear Energy Institute (NEI) 06–06, ''Fitness for Duty Program Guidance for New Nuclear Power Plant Construction Sites,'' revision 6, dated April 2013 (ADAMS Accession No. ML13093A340).

## III. Backfitting and Issue Finality

This DG, if finalized, would provide guidance on the methods acceptable to the NRC staff for complying with the NRC's regulations associated with FFD programs of licensees or other entities during construction of new power reactors. The guide would apply to certain current and future applicants for, and holders of, power reactor licenses and construction permits under 10 CFR part 50 and power reactor licenses and early site permits under 10 CFR part 52. Issuance of DG–5036, if finalized, would not constitute backfitting under 10 CFR part 50 and would not otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the ''Implementation'' section of DG–5036, the NRC has no current intention to impose the DG, if finalized, on current holders of 10 CFR part 50 operating licenses or 10 CFR part 52 combined licenses.

This DG, if finalized, could be applied to applications for certain 10 CFR part 50 operating licenses or construction permits and 10 CFR part 52 combined licenses and early site permits. Such action would not constitute backfitting as defined in 10 CFR 50.109 or be otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants are not within the scope of entities protected by 10 CFR 50.109 or the relevant issue finality provisions in 10 CFR part 52.

Dated at Rockville, Maryland, this 20th day of November, 2014.

For the Nuclear Regulatory Commission.

**Thomas H. Boyce,**

*Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

[FR Doc. 2014–28063 Filed 11–26–14; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[NRC–2014–0001]**

## Sunshine Act Meeting

**DATE:** December 1, 8, 15, 22, 29, 2014; January 5, 2015.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Week of December 1, 2014**

There are no meetings scheduled for the week of December 1, 2014.

**Week of December 8, 2014—Tentative**

There are no meetings scheduled for the week of December 8, 2014.

**Week of December 15, 2014—Tentative**

*Tuesday, December 16, 2014*

9:00 a.m. Update on Research and Test Reactor Initiatives (Public Meeting); (Contact: Alexander Adams, 301–415–1127)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

*Thursday, December 18, 2014*

9:30 a.m. Briefing on Equal Employment Opportunity, Diversity, and Small Business Programs (Public Meeting); (Contact: Larniece McKoy Moore, 301–415–1942)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of December 22, 2014—Tentative**

There are no meetings scheduled for the week of December 22, 2014.

**Week of December 29, 2014—Tentative**

There are no meetings scheduled for the week of December 29, 2014.

**Week of January 5, 2015—Tentative**

There are no meetings scheduled for the week of January 5, 2015.

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Glenn Ellmers at (301) 415–0442 or via email at *Glenn.Ellmers@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you

need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Patricia.Jimenez@nrc.gov* or *Brenda.Akstulewicz@nrc.gov*

Dated: November 25, 2014.

**Glenn Ellmers,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2014–28258 Filed 11–25–14; 4:15 pm]

BILLING CODE 7590–01–P

## POSTAL SERVICE

### Sunshine Act Meeting; Board of Governors; Meeting; Teleconference

**DATES AND TIMES:** Friday, December 5, 2014, at 2:30 p.m.

**PLACE:** Via Teleconference (Public access to hear the teleconference will be at 475 L'Enfant Plaza SW., in the Benjamin Franklin Room, or live via audio webcast at *http://about.usps.com/news/electronic-press-kits/bog/welcome.htm*.)

**STATUS:** Friday, December 5, at 2:30 p.m.—Open; Friday, December 5, at 2:45 p.m.—Closed

**MATTERS TO BE CONSIDERED:**

*Friday, December 5, at 2:30 p.m. (Open)*

1. Approval of Minutes of Previous Meetings.
2. Approval of the FY2014 10K and Financial Statements.
3. Approval of the Annual Report and Comprehensive Statement.

*Friday, December 5, at 2:45 p.m. (Closed)*

1. Strategic Issues.
2. Pricing.
3. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

**CONTACT PERSON FOR MORE INFORMATION:** Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–1000. Telephone: (202) 268–4800.

**Julie S. Moore,**

*Secretary.*

[FR Doc. 2014–28198 Filed 11–25–14; 11:15 am]

BILLING CODE 7710–12–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73671; File No. SR–NYSEMKT–2014–97]**

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change Amending Rules 311—Equities and 313—Equities To Add Limited Liability Companies as Eligible Member Organizations and Delineate the Information Limited Liability Companies Must Submit to the Exchange as Part of the Membership Process; Eliminate the Requirement That a Member Corporation Be Created or Organized, and Maintain Its Principal Place of Business, in the United States; and Make Additional Related Amendments To Update Its Membership Rules

November 21, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 12, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Rules 311—Equities and 313—Equities to add limited liability companies as eligible member organizations and delineate the information limited liability companies must submit to the Exchange as part of the membership process; eliminate the requirement that a member corporation be created or organized, and maintain its principal place of business, in the United States; and make additional related amendments to update its membership rules. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Rules 311—Equities (''Rule 311'') and 313—Equities (''Rule 313'') to add limited liability companies (''LLCs'') to the types of eligible member organizations and delineate the information LLCs must submit to the Exchange as part of the membership process; eliminate the requirement that a member corporation be created or organized, and maintain its principal place of business, in the United States; and make additional related amendments to update its membership rules.

Rule 311

NYSE MKT Rule 311 governs the formation and approval of member organizations. The Exchange proposes to revise Rule 311 to explicitly provide for LLCs to apply to become member organizations and eliminate the requirement that a member corporation be created or organized, and maintain its principal place of business, in the United States.

First, the Exchange's membership rules currently provide for member organizations to be corporations or partnerships, but have not explicitly provided for LLCs.[4] The Exchange proposes to add LLCs to the types of potential member organizations and require LLCs to meet the same

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Current Rule 311(f) permits the Exchange to approve ''entities that have characteristics essentially similar to corporations, partnerships, or both'' as a member organization ''on such terms and conditions as the Exchange may prescribe.''

requirements currently applicable to partnerships and corporations set forth in Rule 311(b). As part of the proposed revision, the Exchange seeks to add a new section (4) to Rule 311(b) requiring every member of an LLC to be a member, principal executive or approved person.[5] Similarly, the Exchange proposes to amend current Rule 311(b)(6) to reflect that proposed LLC member organizations must, like corporations and partnerships, also comply with any additional requirements as the rules of the Exchange may prescribe. The Exchange also proposes to add new Supplementary Material .16 to Rule 311 to specify that LLC applicants for Exchange membership are subject to Rule 313.24 regarding the submission of copies of proposed or existing limited liability company documents and other agreements.

The Exchange also proposes to amend Rule 311(f) to eliminate the geographic limitation on incorporation and domicile of corporation members. The first sentence of Rule 311(f) currently provides that every member corporation be a corporation ''created or organized under the laws of, and shall maintain its principal place of business in, the United States or any State thereof.'' [6] The Exchange does not believe that the Exchange's restriction on whether foreign entities may be a member organization is consistent with either Federal rules or those of other self-regulatory organizations (''SRO''). For an example supporting its belief, the Exchange states that rules promulgated pursuant to the Act require, under certain circumstances, a foreign broker-dealer to register with the Commission.[7] The Exchange also states that other SROs, including the Financial Industry Regulatory Authority, Inc. (''FINRA''), do not require their members to be domiciled in the United States.[8]

The Exchange believes that the current restriction in Rule 311(f) puts it at a competitive disadvantage because it restricts foreign broker-dealers that are registered with the Commission and are members of another SRO from also becoming Exchange member organizations. The Exchange notes that its rules already require member organizations to meet prerequisites as specified in Rule 2(b). Specifically, regardless of corporate form, all member organizations must be registered broker-dealers that are members of FINRA or another registered securities exchange. If a registered broker-dealer transacts business with public customers or conducts business on the Floor of the Exchange, such member organization must be a member of FINRA.

The Exchange further notes that a member organization will be subject to regulatory examination and jurisdiction for misconduct whether or not it is based in the United States. However, for the avoidance of doubt, as discussed below, the Exchange proposes to add supplementary material to Rule 313 based on NASD Rule 1090 that imposes certain requirements on foreign members that do not maintain an office in the United States.

Rule 313

Rule 313 sets forth certain corporate or partnership documents that each member organization must submit to enter into and continue in NYSE membership. The Rule also sets forth certain restrictions on capital withdrawals and distributions applicable to member corporations and partnerships. The Exchange proposes to amend Rule 313 to delineate the types of documents LLCs must submit that, as noted, mirror the requirements currently in place for member corporations and partnerships.

First, the Exchange proposes to add a subsection (d) to Rule 313 requiring all articles of organization and operating documents for LLCs to be submitted for Exchange approval prior to becoming effective. Relatedly, the Exchange proposes to add Supplementary Material .24 setting forth that existing LLCs must promptly submit certified copies (to the extent possible) of articles of organization and operating agreements to the Exchange.

Second, the Exchange proposes to add Supplementary Material .25 providing restrictions on capital withdrawals by LLC members that are substantially the same as those applicable to corporations and partnerships. The Supplementary Material would provide that the capital contribution of any LLC member may not be withdrawn on less than six months' written notice of withdrawal given no sooner than six months after such contribution was first made without the prior written approval of the Exchange. The Supplementary Material would also specify that each member firm shall promptly notify the Exchange of the receipt of any notice of withdrawal of any part of a member's capital contribution or if any withdrawal is not made because prohibited under the provisions of Securities and Exchange Commission Rule 15c3–1.

Third, the Exchange proposes to add Supplementary Material .26 providing that LLCs not organized under the laws of New York State must subject themselves to the following restrictions: no distributions shall be declared or paid that impair the LLC's capital; and no distribution of assets shall be made to any member unless the value of the LLC's assets remaining after such payment or distribution is at least equal to the aggregate of its debts and liabilities, including capital. These proposed restrictions are based on existing restrictions applicable to member corporations and partnerships.

In addition, as noted above, the Exchange proposes to add new Supplementary Material .27 to Rule 313 specifying the requirements applicable to Foreign Member Organizations. The proposed new rule text would adopt, without substantive change, paragraphs (a), (b), and (c) of NASD Rule 1090 (Foreign Members), which impose specific requirements on FINRA members that do not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed by the SEC and FINRA.[9] As proposed, foreign

[5] Rule 311(b)(2) and (b)(3) currently impose the same requirement on the relevant control persons at corporations and partnerships, respectively.

[6] The first sentence of Rule 311(f) also provides that every member firm organization shall be a partnership or corporation. This statement is redundant to Rule 311(b), which the Exchange is amending to add LLCs. Accordingly, the Exchange proposes to delete the first sentence of Rule 311(f) in its entirety.

[7] *See* 17 CFR 240.15a–6 and Commission Guide to Broker-Dealer Registration, Division of Trading and Markets, available at *http://www.sec.gov/divisions/marketreg/bdguide.htm* (foreign broker-dealers that, from the outside of the United States, induce or attempt to induce securities transactions by any person in the United States, or that use the means or instrumentalities of interstate commerce in the United States for this purpose, must register as broker-dealers with the Commission).

[8] *See e.g.,* NASD Membership and Registration Rules (1000 Series). NASD Rule 1090 imposes specific requirements on members that do not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the SEC and the Exchange, which the Exchange proposes to import into Rule 313. *See* the discussion *infra*. *See also* BATS Exchange, Inc. Rules 2.3, 2.5 and 2.6.

[9] The Exchange is not proposing to adopt a rule similar to NASD Rule 1090(d), which requires foreign members to ''utilize, either directly or indirectly, the services of a broker/dealer registered with the Commission, a bank or a clearing agency registered with the Commission located in the United States in clearing all transactions involving members of the Association, except where both parties to a transaction agree otherwise.'' The Exchange agrees with FINRA, which similarly recommended skipping paragraph (d) as part of its contemplated adoption of NASD Rule 1090, that the provision is ''outdated'' and that clearing arrangements are better addressed by FINRA Rule 4311 (Carrying Agreements), which is based in part on Rule 382—Equities that FINRA Rule 4311 replaced. *See* FINRA Regulatory Notice 13–29 (September 2013). FINRA Rule 4311 governs the requirements applicable to members when entering into agreements for the carrying of any customer

Continued

member organizations that do not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the Commission and the Exchange would be required to: (1) Prepare all such reports, and maintain a general ledger chart of account and any description thereof, in English and U.S. dollars; (2) reimburse the Exchange or its representatives for expenses incurred in connection with examinations of the member organization to the extent that such expenses exceed the cost of examining a member organization located within the continental United States in the geographic location most distant from the Exchange's principal office or, in such other amount as the Exchange may deem to be an equitable allocation of such expenses; and (3) ensure the availability of an individual fluent in English and knowledgeable in securities and financial matters to assist representatives of the Exchange during examinations.

The Exchange also proposes to eliminate certain restrictions, which the Exchange considers redundant, on member organizations and prospective member organizations organized as partnerships and corporations. The Exchange proposes to eliminate the requirement in Rule 313.11 that the partnership articles of each member firm provide that capital withdrawals by partners cannot be made without the prior written approval of the Exchange. Rule 313.11 already requires the Exchange's prior written approval for any such capital withdrawals, and member organizations need to monitor for and comply with the prohibition, including whether particular withdrawals violate net capital requirements. The Exchange believes that because Exchange rules already govern this behavior, a partnership seeking approval as a member organization would not need to amend its partnership articles to reflect this existing rule requirement.[10]

Further, the Exchange proposes to eliminate the requirement in Rule 313.20 that prospective member corporations submit an opinion of counsel stating, among other things, that the corporation is duly organized and existing, that its stock is validly issued and outstanding, and that the restrictions and provisions required by the Exchange on the transfer, issuance, conversion and redemption of its stock have been made legally effective. Corporate members are required under the Rule to submit relevant corporate documents, including articles of incorporation, that contain the same information required in the opinion of counsel. The Exchange represents that requiring a legal opinion attesting to facts contained in a corporation's public filings is redundant and, given the expense, potentially a disincentive to smaller entities applying for Exchange membership.

Similarly, the Exchange proposes to remove the requirement in Rule 313.23 that the opinion of counsel submitted to the Exchange at the time the corporation applies for approval under Rule 313.20 state the extent to which the corporation has made the following prohibitions legally effective: the prohibition on declaring or paying a dividend that impairs the capital of the corporation and the prohibition on distributing assets to any stockholder unless the value of the corporate assets remaining after such payment or distribution is at least equal to the aggregate of its debts and liabilities, including capital. Rule 313.23 would continue to prohibit corporation members from declaring or paying dividends or distributing corporate assets that impair the corporation's capital, and member corporations would not be relieved of the obligation to monitor and enforce these prohibitions. The Exchange believes that requiring these representations in a separate legal opinion is redundant and serves no necessary regulatory or other purpose.[11]

Finally, the Exchange proposes to make certain miscellaneous amendments to Rule 313. Specifically, the Exchange proposes to replace outdated references to ''Regulation and Surveillance'' with ''the Exchange'' in Rules 313.10 and 313.20.[12] Similarly, the Exchange proposes to replace outdated references to ''photostatic'' copies in Rules 313.10 and 313.20 in connection with the submission of documents to the Exchange and replace them with ''electronically or mechanically reproduced.''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. The Exchange believes that adding LLCs to the list of eligible member organizations would remove impediments to and perfect the mechanism of a free and open market and a national market system by expanding the types of organizational forms a member organization may take. The Exchange also believes that permitting LLCs to become member organizations subject to the same restrictions and requirements currently applicable to corporations and partnerships also protects investors and the public interest by holding LLCs to the same high standards.

In addition, the Exchange believes that permitting non-United States-based registered broker-dealers that are members of FINRA or another registered securities exchange and that do not have their principal place of business in the United States to become Exchange member organizations would remove impediments to and perfect the mechanism of a free and open market by removing geographic restrictions on Exchange membership that are not required by FINRA or other exchanges. The Exchange further believes that broadening the Exchange membership pool by facilitating the participation of additional foreign-based U.S. registered broker-dealers would benefit investors and the public interest by increasing market participation and depth at the Exchange. Moreover, the Exchange believes that adoption of specific requirements for foreign members that do not maintain an office in the United States based on NASD Rule 1090 would further assure that foreign Exchange members, once approved, remain subject to regulatory examination and jurisdiction.

Similarly, the Exchange represents that updating the Exchange's rules to remove requirements, which the Exchange believes are redundant, that a member firm's partnership articles

accounts in which securities transactions can be effected.

[10] *See also* footnote 11, *infra.*

[11] FINRA Rule 4110 (Capital Compliance) contains similar prohibitions on capital withdrawals by FINRA members without requiring that the prohibitions be reflected in a firm's partnership articles or requiring a legal opinion that the member has made the prohibitions legally effective. *See* FINRA Rule 4110 (c)(1) (''No equity capital of a member may be withdrawn for a period of one year from the date such equity capital is contributed, unless otherwise permitted by FINRA in writing.'').

[12] Under Rule 0—Equities, references to the Exchange also refer to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to a Regulatory Services Agreement (''RSA''). FINRA currently provides member application proceedings services to the Exchange pursuant to an RSA.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

provide that capital withdrawals by partners cannot be made without the prior written approval of the Exchange, that prospective member corporations submit an opinion of counsel reciting facts contained in its public filings, and that certain prohibitions have been made legally effective would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that potential member organizations, persons subject to the Exchange's jurisdiction, regulators, and the public could more easily navigate the Exchange's rulebook and better understand what obligations attach and when. Further, the Exchange represents that updating the Exchange's rules to remove what the Exchange considers redundant requirements is also designed to protect investors as well as the public interest by providing transparency and reducing potential confusion regarding the Exchange membership process that may result from having what the Exchange characterizes as obsolete rules and outdated guidelines in the Exchange's rulebook. For the same reasons, the Exchange represents that updating the Exchange's rules to remove requirements that the Exchange considers outdated would remove impediments to and perfect the mechanism of a free and open market and a national market system and is equally designed to protect investors as well as the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change would foster competition by expanding the types of organizational forms a member organization may take and, by removing geographic restrictions on corporate Exchange membership, permitting foreign broker-dealers that are members of FINRA or another SRO and that do not have their principal place of business in the United States to become Exchange member organizations. The Exchange represents that, by removing outdated and redundant provisions from the Exchange membership rules not found in the rules of other SROs and adding a provision found in the rules of another SRO, the proposed rule change also would foster competition by providing greater harmonization between Exchange membership requirements and the requirements of other SROs, resulting in less burdensome and more efficient and consistent standards for prospective member organizations.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2014–97 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2014–97. 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 Section, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2014–97 and should be submitted on or before December 19, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–28083 Filed 11–26–14; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73669; File No. SR–NYSEMKT–2014–81]**

## Self-Regulatory Organizations; NYSE MKT LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Amending Rule 902.1NY To Authorize the Exchange To Share Any User-Designated Risk Settings in Exchange Systems With the Clearing Member That Clears Transactions on Behalf of the User

November 21, 2014.

On September 19, 2014, NYSE MKT LLC, (''NYSE MKT'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 902.1NY to authorize the Exchange to share any User-designated risk settings in Exchange systems with the Clearing Member[3] that clears transactions on

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 900.2NY (11) defining ''Clearing Member'' as ''an Exchange ATP Holder

Continued

behalf of the User.[4] The proposed rule change was published for comment in the **Federal Register** on October 7, 2014.[5] On November 19, 2014, the Exchange also submitted Amendment No. 1 to the proposed rule change. The Commission received one comment on the proposed rule change.

Section 19(b)(2) of the Act[6] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is November 21, 2014.[7] The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change. The proposed rule change, if approved, would authorize the Exchange to share any User-designated risk settings in Exchange systems with the Clearing Member that clears transactions on behalf of the User.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[8] designates January 5, 2015, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEMKT–2014–81).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Kevin M. O'Neill,**

*Deputy Secretary.*

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**BILLING CODE 8011–01–P**

which has been admitted to membership in the Options Clearing Corporation pursuant to the provisions of the Rules of the Options Clearing Corporation.''

[4] *See* Exchange Rule 900.2NY (87) defining ''User'' as ''any ATP Holder that is authorized to obtain access to the System pursuant to Rule 902.1NY.''

[5] *See* Securities Exchange Act Release No. 73280 (October 1, 2014), 79 FR 60553.

[6] 15 U.S.C. 78s(b)(2).

[7] On November 19, 2014, the Exchange consented to an extension of this time period until November 29, 2014. *See* 15 U.S.C. 78s(b)(2)(A)(ii)(II).

[8] *Id.*

[9] 17 CFR 200.30–3(a)(31).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73666; File No. SR–ICC–2014–16]**

## Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Related to ICC's Use of House Initial Margin as an Internal Liquidity Resource

November 21, 2014.

### I. Introduction

On October 1, 2014, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICC–2014–16 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on October 20, 2014.[3] The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

### II. Description of the Proposed Rule Change

ICC has stated that the purpose of the proposed rule change is to amend ICC Clearing Rule 402(j) to provide further clarity regarding ICC's obligation to return any Clearing Participant's House Initial Margin used as an internal liquidity resource. Under Rule 402(j), ICC may, in connection with a Clearing Participant default, (i) exchange House Initial Margin held in the form of cash for securities of equivalent value and/or (ii) exchange House Initial Margin held in the form of cash in one currency for cash of equivalent value in a different currency. The proposed rule change clarifies that the exchanges involving a Clearing Participant's Initial Margin in its House Account will occur on a temporary basis and that ICC will reverse any such exchange as soon as practicable following the conclusion of event which gave rise to the liquidity need. ICC states that the duration of the liquidity event will likely be significantly shorter than the amount of time necessary to complete the default management process for the event which gave rise to the liquidity need. The proposed rule change will also delete general references to ICC's liquidity policies and procedures and instead will use the defined term ''ICE Clear Credit Procedures'' found throughout the ICC Rules.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–73347 (Oct. 14, 2014), 79 FR 62683 (Oct. 20, 2014) (SR–ICC–2014–16).

### III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[4] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act[5] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

The Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act[6] and the rules and regulations thereunder applicable to ICC. The proposed modification to Rule 402(j) provides clarity regarding ICC's obligation and timing to return any House Initial Margin used as an internal liquidity resource and is reasonably designed to allow ICC to manage its liquidity needs in the event of one or more Clearing Participant defaults. Accordingly, the Commission believes that the proposed rule change is reasonably designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[7]

### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[8] and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[9] that the

[4] 15 U.S.C. 78s(b)(2)(C).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1.

[9] 15 U.S.C. 78s(b)(2).

proposed rule change (SR–ICC–2014–16) be, and hereby is, approved.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–28079 Filed 11–26–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73667; File No. SR–ICEEU–2014–23]**

## Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change to Finance Procedures

November 21, 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 November 14, 2014, ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been primarily prepared by ICE Clear Europe. ICE Clear Europe filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(4)(ii)[4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed change is to permit certain third party collateral purchase arrangements.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to modify the Finance Procedures to permit certain third party collateral purchase arrangements with respect to Triparty Collateral provided by F&O Clearing Members in respect of a Proprietary Account. Under such an arrangement, an F&O Clearing Member would, with the permission of the Clearing House, enter into a third party collateral purchase agreement (a ''Purchase Agreement'') with the Clearing House and a third party collateral purchaser (the ''TPCP'') designated by the Clearing Member. The TPCP may be an affiliate of the Clearing Member. Under the terms of the Purchase Agreement, if the Clearing House declares the Clearing Member to be a Defaulter under the Rules, then the Clearing House will offer to sell that Clearing Member's Triparty Collateral to the TPCP, for a specified price established by the Clearing House based on its determination of the market value of the collateral. The TPCP will have a specified period (expected to be two hours) to accept or reject the offer to sell. If the TPCP accepts the offer, the Clearing House will sell the Triparty Collateral to the TPCP at the specified price. The proceeds of such sale would be applied by the Clearing House in the default management process and net sum calculation in the same manner as any other liquidation of margin of a Defaulter. If the TPCP rejects the offer to sell, or does not respond within the specified period, the offer will expire, and the Clearing House will apply or liquidate the Triparty Collateral pursuant to the Rules as part of its usual default management process.

These arrangements would not apply to (i) margin, collateral or permitted cover provided by F&O Clearing Members other than Triparty Collateral, (ii) any margin, collateral or permitted cover provided with respect to a customer account, or (iii) any margin, collateral or permitted cover provided by CDS or FX Clearing Members in respect of CDS or FX Contracts, respectively.

The Clearing House proposes to permit third party collateral purchase arrangements to provide a pre-arranged alternative to collateral liquidation in the default management process for F&O Clearing Members. Certain F&O Clearing Members have requested that such arrangements be made available in order to facilitate their own collateral management activities. For example, ICE Clear Europe understands that for certain corporate groups, collateral to be transferred to the Clearing House may have been acquired by an affiliated entity (rather than the Clearing Member itself) through repurchase or similar transactions, and such entity may want to have the ability to reacquire the relevant collateral in order to settle such other transactions, even following a Clearing Member default. ICE Clear Europe has determined that the proposed collateral purchase arrangement is consistent with its own default management requirements. In this regard, if the TPCP accepts the offer, the Clearing House will be able to sell the relevant Triparty Collateral at the current market price, as determined by the Clearing House. The ability to sell such collateral to a willing buyer may avoid the need to liquidate such collateral in the market, and accordingly reduce time and transaction costs. In addition, the TPCP is granted only a short period of time (currently expected to be two hours) to respond to the Clearing House's offer, and if it rejects the offer or does not respond within such period, the Clearing House retains all of its existing rights and remedies with respect to the Triparty Collateral. ICE Clear Europe thus does not believe the proposed two-hour delay would adversely affect its ability to liquidate collateral or otherwise manage the default of an F&O Clearing Member.

To implement these arrangements, ICE Clear Europe proposes to adopt a new Paragraph 3.32 of the Finance Procedures, the text of which is as follows (new text *underlined*):

*3.32 At the request of an F&O Clearing Member, the Clearing House may, in its sole discretion, agree to enter into a collateral purchase agreement with a third party collateral purchaser and such F&O Clearing Member, under which the Clearing House will agree to offer for sale to the third party collateral purchaser Triparty Collateral deposited by such F&O Clearing Member for a Proprietary Account in respect of F&O Contracts, in the event of the F&O Clearing Member being declared a Defaulter under the Rules. The Clearing House shall have no obligation to enter into any such agreement, and the identity of any such third party*

[10] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(ii).

*collateral purchaser must be approved by the Clearing House pursuant to criteria established by the Clearing House. Any such collateral purchase agreement must be in the form approved by the Clearing House for such purposes from time to time.*

Paragraph 3.32 will thus authorize, but not require, the Clearing House to enter into a Purchase Agreement at the request of an F&O Clearing Member relating to Triparty Collateral provided with respect to a Proprietary Account. The Clearing House would need to approve the particular arrangement, including the TPCP. Paragraph 3.32 also contemplates that the Clearing House will develop and approve its own form of agreement to be used for this purpose (subject to modification in particular cases) that is consistent with the Clearing House's default management requirements. With respect to approval of TPCPs, the Clearing House will establish criteria focusing on the credit standing of the entity as well as considerations relating to legal enforceability of the arrangement, treatment of the arrangement in relevant insolvency proceedings and similar matters relevant to maintaining the integrity of the Clearing House's default management process.

2. Statutory Basis

ICE Clear Europe believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [5] and the regulations thereunder applicable to it, including the standards under Rule 17Ad–22.[6] Section 17A(b)(3)(F) of the Act [7] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. In addition, Rule 17Ad–22(d)(11) [8] requires that the clearing agency establish default procedures that ensure that the clearing agency can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a clearing member default.

The third party collateral purchase arrangements will use the existing Clearing House procedures for Triparty Collateral, which is held with a triparty collateral service provider such as Euroclear Bank. As a result, the proposed rule change will not adversely affect the manner in which collateral provided by a Clearing Member is currently held, prior to default, and accordingly will not adversely affect the safeguarding of securities or funds in the custody or control of ICE Clear Europe or for which it is responsible, within the meaning of Section 17A(b)(3)(F) of the Act.[9] It bears noting in this regard that the proposed arrangements are limited to the Proprietary Accounts of F&O Clearing Members, and would not apply to any Customer Account. The arrangement also would not apply to CDS Clearing Members or FX Clearing Members acting in their capacities as such.

In terms of default management, as discussed above, ICE Clear Europe believes that the proposed amendments would not interfere with its ability to manage a Clearing Member default, consistent with the standards in the Act and Rule 17Ad–22. Under its existing Rules, the Clearing House has broad rights to apply and liquidate collateral provided by a Clearing Member following its default.[10] In ICE Clear Europe's view, the proposed arrangements provide an additional means by which Triparty Collateral can be liquidated following default. In this regard, the arrangements may provide certain default management benefits if the collateral purchase option is exercised, as the collateral purchase option will provide the Clearing House with the cash value of the relevant collateral promptly, without the need for the Clearing House to undertake the liquidation of the collateral in the market (and incur related expenses). The proposed third party collateral purchase arrangement would provide only a brief period (expected to be two hours) in which the TPCP would have the right to purchase the Triparty Collateral. ICE Clear Europe does not believe this delay, even in the event the TPCP did not elect to purchase the collateral, would materially impact the Clearing House's ability to manage a default or liquidate collateral following expiration of the period. As a result, ICE Clear Europe believes that the proposed amendments are consistent with the requirements of Rule 17Ad–22(d)(11).[11]

As discussed above, ICE Clear Europe is proposing these arrangements at the request of F&O Clearing Members seeking to improve their own collateral management. In this respect, ICE Clear Europe believes that the proposed amendments are also consistent with the requirements of Rule 17Ad–22(d)(6),[12] which requires that clearing agency procedures be cost-effective in meeting the requirements of participants while maintaining safe and secure operations.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes will provide additional flexibility by permitting the use, on a voluntary basis, of third party collateral purchase arrangements for those F&O Clearing Members that are interested in such arrangements. No Clearing Member will be required to use these arrangements, and the changes will thus not affect those Clearing Members that do not participate in such arrangements. In addition, the amendments will not otherwise affect the terms or conditions of any cleared contract or the standards or requirements for participation in or use of the Clearing House. Accordingly, the changes should not, in the Clearing House's view, affect the availability of clearing, access to clearing services or the costs of clearing for clearing members or other market participants.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed change to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [13] of the Act and Rule 19b–4(f)(4)(ii) [14] thereunder because it effects a change in an existing service of a registered clearing agency that primarily affects the operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, and does not significantly

[5] 15 U.S.C. 78q–1.

[6] 17 CFR 240.17Ad–22.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 240.17Ad–22(d)(11).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] See Rules 903–906.

[11] 17 CFR 240.17Ad–22(d)(11).

[12] 17 CFR 240.17Ad–22(d)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f).

affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities clearing service, within the meaning of Rule 19b–4(f)(4)(ii). At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2014–23 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–ICEEU–2014–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/clear-europe/regulation#rule-filings.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2014–23 and should be submitted on or before December 19, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–28080 Filed 11–26–14; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73665; File No. SR–NYSEArca–2014–133]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 6.1A To Adopt a Definition of ''Professional Customer'' on the Exchange

November 21, 2014.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 17, 2014, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Rule 6.1A (Definitions and References—OX) to adopt a definition of ''Professional Customer'' on the Exchange. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange is proposing to amend Rule 6.1A (Definitions and References—OX) to include a definition of ''Professional Customer'' and to amend Commentary .03 of Rule 6.69 to specify how all Professional Customer orders should be marked.

As proposed, the new term, ''Professional Customer'' would be defined in Exchange Rule 6.1A(a)(4A), as a person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). In connection with this new definition, the Exchange proposes to add to Commentary of Rule 6.69 the origin code OTP Holders would be required to use to properly represent orders of a ''Professional Customer.''[4] To determine whether an order is a Professional Customer order, OTP Holders would be required to review their customers' activity on at least a quarterly basis to determine whether orders that are not for the account of a broker or dealer should be represented as Customer orders or Professional Customer orders.[5]

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange intends to require firms to identify Professional Customer orders submitted electronically to the system by identifying them with the number ''8'' in the customer type field—a mandatory field required for order entry. Manual orders submitted outside the electronic system would be marked with an origin code ''PC.''

[5] Orders for any customer that had an average of more than 390 orders per day during any month of a calendar quarter must be represented as Professional Customer orders for the next calendar quarter. OTP Holders would be required to conduct a quarterly review and make any appropriate changes to the way in which they are representing orders within five business days after the end of each calendar quarter. While members only would be required to review their accounts on a quarterly

Continued

The Exchange believes that identifying Professional Customer accounts based upon the average number of orders entered in qualified accounts is an appropriate, objective approach that will reasonably distinguish such persons and entities from non-professional, retail investors or market participants. The Exchange believes that the proposed threshold of 390 orders per day on average over a calendar month far exceeds the number of orders that are entered by retail investors in a single day and therefore is an appropriate threshold for identifying non-retail Customers.[6] In addition, basing the standard on the number of orders that are entered in listed options for a qualified account(s) assures that Professional Customer account holders cannot inappropriately avoid the purpose of the rule by spreading their trading activity over multiple exchanges, and using an average number over a calendar month will prevent gaming of the 390 order threshold. The Exchange also proposes to make corresponding changes to Rule 6.69 regarding the marking of orders.

The Professional Customer definition proposed by the Exchange, including the 390 orders per day threshold, is similar to designations that have been adopted by all other options exchanges.[7] The Exchange is not proposing at this time to revise any order execution or processing rules, including its priority rules, to change the treatment of Professional Customers.[8] Instead, Professional Customer orders will be treated as Customer orders under Exchange rules for all purposes, except those related to order marking.[9] As the only options Exchange to have not yet adopted the Professional Customer definition, the Exchange's proposal will allow OTP Holders to mark their Professional Customer orders similarly regardless of whether the order is placed on the Exchange or another options exchange. Moreover, with the proposed Professional Customer designation in place, the Exchange's rules will facilitate cross-market initiatives (such as harmonizing rules relating to Obvious Errors).

The Exchange will announce by Trader Update when it will implement this proposed rule change and when the functionality to support the marking of Professional Customer orders is available. In order to provide sufficient time for OTP Holders to prepare any system changes, the date of implementation shall be no sooner than 30 calendar days after the publication of the Trader Update.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[10] of the Act, in general, and furthers the objectives of Section 6(b)(5),[11] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change, by defining Professional Customer, will remove impediments to, and perfect the mechanism of, a free and open market and a national market system, by providing consistent regulation for OTP Holders that are members of other SROs with analogous rules, thus allowing market participants to route orders to all markets using the same capacity. Further, the Exchange believes that, by harmonizing its rules with every other options market to add the term Professional Customer, it will promote just and equitable principles of trade by better allowing the market participants to be treated similarly across exchanges. In requiring market participants to identify their orders, the Exchange believes it promotes just and equitable principles of trade by allowing it a better understanding of the trading activity on its market.

Finally, the Exchange believes that amending Rule 6.69 to conform with the addition of the Professional Customer designation will protect investors and the public interest by providing guidance to OTP Holders regarding the marking of Professional Customer orders.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any aspect of competition, whether between the Exchange and its competitors, or among market participants. Instead, the proposed rule change is designed to adopt a category of market participant on the same terms as that of every other options exchange.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[12] and Rule

basis, if during a quarter the Exchange identifies a customer for which orders are being represented as Customer orders but that has averaged more than 390 orders per day during a month, the Exchange would notify the OTP Holder and the OTP Holder would be required to change the manner in which it is representing the customer's orders within five business days.

[6] In approving a similar filing of the International Securities Exchange, LLC (''ISE''), the Commission referenced statements made by ISE that 390 orders is equal to the total number of orders that a person would place in a day if that person entered one order every minute from market open to market close. Many of the largest retail-oriented electronic brokers offer lower commission rates to customers they define as ''active traders.'' Publicly available information from the Web sites of Charles Schwab, Fidelity, TD Ameritrade and OptionsXpress all define ''active trader'' as someone who executes only a few options trades per month. The highest required trading activity to qualify as an active trader among these four firms was 35 trades per quarter. *See* note 14 of Securities Exchange Act Release No. 59287 (January 23, 2009), 74 FR 5694, 5695 (January 30, 2009) (which also notes that a study of one of the largest retail-oriented options brokerage firms indicated that on a typical trading day, options orders were entered with respect to 5,922 different customer accounts. There was only one order entered with respect to 3,765 of the 5,922 different customer accounts on this day, and there were only 17 customer accounts with respect to which more than ten orders were entered. The highest number of orders entered with respect to any one account over the course of an entire week was 27).

[7] *See* BATS Exchange, Inc. (''BATS'') Rule 16.1(a)(45), Boston Options Exchange LLC (''BOX'') Rule 100(a)(5), NASDAQ OMX BX, Inc. (''BX'') Chapter I, Section 1(a)(49), Chicago Board Options Exchange, Incorporated, (''CBOE'') Rule 1.1(ggg), C2 Options Exchange, Incorporated (''C2'') Rule 1.1, the International Securities Exchange, LLC (''ISE'') Rule 100(a)(37A), Miami International Securities Exchange, LLC (''MIAX'') Rule 100, the Nasdaq Stock Market LLC on behalf of the NASDAQ Options Market (''NOM'') Chapter I, Section 1(a)(48), NYSE MKT LLC on behalf of NYSE Amex Options (''NYSE Amex Options'') Rule 900.2NY(18A), NASDAQ OMX PHLX, Inc. (''PHLX'') Rule 1000(b)(14), and Topaz Exchange, LLC (d/b/a ISE Gemini) (''Topaz'') Rule 100(a)(37A).

[8] The Exchange's proposed definition of Professional Customer is the same as in the rules of BATS and NOM. In addition, like the Exchange's proposal, BATS and NOM do not treat Professional Customers differently than Customers for purposes of execution or processing. *See* Securities Exchange Act Release Nos. 65500 (October 6, 2011), 76 FR 63686 (October 13, 2011) (SR–BATS–2011–041) and 63028 (October 1, 2010), 75 FR 62443 (October 8, 2010) (SR–NASDAQ–2010–099).

[9] While the Exchange is not proposing to change the priority rules applicable to orders of Professional Customers, it may, in the future, propose to change its rules to differentiate between Professional Customer orders and other orders for purposes of priority or fees. The Exchange would not implement such changes until proposed rule changes were appropriately filed with the Commission and effective under Commission rules.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

19b–4(f)(6) thereunder.[13] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[14] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[15] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[16] of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSEArca–2014–133 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2014–133. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method.

The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2014–133, and should be submitted on or before December 19, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–28078 Filed 11–26–14; 8:45 am]

**BILLING CODE 8011–01–P**

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–73672; File No. SR–NYSE–2014–63]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Rules 311 and 313 To Add Limited Liability Companies as Eligible Member Organizations and Delineate the Information Limited Liability Companies Must Submit to the Exchange as Part of the Membership Process; Eliminate the Requirement That a Member Corporation Be Created or Organized, and Maintain Its Principal Place of Business, in the United States; and Make Additional Related Amendments To Update Its Membership Rules

November 21, 2014.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 12, 2014, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rules 311 and 313 to add limited liability companies as eligible member organizations and delineate the information limited liability companies must submit to the Exchange as part of the membership process; eliminate the requirement that a member corporation be created or organized, and maintain its principal place of business, in the United States; and make additional related amendments to update its membership rules. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Rules 311 and 313 to add limited liability companies (''LLCs'') to the types of eligible member organizations and delineate the information LLCs must submit to the Exchange as part of the membership process; eliminate the requirement that a member corporation be created or organized, and maintain its principal place of business, in the United States; and make additional related amendments to update its membership rules.

Rule 311

NYSE Rule 311 governs the formation and approval of member organizations. The Exchange proposes to revise Rule 311 to explicitly provide for LLCs to apply to become member organizations and eliminate the requirement that a member corporation be created or organized, and maintain its principal place of business, in the United States.

First, the Exchange's membership rules currently provide for member organizations to be corporations or partnerships, but have not explicitly provided for LLCs.[4] The Exchange proposes to add LLCs to the types of potential member organizations and require LLCs to meet the same requirements currently applicable to partnerships and corporations set forth in Rule 311(b). As part of the proposed revision, the Exchange seeks to add a new section (4) to Rule 311(b) requiring every member of an LLC to be a member, principal executive or approved person.[5] Similarly, the Exchange proposes to amend current Rule 311(b)(6) to reflect that proposed LLC member organizations must, like corporations and partnerships, also comply with any additional requirements as the rules of the Exchange may prescribe. The Exchange also proposes to add new Supplementary Material .16 to Rule 311 to specify that LLC applicants for Exchange membership are subject to Rule 313.24 regarding the submission of copies of proposed or existing limited liability company documents and other agreements.

The Exchange also proposes to amend Rule 311(f) to eliminate the geographic limitation on incorporation and domicile of corporation members and delete the related interpretations of Rule 311(f). The first sentence of Rule 311(f) currently provides that every member corporation be a corporation ''created or organized under the laws of, and shall maintain its principal place of business in, the United States or any State thereof.'' [6] The Exchange does not believe that the Exchange's restriction on whether foreign entities may be a member organization is consistent with either federal rules or those of other self-regulatory organizations (''SRO''). For example supporting its belief, the Exchange states that rules promulgated pursuant to the Act require, under certain circumstances, a foreign broker-dealer to register with the Commission.[7] The Exchange also states that other SROs, including the Financial Industry Regulatory Authority, Inc. (''FINRA''), do not require their members to be domiciled in the United States.[8]

The Exchange believes that the current restriction in Rule 311(f) puts it at a competitive disadvantage because it restricts foreign broker-dealers that are registered with the Commission and are members of another SRO from also becoming Exchange member organizations. The Exchange notes that its rules already require member organizations to meet prerequisites as specified in Rule 2(b). Specifically, regardless of corporate form, all member organizations must be registered broker-dealers that are members of FINRA or another registered securities exchange. If a registered broker-dealer transacts business with public customers or conducts business on the Floor of the Exchange, such member organization must be a member of FINRA.

The Exchange further notes that a member organization will be subject to regulatory examination and jurisdiction for misconduct whether or not it is based in the United States. However, for the avoidance of doubt, as discussed below, the Exchange proposes to add supplementary material to Rule 313 based on NASD Rule 1090 that imposes certain requirements on foreign members that do not maintain an office in the United States.

Rule 313

NYSE Rule 313 sets forth certain corporate or partnership documents that each member organization must submit to enter into and continue in NYSE membership. The Rule also sets forth certain restrictions on capital withdrawals and distributions applicable to member corporations and partnerships. The Exchange proposes to amend Rule 313 to delineate the types of documents LLCs must submit that, as noted, mirror the requirements currently in place for member corporations and partnerships.

First, the Exchange proposes to add a subsection (d) to Rule 313 requiring all articles of organization and operating documents for LLCs to be submitted for Exchange approval prior to becoming effective. Relatedly, the Exchange proposes to add Supplementary Material .24 setting forth that existing LLCs must promptly submit certified copies (to the extent possible) of articles of organization and operating agreements to the Exchange.

Second, the Exchange proposes to add Supplementary Material .25 providing restrictions on capital withdrawals by LLC members that are substantially the same as those applicable to corporations and partnerships. The Supplementary Material would provide that the capital contribution of any LLC member may not be withdrawn on less than six

[4] Current Rule 311(f) permits the Exchange to approve ''entities that have characteristics essentially similar to corporations, partnerships, or both'' as a member organization ''on such terms and conditions as the Exchange may prescribe.''

[5] Rule 311(b)(2) and (b)(3) currently impose the same requirement on the relevant control persons at corporations and partnerships, respectively.

[6] The first sentence of Rule 311(f) also provides that every member firm organization shall be a partnership or corporation. This statement is redundant to Rule 311(b), which the Exchange is amending to add LLCs. Accordingly, the Exchange proposes to delete the first sentence of Rule 311(f) in its entirety.

[7] *See* 17 CFR 240.15a-6 and Commission Guide to Broker-Dealer Registration, Division of Trading and Markets, available at *http://www.sec.gov/divisions/marketreg/bdguide.htm* (foreign broker-dealers that, from the outside of the United States, induce or attempt to induce securities transactions by any person in the United States, or that use the means or instrumentalities of interstate commerce in the United States for this purpose, must register as broker-dealers with the Commission).

[8] *See e.g.,* NASD Membership and Registration Rules (1000 Series). NASD Rule 1090 imposes specific requirements on members that do not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the SEC and the Exchange, which the Exchange proposes to import into Rule 313. *See* the discussion *infra*. *See also* BATS Exchange, Inc. Rules 2.3, 2.5 and 2.6.

months' written notice of withdrawal given no sooner than six months after such contribution was first made without the prior written approval of the Exchange. The Supplementary Material would also specify that each member firm shall promptly notify the Exchange of the receipt of any notice of withdrawal of any part of a member's capital contribution or if any withdrawal is not made because prohibited under the provisions of Securities and Exchange Commission Rule 15c3–1.

Third, the Exchange proposes to add Supplementary Material .26 providing that LLCs not organized under the laws of New York State must subject themselves to the following restrictions: No distributions shall be declared or paid that impair the LLC's capital; and no distribution of assets shall be made to any member unless the value of the LLC's assets remaining after such payment or distribution is at least equal to the aggregate of its debts and liabilities, including capital. These proposed restrictions are based on existing restrictions applicable to member corporations and partnerships.

In addition, as noted above, the Exchange proposes to add new Supplementary Material .27 to Rule 313 specifying the requirements applicable to Foreign Member Organizations. The proposed new rule text would adopt, without substantive change, paragraphs (a), (b), and (c) of NASD Rule 1090 (Foreign Members), which impose specific requirements on FINRA members that do not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed by the SEC and FINRA.[9] As proposed, foreign member organizations that do not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the Commission and the Exchange would be required to: (1) Prepare all such reports, and maintain a general ledger chart of account and any description thereof, in English and U.S. dollars; (2) reimburse the Exchange or its representatives for expenses incurred in connection with examinations of the member organization to the extent that such expenses exceed the cost of examining a member organization located within the continental United States in the geographic location most distant from the Exchange's principal office or, in such other amount as the Exchange may deem to be an equitable allocation of such expenses; and (3) ensure the availability of an individual fluent in English and knowledgeable in securities and financial matters to assist representatives of the Exchange during examinations.

The Exchange also proposes to eliminate certain restrictions, which the Exchange considers redundant, on member organizations and prospective member organizations organized as partnerships and corporations. The Exchange proposes to eliminate the requirement in Rule 313.11 that the partnership articles of each member firm provide that capital withdrawals by partners cannot be made without the prior written approval of the Exchange. Rule 313.11 already requires the Exchange's prior written approval for any such capital withdrawals, and member organizations need to monitor for and comply with the prohibition, including whether particular withdrawals violate net capital requirements. The Exchange believes that because Exchange rules already govern this behavior, a partnership seeking approval as a member organization would not need to amend its partnership articles to reflect this existing rule requirement.[10]

Further, the Exchange proposes to eliminate the requirement in Rule 313.20 that prospective member corporations submit an opinion of counsel stating, among other things, that the corporation is duly organized and existing, that its stock is validly issued and outstanding, and that the restrictions and provisions required by the Exchange on the transfer, issuance, conversion and redemption of its stock have been made legally effective. Corporate members are required under the Rule to submit relevant corporate documents, including articles of incorporation, that contain the same information required in the opinion of counsel. The Exchange represents that requiring a legal opinion attesting to facts contained in a corporation's public filings is redundant and, given the expense, potentially a disincentive to smaller entities applying for Exchange membership.

Similarly, the Exchange proposes to remove the requirement in Rule 313.23 that the opinion of counsel submitted to the Exchange at the time the corporation applies for approval under Rule 313.20 state the extent to which the corporation has made the following prohibitions legally effective: The prohibition on declaring or paying a dividend that impairs the capital of the corporation and the prohibition on distributing assets to any stockholder unless the value of the corporate assets remaining after such payment or distribution is at least equal to the aggregate of its debts and liabilities, including capital. Rule 313.23 would continue to prohibit corporation members from declaring or paying dividends or distributing corporate assets that impair the corporation's capital, and member corporations would not be relieved of the obligation to monitor and enforce these prohibitions. The Exchange believes that requiring these representations in a separate legal opinion is redundant and serves no necessary regulatory or other purpose.[11]

Finally, the Exchange proposes to make certain miscellaneous amendments to Rule 313. Specifically, the Exchange proposes to replace outdated references to ''Regulation and Surveillance'' with ''the Exchange'' in Rules 313.10 and 313.20.[12] Similarly, the Exchange proposes to replace outdated references to ''photostatic'' copies in Rules 313.10 and 313.20 in connection with the submission of documents to the Exchange and replace them with ''electronically or mechanically reproduced.''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

[9] The Exchange is not proposing to adopt a rule similar to NASD Rule 1090(d), which requires foreign members to ''utilize, either directly or indirectly, the services of a broker/dealer registered with the Commission, a bank or a clearing agency registered with the Commission located in the United States in clearing all transactions involving members of the Association, except where both parties to a transaction agree otherwise.'' The Exchange agrees with FINRA, which similarly recommended skipping paragraph (d) as part of its contemplated adoption of NASD Rule 1090, that the provision is ''outdated'' and that clearing arrangements are better addressed by FINRA Rule 4311 (Carrying Agreements), which is based in part on NYSE Rule 382 (including NYSE Rule Interpretations 382/01 through 382/05 and 409(a)/01), that FINRA Rule 4311 replaced. *See* FINRA Regulatory Notice 13–29 (September 2013). FINRA Rule 4311 governs the requirements applicable to members when entering into agreements for the carrying of any customer accounts in which securities transactions can be effected.

[10] *See also* footnote 11, *infra.*

[11] FINRA Rule 4110 (Capital Compliance) contains similar prohibitions on capital withdrawals by FINRA members without requiring that the prohibitions be reflected in a firm's partnership articles or requiring a legal opinion that the member has made the prohibitions legally effective. *See* FINRA Rule 4110 (c)(1) (''No equity capital of a member may be withdrawn for a period of one year from the date such equity capital is contributed, unless otherwise permitted by FINRA in writing.'').

[12] Under Rule 0, references to the Exchange also refer to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to a Regulatory Services Agreement (''RSA''). FINRA currently provides member application proceedings services to the Exchange pursuant to an RSA.

Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. The Exchange believes that adding LLCs to the list of eligible member organizations would remove impediments to and perfect the mechanism of a free and open market and a national market system by expanding the types of organizational forms a member organization may take. The Exchange also believes that permitting LLCs to become member organizations subject to the same restrictions and requirements currently applicable to corporations and partnerships also protects investors and the public interest by holding LLCs to the same high standards.

In addition, the Exchange believes that permitting non-United States-based registered broker-dealers that are members of FINRA or another registered securities exchange and that do not have their principal place of business in the United States to become Exchange member organizations would remove impediments to and perfect the mechanism of a free and open market by removing geographic restrictions on Exchange membership that are not required by FINRA or other exchanges. The Exchange further believes that broadening the Exchange membership pool by facilitating the participation of additional foreign-based U.S. registered broker-dealers would benefit investors and the public interest by increasing market participation and depth at the Exchange. Moreover, the Exchange believes that adoption of specific requirements for foreign members that do not maintain an office in the United States based on NASD Rule 1090 would further assure that foreign Exchange members, once approved, remain subject to regulatory examination and jurisdiction.

Similarly, the Exchange represents that updating the Exchange's rules to remove requirements, which the Exchange believes are redundant, that a member firm's partnership articles provide that capital withdrawals by partners cannot be made without the prior written approval of the Exchange, that prospective member corporations submit an opinion of counsel reciting facts contained in its public filings, and that certain prohibitions have been made legally effective would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that potential member organizations, persons subject to the Exchange's jurisdiction, regulators, and the public could more easily navigate the Exchange's rulebook and better understand what obligations attach and when. Further, the Exchange represents that updating the Exchange's rules to remove what the Exchange considers redundant requirements is also designed to protect investors as well as the public interest by providing transparency and reducing potential confusion regarding the Exchange membership process that may result from having what the Exchange characterizes as obsolete rules and outdated guidelines in the Exchange's rulebook. For the same reasons, the Exchange represents that updating the Exchange's rules to remove requirements that the Exchange considers outdated would remove impediments to and perfect the mechanism of a free and open market and a national market system and is equally designed to protect investors as well as the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change would foster competition by expanding the types of organizational forms a member organization may take and, by removing geographic restrictions on corporate Exchange membership, permitting foreign broker-dealers that are members of FINRA or another SRO and that do not have their principal place of business in the United States to become Exchange member organizations. The Exchange represents that, by removing outdated and redundant provisions from the Exchange membership rules not found in the rules of other SROs and adding a provision found in the rules of another SRO, the proposed rule change also would foster competition by providing greater harmonization between Exchange membership requirements and the requirements of other SROs, resulting in less burdensome and more efficient and consistent standards for prospective member organizations.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2014–63 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2014–63. 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

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2014–63 and should be submitted on or before December 19, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–28084 Filed 11–26–14; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

## DEPARTMENT OF STATE

**[Public Notice: 8958]**

### Culturally Significant Objects Imported for Exhibition Determinations: ''Frida Kahlo and Diego Rivera From the Jacques and Natasha Gelman Collection and 20th Century Mexican Art From the Stanley and Pearl Goodman Collection''

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Frida Kahlo and Diego Rivera from the Jacques and Natasha Gelman Collection and 20th Century Mexican Art from the Stanley and Pearl Goodman Collection,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Nova Southeastern University Museum of Art, Fort Lauderdale, Florida, from on or about February 26, 2015, until on or about May 31, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: November 20, 2014.

**Kelly Keiderling,**

*Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2014–28048 Filed 11–26–14; 8:45 am]

BILLING CODE 4710–05–P

## DEPARTMENT OF STATE

**[Public Notice: 8956]**

### Culturally Significant Objects Imported for Exhibition Determinations: ''Rembrandt: A Decade of Brilliance (1648–1658)''

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Rembrandt: A Decade of Brilliance (1648–1658),'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the University of San Diego's University Galleries, from on or about March 21, 2015, until on or about May 22, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: November 18, 2014.

**Kelly Keiderling,**

*Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2014–28049 Filed 11–26–14; 8:45 am]

BILLING CODE 4710–05–P

## DEPARTMENT OF STATE

**[Public Notice: 8957]**

### Culturally Significant Objects Imported for Exhibition Determinations: ''Islamic Galleries''

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Islamic Galleries,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Art Institute of Chicago, Chicago, Illinois, from on or about December 18, 2014, until on or about November 17, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: November 18, 2014.

**Kelly Keiderling,**

*Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2014–28045 Filed 11–26–14; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Delegation of Authority No. 378]**

### Delegation of the Authority To Make Determinations Under 22 U.S.C. 2656f(d) From the Secretary of State to the Under Secretary for Management

By virtue of the authority vested in the Secretary of State by the State Department Basic Authorities Act (22 U.S.C. 2651a) and Section 140 of the Foreign Relations Authorization Act, 1988 and 1989 (Pub. L. 100–204), as amended (22 U.S.C. 2656f), I hereby delegate to the Under Secretary of State for Management, to the extent consistent with law, the authority to determine whether an individual's death resulted from terrorism or an act of terrorism, for the purpose of approving the payment of certain death benefits under Sections 413, 415, and 416 of the Foreign Service Act of 1980, as amended (22 U.S.C 3973, 3975, 3976).

In exercising the authority delegated herein, the Under Secretary will consult with relevant Department of State offices and bureaus before making the determination that a death resulted from terrorism or an act of terrorism.

Notwithstanding this Delegation of Authority, the Secretary, the Deputy Secretary, or the Deputy Secretary for Management and Resources may at any time exercise any function delegated by this delegation of authority.

Any act, executive order, regulation or procedure affected by this delegation shall be deemed to be such act, executive order, regulation, or procedure as amended from time to time. The delegation of authority does not revoke, supersede, or otherwise affect any other delegation of authority to the Under Secretary for Management.

This delegation of authority shall be published in the **Federal Register**.

**John F. Kerry**

*Secretary of State.*

[FR Doc. 2014–28044 Filed 11–26–14; 8:45 am]

**BILLING CODE 4710–15–P**

## DEPARTMENT OF TRANSPORTATION

### Intelligent Transportation Systems Program Advisory Committee; Notice of Meeting

**AGENCY:** ITS Joint Program Office, Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation.

**ACTION:** Notice.

The Intelligent Transportation Systems (ITS) Program Advisory Committee (ITSPAC) will hold a teleconference on December 16, 2014, from 3:00 p.m. to 5:00 p.m. (EST).

The ITSPAC, established under Section 5305 of Public Law 109–59, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, August 10, 2005, and re-established under Section 53003 of Public Law 112–141, Moving Ahead for Progress in the 21st Century, July 6, 2012, was created to advise the Secretary of Transportation on all matters relating to the study, development, and implementation of intelligent transportation systems. Through its sponsor, the ITS Joint Program Office (JPO), the ITSPAC makes recommendations to the Secretary regarding ITS Program needs, objectives, plans, approaches, content, and progress.

The following is a summary of the meeting tentative agenda: (1) Call to Order, Welcome, and Roll Call, (2) Meeting Work Plan Review, (3) Discussion of Potential Study Topics, (4) Review Action Items and Next Steps.

The teleconference will be open to the public, but limited conference lines will be available on a first-come, first-served basis. Members of the public who wish to participate in the teleconference must submit a request to: Mr. Stephen Glasscock, the Committee Designated Federal Official, at (202) 366–9126, not later than December 9, 2014. In addition, for planning purposes, your request must also indicate whether you wish to present oral statements during the teleconference.

Questions about the agenda or written comments may be submitted by U.S. Mail to: U.S. Department of Transportation, Office of the Assistant Secretary for Research and Technology, ITS Joint Program Office, Attention: Stephen Glasscock, 1200 New Jersey Avenue SE., HOIT, Washington, DC 20590 or faxed to (202) 493–2027. The ITS JPO requests that written comments be submitted not later than December 9, 2014.

Notice of this teleconference is provided in accordance with the Federal Advisory Committee Act and the General Services Administration regulations (41 CFR part 102–3) covering management of Federal advisory committees.

Issued in Washington, DC, on the 21st day of November 2014.

**John Augustine,**

*Managing Director, ITS Joint Program Office.*

[FR Doc. 2014–28097 Filed 11–26–14; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### National Highway Traffic Safety Administration

**[FHWA Docket no. FHWA–2014–0032]**

### Retrospective Regulatory Review—State Safety Plan Development and Reporting

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

**ACTION:** Notice; request for comments.

**SUMMARY:** In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, FHWA and NHTSA are evaluating their State highway safety plan development and reporting requirements. As part of this review, this notice requests comments on actions FHWA and NHTSA could take without statutory changes to better streamline and harmonize State highway safety plan development and reporting requirements.

**DATES:** Comments must be received on or before December 29, 2014.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, or fax comments to (202) 493–2251. Alternatively, comments may be submitted to the Federal eRulemaking portal at *http://www.regulations.gov.* All comments must include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search

the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). Anyone may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78), or you may visit *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** For questions about the program discussed herein, contact Melonie Barrington, FHWA Office of Safety, (202) 366–8029, or via email at *Melonie.Barrington@dot.gov*; or Barbara Sauers, NHTSA Office of Regional Operations and Program Delivery, (202) 366–0144, or via email at *Barbara.Sauers@dot.gov*. For legal questions, please contact William Winne, Attorney-Advisor, FHWA Office of the Chief Counsel, (202) 366–1397, or via email at *William.winne@dot.gov;* or Jin H. Kim, Attorney-Advisor, NHTSA Office of the Chief Counsel, (202) 366–1834, or via email at *Jin.Kim@dot.gov*. Business hours for the DOT are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## Electronic Access and Filing

You may submit or retrieve comments online through the Federal eRulemaking portal at: *www.regulations.gov.* The Web site is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from Office of the Federal Register's Web site at: *http://www.archives.gov/federal_register* and the Government Printing Office's Web site at: *http://www.gpoaccess.gov.*

## Background

On January 18, 2011, President Obama issued Executive Order 13563, which outlined a plan to improve regulation and regulatory review (76 FR 3821). Executive Order 13563 reaffirms and builds upon governing principles of contemporary regulatory review, including Executive Order 12866, Regulatory Planning and Review (58 FR 51735), by requiring Federal agencies to design cost-effective, evidence-based regulations that are compatible with economic growth, job creation, and competitiveness. The President's plan recognizes that these principles should not only guide the Federal government's approach to new regulations, but to existing ones as well. To that end, Executive Order 13563 requires agencies to retrospectively review existing significant rules to determine if they are outmoded, ineffective, insufficient, or excessively burdensome. Accordingly, FHWA and NHTSA are soliciting public comment on their State highway safety plan development and reporting requirements.

The FHWA's Highway Safety Improvement Program (HSIP) and NHTSA's State Highway Safety Grant Programs share a common goal—to save lives on our Nation's roadways—and have related performance goals and measures. These programs have complementary but distinctly different focus areas and administrative and operational procedures and requirements. The HSIP primarily addresses infrastructure-related projects and strategies. The NHTSA's Highway Safety Grant Programs focus on driver behavior projects and strategies. Both programs contribute to the goals and objectives of the Strategic Highway Safety Plan (SHSP), but they do so in different ways based on different statutory authority. One notable particular is that the statute governing the NHTSA grant program requires State highway safety activities to be under the direct auspices of the Governor, giving rise to unique issues, considerations, and responsibilities under that program.

The HSIP projects and State Highway Safety Plan (HSP) must be coordinated with the SHSP. The SHSP is a high level document that uses comprehensive, statewide data to establish safety goals and objectives, and emphasis areas. It is a multiyear strategic planning document, not an annual implementation plan of projects and strategies. It identifies the emphasis areas the State intends to pursue to reduce fatalities and serious injuries, but not the specific projects or strategies, timing, or funding.

The funding for individual project and strategy implementation is contained in the Statewide Transportation Improvement Program for the HSIP and the annual HSP for NHTSA's Highway Safety Grant Programs. Following the implementation period, the State then reports on progress to implement the projects and strategies and the extent to which they contribute to achieving the State's safety goals and targets.

The HSIP and NHTSA's Highway Safety Grant Programs were updated by the Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141) [1] and are the subject of several rulemakings.[2] Members of the public are encouraged to review those rulemakings and submit comments to the docket associated with each rulemaking.

## Purpose of This Notice

The FHWA recently published two NPRMs related to HSIP and NHTSA issued an interim final rule related to the Highway Safety Grant Programs in 2013. The Agencies are reviewing these programs from a Retrospective Regulatory Review perspective to explore ways to more proactively coordinate their highway safety programs. We are seeking input on actions FHWA and NHTSA could take to address potentially duplicative State highway safety planning and reporting requirements in order to streamline and harmonize these programs, to the extent possible in view of the separate statutory authority and focus of the two programs.

The FHWA and NHTSA are seeking comments from all interested parties to help evaluate potential future courses of action.

## Questions

1. How do State offices currently collect and report data to FHWA and NHTSA? Are any elements of these information collections or reports duplicative? If yes, what are those duplicative requirements and are there ways to streamline them?

2. Are there changes FHWA and NHTSA should make to the HSIP and the HSP reporting processes to reduce burdens from duplicative reporting requirements, improve safety outcomes, and promote greater coordination among State agencies responsible for highway safety, consistent with the underlying statutory authority of these two grant programs?

3. Would States prefer to combine plans and reports for the HSIP and HSP into a single report for FHWA and NHTSA? Would States find a single report useful for these complementary but distinctly different programs?

4. Are there any State legal or organizational barriers to combining plans and reports for the HSIP and HSP to FHWA and NHTSA? To what extent does the location of the State recipient

[1] MAP–21 has been extended to May 31, 2015. A new surface transportation authorization may impact these rulemakings, including plan and reporting requirements.

[2] Highway Safety Improvement Program, Notice of Proposed Rulemaking, 79 FR 17464, March 28, 2014, Docket ID: FHWA–2013–0019; National Performance Management Measures: Highway Safety Improvement Program, Notice of Proposed Rulemaking, 79 FR 13846, March 11, 2014, Docket ID: FHWA–2013–0020; Uniform Procedures for State Highway Safety Grant Programs, Interim Final Rule, 78 FR 4986, January 23, 2013, Docket ID: NHTSA–2013–0001.

of the Federal funds from FHWA and NHTSA, within the State's organizational structure, add to or reduce the burdens of consolidated plan development or reporting?

5. Are there SHSP requirements with higher costs than benefits? If so, what are those requirements and are there ways to improve them or should they be eliminated?

6. Are there changes FHWA should make to the SHSP guidance to promote coordination among State agencies responsible for highway safety?

Dated: November 6, 2014.

**Gregory G. Nadeau,**

*Acting Administrator, Federal Highway Administration.*

**David J. Friedman,**

*Deputy Administrator, National Highway Traffic Safety Administration.*

[FR Doc. 2014–27271 Filed 11–26–14; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2014–0406]**

### Commercial Driver's License Standards: Application for Exemption; C.R. England, Inc.

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** FMCSA announces that C.R. England, Inc. (C.R. England) has applied for an exemption from the Federal minimum training conditions in 49 CFR 383.25(a)(1) that require a commercial learner's permit (CLP) holder to always be accompanied by a commercial driver's license (CDL) holder with the proper CDL class and endorsements seated in the front seat of the vehicle while the CLP holder performs behind-the-wheel training on public roads or highways. C.R. England requests an exemption to allow CLP holders who have passed the CDL skills test but not yet received the CDL document to drive a commercial motor vehicle without being accompanied by a CDL holder, provided the driver has documentation of passing the skills test. C.R. England believes that the exemption, if granted, would allow such a driver to operate more freely and in a way that benefits the driver, the carrier, and the economy as a whole.

**DATES:** Comments must be received on or before December 29, 2014.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA–2014–0406 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

*Instructions:* All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the *Public Participation* heading below. Note that all comments received will be posted without change to *www.regulations.gov,* including any personal information provided. Please see the *Privacy Act* heading below.

*Docket:* For access to the docket to read background documents or comments received, go to *www.regulations.gov* at any time and in the box labeled ''SEARCH for'' enter FMCSA–2014–0406 and click on the tab labeled ''SEARCH.''

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

*Public Participation:* The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov*.

**SUPPLEMENTARY INFORMATION:**

**Background**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

**Request for Exemption**

C.R. England is a carrier that transports temperature–sensitive freight. It provides CDL training for its drivers in partnership with Premier Truck Driving Schools in five locations (Burns Harbor, IN; Dallas, TX; Fontana, CA; Richmond, IN; and Salt Lake City, UT). C.R. England seeks an exemption from 49 CFR 383.25(a)(1) that would allow CLP holders who have successfully passed a CDL skills test and are thus eligible to receive a CDL to drive a truck without a CDL holder being present. This would allow a CLP holder to participate in a revenue-producing trip back to his or her State of domicile to obtain the CDL document, as the CDL can only be issued by the State of domicile in accordance with Part 383.

C.R. England advises that FMCSA is aware of the trucking industry's need for qualified and well-trained drivers to meet increasing shipping demands. C.R. England believes that 49 CFR 383.25(a)(1) limits its ability to effectively and efficiently recruit, train, and employ new entrants to the industry. Prior to the implementation of section 385.25(a)(1), States routinely issued temporary CDLs to drivers who passed the CDL skills test. The temporary CDL allowed C.R. England

time to route the new driver to his or her State of domicile to obtain a CDL and place the new driver into an on-the-job training position with a driver-trainer. The driver-trainer supervised and observed the new driver, but was not required to be on-duty and in the front seat at all times. Thus, the new driver became productive immediately, allowing more freight movement for C.R. England and compensation for the new driver.

C.R. England contends that compliance with the CDL rule prevents it from implementing more efficient and effective operations. The rule places C.R. England in an untenable position of either sending the CLP holder home without having hired him or her (because the person does not yet have a CDL) with no assurance that the driver will remain with C.R. England after obtaining the CDL; or, hiring the CLP holder and sending him or her home in an unproductive non-driving capacity. Granting the exemption would allow the CLP holder to drive as part of a team on that trip, resulting in reduced costs and increased productivity.

C.R. England asserts that the exemption would be consistent with FMCSA's comments in the preamble to the rule that state that ''FMCSA does not believe that it is safe to permit inexperienced drivers who have not passed the CDL skills test to drive unaccompanied.'' (76 FR 26861) The exemption sought would apply only to those C.R. England drivers who have passed the CDL skills test and hold a CLP. C.R. England believes that the exemption would result in a level of safety that is equivalent to or greater than the level of safety provided under the rule. The only difference between a CLP holder who has passed the CDL skills test and a CDL holder is that the latter has waited in line at the DMV and has received the hard copy CDL.

A copy of C.R. England's application for exemption is available for review in the docket for this notice.

**Request for Comments**

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on C.R. England's application for an exemption from the CDL requirements of 49 CFR part 383. The Agency will consider all comments received by close of business on December 29, 2014. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: November 17, 2014.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2014–28072 Filed 11–26–14; 8:45 am]

**BILLING CODE 4910–EX–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2006–25854; FMCSA–2011–0389; FMCSA–2012–0294; FMCSA–2013–0109]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to grant requests from five individuals for exemptions from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these five individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

**DATES:** The exemptions are effective November 28, 2014. The exemptions expire on November 28, 2016.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Division Chief, Physical Qualifications, Office of Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**A. Electronic Access**

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (73 FR 3316, January 17, 2008). This statement is also available at *http://Docketinfo.dot.gov.*

**B. Background**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants five individuals an exemption from the regulatory requirement in § 391.41(b)(8), to allow these individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) [1]

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in Motor Carrier Management Information System (MCMIS).[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions granted here have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation at 49 CFR 391.41(b)(8) by conducting a comprehensive review of scientific literature that was compiled into the ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving''* (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (the MEP) on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report.* The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm,* under Seizure Disorders, and are in the docket for this notice.

*MEP Criteria for Evaluation*

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[3] The MEP recommendations are included in previously published dockets.

*Epilepsy diagnosis.* If there is an epilepsy diagnosis, the applicant should be seizure-free for 8 years, on or off medication. If the individual is taking anti-seizure medication(s), the plan for medication should be stable for 2 years. Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

*Single unprovoked seizure.* If there is a single unprovoked seizure (*i.e.,* there is no known trigger for the seizure), the individual should be seizure-free for 4 years, on or off medication. If the individual is taking anti-seizure medication(s), the plan for medication should be stable for 2 years. Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

*Single provoked seizure.* If there is a single provoked seizure (*i.e.,* there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

- *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.
- *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

The MEP report indicates individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

*Medical Review Board Recommendations and Agency Decision*

FMCSA presented the MEP's findings and the *Evidence Report* to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that ''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5 year period or more'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes relevant current medical evidence supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis.

**C. Exemptions**

Following individualized assessments of the exemption applications, including a review of detailed follow-up information requested from each applicant, FMCSA is granting exemptions from 49 CFR 391.41(b)(8) to five individuals. Under current FMCSA regulations, all of the five drivers receiving exemptions from 49 CFR 391.41(b)(8) would have been considered physically qualified to drive a CMV in interstate commerce except that they presently take or have recently stopped taking anti-seizure medication. For these five drivers, the primary obstacle to medical qualification was the FMCSA Advisory Criteria for Medical Examiners, based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers,'' stating that a driver should be off anti-seizure medication in order to drive in interstate commerce. In fact, the Advisory Criteria have little if anything to do with the actual risk of a seizure and more to do with assumptions about individuals who are taking anti-seizure medication.

In addition to evaluating the medical status of each applicant, FMCSA evaluated the crash and violation data

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

[3] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

for the five drivers, some of whom currently drive a CMV in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the five applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency.

These exemptions are contingent on the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers.

FMCSA published a notice of receipt of application and requested public comment during a 30-day public comment period in a **Federal Register** notice for each of the applicants. A short summary of the applicants' qualifications and a discussion of the comments received follows this section. For applicants who were denied an exemption, a notice will be published at a later date.

**D. Comments**

*Docket # FMCSA–2006–25854*

On August 9, 2007, FMCSA published a notice of receipt of exemption applications and requested public comment on nine individuals (72 FR 44916; Docket number FMCSA–2006–25854). The comment period ended on September 10, 2007. Five comments were received. A discussion of the comments were presented in a previous notice. Of the nine applicants, five were previously granted exemptions, one withdrew his request, and two were denied. The Agency has determined that the following applicant should be granted an exemption.

Jay Whitehead

Mr. Whitehead is a 51 year-old class B CDL holder in New York. He has a history of seizures and has remained seizure free since 1983. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to continue to drive a CMV. His physician states he is supportive of Mr. Whitehead receiving an exemption.

*Docket # FMCSA–2011–0389*

On January 5, 2012, FMCSA published a notice of receipt of exemption applications and requested public comment on 15 individuals (77 FR 33781; Docket number FMCSA–2011–0389). The comment period ended on February 5, 2012. Seven comments were received. A discussion of the comments were presented in a previous notice. Of the 15 applicants, three were previously granted exemptions. FMCSA has determined that the following applicant should be granted an exemption. The Agency will issue a decision on the other drivers at a later date.

Lonnie Rieker

Mr. Rieker is a 55 year-old class A CDL holder in Illinois. He has a history of a single seizure and has remained seizure free for 4 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to continue to drive a CMV. His physician states he is supportive of Mr. Rieker receiving an exemption.

*Docket # FMCSA–2012–0294*

On January 15, 2013, FMCSA published a notice of receipt of exemption applications and requested public comment on nine individuals (78 FR 00712; Docket number FMCSA–2012–0294). The comment period ended on February 15, 2013. Eight comments were received, including three duplicate comments. A discussion of the comments were presented in a previous notice. Of the nine applicants, eight were previously granted exemptions. FMCSA has determined that the following applicant should be granted an exemption.

Michael Ranalli

Mr. Ranalli is a 29 year-old driver in Pennsylvania. He has a history of juvenile epilepsy and has remained seizure free for 8 years. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Ranalli receiving an exemption.

*Docket # FMCSA–2013–0109*

On November 13, 2013, FMCSA published a notice of receipt of exemption applications and requested public comment on 11 individuals (78 FR 68144). The comment period ended on December 13, 2013. No commenters responded to this **Federal Register** notice. Of the 11 applicants, four were previously granted exemptions. FMCSA has determined that the following two applicants should be granted an exemption. The Agency will issue a decision on the other drivers at a later date.

Jeffrey Ballweg

Mr. Ballweg is 51 year-old driver in Wisconsin. He has a history of epilepsy and has remained seizure free for 8 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Ballweg receiving an exemption.

Bryan Couture

Mr. Couture is a 48 year-old class B CDL holder in Rhode Island. He has a history of seizure and has remained seizure free for 10 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to continue to drive a CMV. His physician states he is supportive of Mr. Couture receiving an exemption.

**E. Basis for Exemption**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting the driver to driving in intrastate commerce.

*Conclusion*

The Agency is granting exemptions from the epilepsy standard, 49 CFR 391.41(b)(8), to five individuals based on a thorough evaluation of each driver's qualifications, safety experience, and medical condition. Safety analysis of information relating to these five applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the interstate CMV industry will gain five highly trained and experienced drivers. In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for 2 years, with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1)

The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following five drivers for a period of 2 years with annual medical certification required: Jeffrey Ballweg (WI); Bryan Couture (RI); Michael Ranalli (PA); Lonnie Rieker (IL); and Jay Whitehead (NY) from the prohibition of CMV operations by persons with a clinical diagnosis of epilepsy or seizures. If the exemption is still in effect at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: November 21, 2014.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2014–28071 Filed 11–26–14; 8:45 am]

**BILLING CODE 4910–EX–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2014–0309]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemptions request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 63 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before December 29, 2014.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0309 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, R.N., Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 63 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

## II. Qualifications of Applicants

*Andrew P. Bivens*

Mr. Bivens, 21, has had ITDM since 1998. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bivens understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bivens meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Tennessee.

*Everett D. Blevins*

Mr. Blevins, 50, has had ITDM since 1994. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Blevins understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blevins meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Kentucky.

*Kevin K. Brown*

Mr. Brown, 36, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or

resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Brown understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Brown meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

*Kirk J. Brummeler*

Mr. Brummeler, 55, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Brummeler understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Brummeler meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

*Travis M. Bryan*

Mr. Bryan, 31, has had ITDM since 1988. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bryan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bryan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Massachusetts.

*Robert A. Chess*

Mr. Chess, 66, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Chess understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Chess meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

*John W. Condy*

Mr. Condy, 61, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Condy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Condy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

*Kevin V. Cook*

Mr. Cook, 35, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cook understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cook meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Missouri.

*Guido Criscuolo, Jr.*

Mr. Criscuolo, 61, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Criscuolo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Criscuolo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Connecticut.

*Zachary L. Diehl*

Mr. Diehl, 23, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Diehl understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Diehl meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

*Andrea I. Dirksen*

Ms. Dirksen, 31, has had ITDM since 2013. Her endocrinologist examined her in 2013 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Dirksen understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Dirksen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2013 and certified that she does not have diabetic retinopathy. She holds an operator's license from Iowa.

*David D. Dowdy*

Mr. Dowdy, 53, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dowdy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dowdy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

*Clarice L. Dunklin*

Ms. Dunklin, 59, has had ITDM since 2013. Her endocrinologist examined him in 2014 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Dunklin understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Dunklin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2014 and certified that she does not have diabetic retinopathy. She holds a Class A CDL from Louisiana.

*Bradley A. Eastman*

Mr. Eastman, 41, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Eastman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Eastman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Troy A. Epps*

Mr. Epps, 42, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Epps understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Epps meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

*Ricky L. Exler*

Mr. Exler, 56, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Exler understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Exler meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

*Paul B. Fuerstenberg*

Mr. Fuerstenberg, 51, has had ITDM since 2003. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fuerstenberg understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fuerstenberg meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

*Nathan M. Gallant*

Mr. Gallant, 39, has had ITDM since 2003. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gallant understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gallant meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Texas.

*Edward A. Gawrys, III*

Mr. Gawrys, 35, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gawrys understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gawrys meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Pennsylvania.

*Louis A. Goodenough*

Mr. Goodenough, 57, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies

that Mr. Goodenough understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Goodenough meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

*Tyler L. Gravatt*

Mr. Gravatt, 32, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gravatt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gravatt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Idaho.

*Randy W. Haley*

Mr. Haley, 57, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Haley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Haley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Massachusetts.

*Mahindra Hardeo*

Mr. Hardeo, 33, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hardeo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hardeo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Ohio.

*Eric B. Hemmings*

Mr. Hemmings, 49, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hemmings understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hemmings meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

*Gary W. Honaker*

Mr. Honaker, 54, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Honaker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Honaker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

*David G. Horne*

Mr. Horne, 59, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Horne understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Horne meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

*Glenn A. Keifer*

Mr. Keifer, 51, has had ITDM since 1968. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Keifer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Keifer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

*Rex L. Kreutzer*

Mr. Kreutzer, 47, has had ITDM since 1993. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kreutzer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kreutzer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Nebraska.

*Patrick D. Letterman*

Mr. Letterman, 56, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of

consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Letterman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Letterman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

*Larry D. Lloyd*

Mr. Lloyd, 63, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lloyd understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lloyd meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oregon.

*Dennis D. Markowski*

Mr. Markowski, 59, has had ITDM since 2003. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Markowski understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Markowski meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Washington.

*William F. Melchert-Dinkel*

Mr. Melchert-Dinkel, 52, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Melchert-Dinkel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Melchert-Dinkel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Brit K. Miller*

Mr. Miller, 28, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

*Charles B. Petersen*

Mr. Petersen, 63, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Petersen understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Petersen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

*Basil R. Peterson, Jr.*

Mr. Peterson, 67, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Peterson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Peterson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maine.

*Travis J. Phillips*

Mr. Phillips, 24, has had ITDM since 2005. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Phillips understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Phillips meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Texas.

*Anthony J. Politan*

Mr. Politan, 46, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Politan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Politan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that

he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

*Emil T. Ricci*

Mr. Ricci, 66, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ricci understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ricci meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

*Robert D. Risk*

Mr. Risk, 39, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Risk understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Risk meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

*Joseph M. Ritenour*

Mr. Ritenour, 61, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ritenour understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ritenour meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

*Arturo Robles*

Mr. Robles, 36, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Robles understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Robles meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Wyoming.

*Robert F. Rothbauer*

Mr. Rothbauer, 53, has had ITDM since 1999. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rothbauer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rothbauer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Wisconsin.

*Michael A. Runyan, Jr.*

Mr. Runyan, 42, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Runyan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Runyan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

*Tyler A. Russell*

Mr. Russell, 31, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Russell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Russell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Massachusetts.

*John D. Sheets*

Mr. Sheets, 57, has had ITDM since 2005. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sheets understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sheets meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Hampshire.

*Kyle L. Shuman*

Mr. Shuman, 29, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Shuman understands

diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shuman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from New York.

*Thomas S. Skoczylas*

Mr. Skoczylas, 62, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Skoczylas understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Skoczylas meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Ohio.

*Jerry W. Smay*

Mr. Smay, 63, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smay understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smay meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from California.

*Gregory A. Smith*

Mr. Smith, 53, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

*Harold B. Snyder*

Mr. Snyder, 55, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Snyder understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Snyder meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

*William S. Spaeth*

Mr. Spaeth, 39, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Spaeth understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Spaeth meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Wisconsin.

*Curtis W. Stanley*

Mr. Stanley, 61, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stanley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stanley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Nebraska.

*Eloy G. Tijerina*

Mr. Tijerina, 58, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Tijerina understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tijerina meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

*Santos R. Torres*

Mr. Torres, 35, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Torres understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Torres meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Texas.

*Leroy A. Traudt*

Mr. Traudt, 60, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting

in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Traudt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Traudt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Nebraska.

*Arthur R. Vance*

Mr. Vance, 57, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Vance understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vance meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

*Gerald S. Volpone, Jr.*

Mr. Volpone, 53, has had ITDM since 1976. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Volpone understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Volpone meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Massachusetts.

*Galen R. Watts*

Mr. Watts, 58, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Watts understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Watts meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

*William R. Welch, Jr.*

Mr. Welch, 66, has had ITDM since 2005. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Welch understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Welch meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Virginia.

*John E. Wildenmann*

Mr. Wildenmann, 46, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wildenmann understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wildenmann meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Kentucky.

*Mark A. Wolford*

Mr. Wolford, 45, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wolford understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wolford meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

*Edward D. Wright*

Mr. Wright, 53, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wright understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wright meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

*John P. Wysong*

Mr. Wysong, 55, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wysong understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wysong meets the requirements of the vision standard at

49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Indiana.

### III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441) [1]. The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

### IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0309 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

### V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, to submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0309 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Dated: November 17, 2014.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2014–28077 Filed 11–26–14; 8:45 am]

BILLING CODE P

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## DEPARTMENT OF TRANSPORTATION

## Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2014–0011]**

## Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 13 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

**DATES:** The exemptions were granted October 21, 2014. The exemptions expire on October 21, 2016.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, R.N., Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

### II. Background

On September 18, 2014, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments

from the public (79 FR 56099). That notice listed 13 applicants' case histories. The 13 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 13 applications on their merits and made a determination to grant exemptions to each of them.

## III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 13 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including prosthetic eye, amblyopia, complete loss of vision, branch retinal vein occlusion, retinal detachment, corneal transplant, hyperopia, astigmatism, optic atrophy, macular scar, and retinal damage. In most cases, their eye conditions were not recently developed. Six of the applicants were either born with their vision impairments or have had them since childhood.

The seven individuals that sustained their vision conditions as adults have had it for a range of six to 24 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 13 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging from 3 to 43 years. In the past three years, three of the drivers were involved in crashes and one was convicted of a moving violation in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the September 18, 2014 notice (79 FR 56099).

## IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 13 applicants, three of the drivers were involved in crashes and one was convicted of a moving violation in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample

driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 13 applicants listed in the notice of September 18, 2014 (79 FR 56099).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 13 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## V. Discussion of Comments

FMCSA received no comments in this proceeding.

## VI. Conclusion

Based upon its evaluation of the 13 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)):

Terry L. Allen (IL)
Wilfred J. Brinkman (OH)
Todd A. Carlson (MN)
Roderick L. Duvall (PA)
Ronald R. Gaines (FL)
Russel K. Gray (OH)
Billy R. Hampton (NC)
Raymond A. Holt (CA)
Christopher M. Keen (KS)
Julie A. Mabry (AZ)
William L. Moore (FL)
Benny R. Morris (WV)
Juan C. Puente (TX)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: November 17, 2014.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2014–28070 Filed 11–26–14; 8:45 am]

**BILLING CODE 4910–EX–P**

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. FD 35868]**

### V and S Railway, LLC—Acquisition Exemption—Line of Missouri Central Railroad Company

V and S Railway, LLC (V&S), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Missouri Central Railroad Company (MCRR) and operate a 52.6-mile line of railroad extending between milepost 19.0, near Vigus, St. Louis County, Mo., and milepost 71.6, near Beaufort, Franklin County, Mo. (the Line). V&S also is acquiring incidental trackage rights on the Union Pacific Railroad Company (UP) between milepost 19.0, near Vigus, and milepost 10.3, near Rock Island Junction, Mo.[1]

V&S states that it has reached an agreement with MCRR pursuant to which MCRR will sell and V&S will buy the Line. According to V&S, the agreement between V&S and MCRR does not contain an interchange commitment. V&S also states that the Line is currently operated by Central Midland Railway Company (CMRC).[2] According to V&S, CMRC will continue operating the Line proposed to be acquired by V&S pursuant to an agreement between MCRR and CMRC, as amended, which calls for CMRC's discontinuance of service on the Line, subject to Board authorization, on December 31, 2020.

The proposed transaction may be consummated on or after December 12, 2014, the effective date of this exemption (30 days after the exemption was filed).

V&S certifies that as a result of the proposed acquisition its revenue will remain below $5 million, and the transaction will not result in the creation of a Class II or Class I rail carrier.

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 to stay must be filed by December 5, 2014 (at least seven days prior to the date the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35868, 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 applicant's representative, Fritz R. Kahn, Fritz R. Kahn, P.C., 1919

[1] The Line and the UP incidental trackage rights sought to be acquired by V&S were acquired by MCRR as part of the acquisition authorized in *Missouri Central Railroad—Acquisition & Operation Exemption—Lines of Union Pacific Railroad*, FD 33508 (STB served Jan. 27, 1998).

[2] *See Cent. Midland Ry.—Operation Exemption—Lines of Mo. Cent. R.R.,* FD 33988 (STB served Jan. 29, 2001).

M Street NW. (7th Floor), Washington, DC 20036.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: November 24, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Raina S. White,**

*Clearance Clerk.*

[FR Doc. 2014–28134 Filed 11–26–14; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. FD 35870]**

### Central of Georgia Railroad Company—Corporate Family Transaction Acquisition Exemption—Norfolk Southern Railway Company

Central of Georgia Railroad Company (CGA), a wholly owned subsidiary of Norfolk Southern Railway Company (NSR), has filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a corporate family transaction in which CGA will acquire a segment of a line of railroad from NSR.[1] The segment is a 0.26-mile portion of NSR's M-Line, extending between mileposts 16.65–M and 16.91–M in Experiment, Spalding County, Ga.

According to CGA, the proposed transaction will transfer the ownership of the line from NSR to CGA. CGA states that no active customers are located on the line and no service has been provided over the line for at least three years. CGA also states that the line parallels and shares a portion of the right-of-way with CGA's existing and active S-line, which extends from Atlanta, Ga., to Macon, Ga. According to CGA, NSR's predecessors previously abandoned other segments of the M-line such that the line is accessible today only as a branch off of CGA's S-line.

Unless stayed, the exemption will be effective on December 12, 2014 (30 days after the verified notice was filed). Applicant states that the parties intend to consummate the proposed transaction on or about December 11, 2014, but they may not do so prior to the December 12, 2014 effective date of the exemption.

According to CGA, the purpose of the proposed transaction is to centralize title and control of adjacent lines within NSR's corporate family under the same subsidiary for more efficient management.

The line transfer is a transaction within a corporate family exempted from prior review and approval under 49 CFR 1180.2(d)(3). Applicant states that the transaction will not adversely impact service levels, significantly change operations, or impact CGA's competitive balance with carriers outside the corporate family.

As a condition to the use of this exemption, any employees adversely affected by this transaction will be protected by the conditions set forth in *New York Dock Railway—Control—Brooklyn Eastern District Terminal,* 360 I.C.C. 60 (1979).

If the 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 December 5, 2014 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35870, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on applicant's representative, Garrett D. Urban, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: November 24, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Brendetta S. Jones,**

*Clearance Clerk.*

[FR Doc. 2014–28120 Filed 11–26–14; 8:45 am]

**BILLING CODE 4915–01–P**

[1] According to CGA, the line will be transferred by quitclaim deed, which has not yet been prepared. CGA states that a copy of the deed will be filed as soon as it is available.

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. AB 290 (Sub-No. 372X)]**

### Central of Georgia Railroad Company—Discontinuance of Service Exemption—in Upson County, Georgia

Central of Georgia Railroad Company (CGA), a wholly owned subsidiary of Norfolk Southern Railway Company, has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over approximately 3.25 miles of rail line from milepost B 248.10 to milepost B 251.35 in Upson County, Ga. (the Line). The Line traverses United States Postal Service Zip Code 30286.

CGA has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years, and if there were any, it could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on December 30, 2014, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2),[1] must be filed by December 8, 2014.[2] Petitions to reopen must be filed by December 18, 2014, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to CGA's representative: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

[1] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[2] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 CFR 1105.6(c) and 49 CFR 1105.8(b), respectively.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: November 24, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Brendetta S. Jones,**

*Clearance Clerk.*

[FR Doc. 2014–28118 Filed 11–26–14; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. FD 35872]**

### Everett Railroad Company and Hollidaysburg and Roaring Spring Railroad Company—Intra-Corporate Family Transaction Exemption

Everett Railroad Company (Everett) and Hollidaysburg and Roaring Spring Railroad Company (Hollidaysburg) (collectively, Applicants) have jointly filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a corporate family transaction.

Applicants state that Everett and Hollidaysburg are Class III rail carriers under the control of Alan W. Maples. The transaction involves the merger of Everett and Hollidaysburg, with Everett emerging as the surviving rail carrier.

According to Applicants, the purpose of the transaction is to streamline administration and enhance the financial condition of two railroads that are already largely integrated by consolidating the two into a single company. Applicants state that the proposed merger will eliminate the need for the preparation of separate tax returns for Everett and Hollidaysburg and the need for the two companies to maintain separate corporate records. Applicants state that there also are certain operational and recordkeeping advantages to the transaction.

Unless stayed, the exemption will be effective on December 14, 2014 (30 days after the verified notice was filed). Applicants state that they plan to consummate the proposed transaction on or after December 14, 2014.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). Applicants state that the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because the transaction involves only Class III rail carriers.

If the 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 exemption. Petitions for stay must be filed no later than December 5, 2014 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35872, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2832.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: November 24, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Brendetta S. Jones,**

*Clearance Clerk.*

[FR Doc. 2014–28123 Filed 11–26–14; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF THE TREASURY

### Departmental Offices

### Proposed Collection; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions in 2015 of a currently approved information collection that is proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning the revision of the Treasury International Capital (TIC) Form SHL/SHLA.

**DATES:** Written comments should be received on or before January 27, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422 MT, 1500 Pennsylvania Avenue NW., Washington, DC 20220. In view of possible delays in mail delivery, you may also wish to send a copy to Mr. Wolkow by email (*comments2TIC@do.treas.gov*) or FAX (202–622–2009). Mr. Wolkow can also be reached by telephone (202–622–1276).

**FOR FURTHER INFORMATION CONTACT:** Copies of the proposed form and instructions are available at Part II of the Treasury International Capital (TIC) Forms Web page ''Forms SHL/SHLA & SHC/SHCA'', at: *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms-sh.aspx.* Requests for additional information should be directed to Mr. Wolkow.

**SUPPLEMENTARY INFORMATION:**

*Title:* Treasury International Capital (TIC) Form SHL/SHLA, ''Foreign-Residents' Holdings of U.S. Securities, including Selected Money Market Instruments''.

*OMB Control Number:* 1505–0123.

*Abstract:* This form collects foreign-residents' holdings of U.S. securities. These data are used by the U.S. Government in the formulation of international financial and monetary policies, and for the computation of the U.S. balance of payments accounts and of the U.S. international investment position. These data are also used to provide information to the public and to meet international reporting commitments. The data collection includes large benchmark surveys conducted every five years, and smaller annual surveys conducted in the non-benchmark years. The data collected under an annual survey are used in conjunction with the results of the preceding benchmark survey to make economy-wide estimates for that non-benchmark year. Currently, the determination of who must report in the annual surveys is based primarily on the data submitted during the preceding benchmark survey. The data requested in the annual survey will generally be the same as requested in the preceding benchmark report. Form SHL is used for the benchmark survey of all significant U.S.-resident custodians and U.S.-resident issuers of securities regarding foreign-residents' holdings of U.S. securities. In non-benchmark years, Form SHLA is used for the annual surveys of primarily the largest U.S.-resident custodians and issuers.

*Current Actions:* The proposed changes will: (1) Modify the determination of who must report on the annual surveys to include consideration of those filing the monthly TIC Form SLT report; (2) streamline Forms SHL/SHLA to provide consistency among the annual surveys and the TIC Form SLT (details of the changes follow below); and (3) update and clarify the instructions, including updating how to submit reports and the line-by-line instructions. The changes will improve overall survey reporting.

The remainder of the Current Actions section shows in more detail the proposed changes to streamline Form SHL/SHLA, organized by schedule.

The following changes apply to Schedule 1: Reporter Contact Information and Summary of Financial Information:

a. Minor changes in wording concerning the reporter's identification number, name, and contacts.

b. Lines that previously lacked numbers now have them, resulting in renumbering of subsequent lines.

c. In ''Reporter Type'': ''Banks'' is replaced with ''Depository Institution'', ''Mutual fund or investment trust'' is replaced with ''Fund/Fund Manager/Sponsor (excluding pension fund)'', and ''Other Financial Organization'' is specified to include ''BHCs (Bank Holding Companies) and FHCs (Financial Holding Companies)''. The category ''Pension Fund'' is added.

d. The line for a contact fax number is eliminated.

The following changes apply to Schedule 2: Details of Securities:

a. Minor changes in wording throughout to remove instruction comments.

b. Lines are renumbered

c. The line for ''Security ID System'' is now consistent across Forms SHCA and SHLA. The new categories are: 1 = CUSIP, 2 = ISIN, 3 = CINS, 4 = Common Code, 5 = SEDOL, 6 = Internally Generated, and 7 = Other.

d. The lines applying to debt securities (including asset-backed securities) are reorganized, though the substance of the information to be reported remains unchanged.

e. The ''Term Indicator'' line is eliminated.

f. The ''Intentionally Left Blank'' lines are eliminated.

g. ''Market values'' is replaced by ''Fair values''.

h. Within ''Type of Issuer'': ''Other'' is eliminated and the categories of ''Depository Institution'', ''Other Financial Organization (including BHC and FHC)'', and ''Nonfinancial Organization'' are added.

i. The ''Issuer Code'' is renamed to ''Reporting As''.

j. For Schedule 2, electronic filing is required if 100 or more records are submitted, revised from the previous 200 or more records.

k. Minor changes in wording throughout to remove instruction comments.

l. Change in Electronic Submission Method: Reporting Central is replacing the Internet Electronic Submission (IESUB) application. The Federal Reserve developed Reporting Central to enhance the overall reporting functionality of the Federal Reserve Banks' data collection and processing activities. These enhancements will allow for a more secure, technically advanced, and efficient system that will encompass a single point of entry for electronic submission and file uploads. Additional information about the Reporting Central application, including an online resource center, is available at: *https://www.frbservices.org/centralbank/reportingcentral/index.html,* or from your contact at the Federal Reserve Bank of New York.

*Type of Review:* Revision of a currently approved data collection.

*Affected Public:* Business/Financial Institutions.

*Form:* TIC SHL/SHLA, Schedules 1 and 2 (1505–0123).

*Estimated Number of Respondents:* An annual average (over five years) of 191, but this varies widely from about 540 in benchmark years (once every five years) to about 104 in other years (four out of every five years).

*Estimated Average Time per Respondent:* An annual average (over five years) of about 168 hours, but this will vary widely from respondent to respondent. (a) In the year of a benchmark survey, which is conducted once every five years, it is estimated that exempt respondents will require an average of 17 hours; for custodians of securities, the estimate is a total of 321 hours on average, but this figure will vary widely for individual custodians; and for issuers of securities that have data to report and are not custodians, the estimate is 61 hours on average. (b) In a non-benchmark year, which occurs four years out of every five years, it is estimated that the largest custodians of securities will require a total of 486 hours on average; and for the largest issuers of securities that have data to report and are not custodians, the estimate is 110 hours on average. The exemption level for custodians and for end-investors is the holding of less than $100 million in reportable U.S. securities owned by foreign residents. The exemption level applies only in benchmark years.

*Estimated Total Annual Burden Hours:* An annual average (over five years) of 32,050 hours.

*Frequency of Response:* Annual.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or 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 written comments concerning: (a) Whether the Survey is necessary for the proper performance of the functions of the Office of International Affairs within the Department of the Treasury, including whether the information collected will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data requested; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide the information requested.

**Dwight Wolkow,**

*Administrator, International Portfolio Investment Data Systems.*

[FR Doc. 2014–28121 Filed 11–26–14; 8:45 am]

BILLING CODE 4810–25–P

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

November 24, 2014.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

**DATES:** Comments should be received on or before December 29, 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, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania

Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov*.

**FOR FURTHER INFORMATION CONTACT:** Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov*, or the entire information collection request may be found at *www.reginfo.gov*.

**Internal Revenue Service (IRS)**

*OMB Number:* 1545–0854.

*Type of Review:* Revision of a currently approved collection.

*Title:* Section 301.7245–3, Discharge of Liens; (TD 9410).

*Form:* 14497, 14498.

*Abstract:* The Internal Revenue Service needs this information in processing a request to sell property of a tax lien at a non-judicial sale. This information will be used to determine the amount, if any, to which the tax lien attaches.

*Affected Public:* Private sector: Businesses or other for-profits.

*Estimated Annual Burden Hours:* 3,833.

*OMB Number:* 1545–1005.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* TD 8302 Low-Income Housing Credit for Federally-Assisted Buildings.

*Abstract:* The rule requires the taxpayer (low-income building owner) to seek a waiver in writing from the IRS concerning low-income buildings acquired during a special 10-year period in order to avert a claim against a Federal mortgage insurance fund.

*Affected Public:* Private sector: Businesses or other for-profits.

*Estimated Annual Burden Hours:* 3,000.

*OMB Number:* 1545–1381.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* TD 8546—Limitations on Corporate Net Operating Loss.

*Abstract:* This document contains final income tax regulations providing rules for allocating net operating loss or taxable income, and net capital loss or gain, within the taxable year in which a loss corporation has an ownership change under section 382 of the Internal Revenue Code of 1986. These regulations permit the loss corporation to elect to allocate these amounts between the period ending on the change date and the period beginning on the day after the change date as if its books were closed on the change date.

*Affected Public:* Private sector: Business or other for-profits.

*Estimated Annual Burden Hours:* 200.

*OMB Number:* 1545–1209.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* Disclosure of Tax Return Information for Purposes of Quality or Peer Reviews.

*Abstract:* These regulations contain requirements that tax return preparers being reviewed will maintain a record of the review; include the information reviewed, and the identity of the persons conducting the review.

*Affected Public:* Private sector: Businesses and other for-profits.

*Estimated Annual Burden Hours:* 250,000.

*OMB Number:* 1545–1759.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* Amended Quarterly Federal Excise Tax Return.

*Form:* 720X.

*Abstract:* Form 720X is used to make adjustments to correct errors on form 720 filed for previous quarters. It can be filed by itself or it can be attached to any subsequent Form 720. Code section 6416(d) allows taxpayers to take a credit on a subsequent return rather than filing a refund claim. Creation of Form 720X is the result of a project to provide a uniform standard for trust fund accounting.

*Affected Public:* Private sector: Businesses and other for-profits.

*Estimated Annual Burden Hours:* 152,460.

**Dawn D. Wolfgang,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2014–28128 Filed 11–26–14; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

November 24, 2014.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

**DATES:** Comments should be received on or before December 29, 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, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

**FOR FURTHER INFORMATION CONTACT:** Copies of the submission may be obtained by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

**Alcohol and Tobacco Tax and Trade Bureau (TTB)**

*OMB Number:* 1513–0021.

*Type of Review:* Revision of a currently approved collection.

*Title:* Formula and Process for Non Beverage Product.

*Form:* TTB F 5154.1.

*Abstract:* Businesses using taxpaid distilled spirits to manufacture non-beverage products may receive drawback (*i.e.,* a refund or remittance) of tax, if they can show that the spirits were used in the manufacture of products unfit for beverage use. This showing is based on the formula for the product, which is submitted on TTB Form 5154.1.

*Affected Public:* Private Sector: Businesses or other for-profits.

*Estimated Annual Burden Hours:* 2,953.

**Dawn D. Wolfgang,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2014–28090 Filed 11–26–14; 8:45 am]

**BILLING CODE 4810–31–P**

## UNITED STATES SENTENCING COMMISSION

### Request for Applications; Tribal Issues Advisory Group

**AGENCY:** United States Sentencing Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission has decided to establish a Tribal Issues Advisory Group as an ad hoc advisory group pursuant to 28 U.S.C. 995 and Rule 5.4 of the Commission's Rules of Practice and Procedure. Having adopted a formal charter for the Tribal Issues Advisory Group, the Commission is constituting the at-large voting membership of the advisory group under that charter. To be eligible to serve as an at-large voting member, an individual must have expertise, knowledge, and/or experience in the issues considered by the Tribal Issues Advisory Group as indicated in the **SUPPLEMENTARY INFORMATION** section

below. The Commission hereby invites any individual who is eligible to be appointed to the at-large voting membership of the Tribal Issues Advisory Group to apply. Applications should be received by the Commission not later than January 9, 2015. Applications may be sent to the Commission as indicated in the **ADDRESSES** section below.

**DATES:** Applications for the at-large voting membership of the Tribal Issues Advisory Group should be received not later than January 9, 2015.

**ADDRESSES:** Applications for the at-large voting membership of the Tribal Issues Advisory Group should include a letter of interest and resume, and be sent to the Commission by electronic mail or regular mail. The email address is *pubaffairs@ussc.gov.* The regular mail address is United States Sentencing Commission, One Columbus Circle NE., Suite 2–500, South Lobby, Washington, DC 20002–8002, Attention: Public Affairs.

**FOR FURTHER INFORMATION CONTACT:** Jeanne Doherty, Public Affairs Officer, 202–502–4502, *jdoherty@ussc.gov.* More information about the Tribal Issues Advisory Group (including the advisory group charter) is available on the Commission's Web site at *www.ussc.gov/advisory-groups.*

**SUPPLEMENTARY INFORMATION:** The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal sentencing courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p). Under 28 U.S.C. 995 and Rule 5.4 of the Commission's Rules of Practice and Procedure, the Commission may create standing or ad hoc advisory groups to facilitate formal and informal input to the Commission. Upon creating an advisory group, the Commission may prescribe the policies regarding the purpose, membership, and operation of the group as the Commission deems necessary or appropriate.

The Commission recently adopted a formal charter for the Tribal Issues Advisory Group. Under the charter, the purpose of the advisory group is:

(1) To assist the Commission in carrying out its statutory responsibilities under 28 U.S.C. 994(o);

(2) to provide to the Commission its views on federal sentencing issues relating to American Indian defendants and victims and to offenses committed in Indian Country;

(3) to study:

(A) the operation of the federal sentencing guidelines as they relate to American Indian defendants and victims and to offenses committed in Indian Country, and any viable methods for revising the guidelines to (i) improve their operation or (ii) address particular concerns of tribal communities and courts;

(B) whether there are disparities in the application of the federal sentencing guidelines to American Indian defendants, and, if so, how to address them;

(C) the impact of the federal sentencing guidelines on offenses committed in Indian Country in comparison with analogous offenses prosecuted in state courts and tribal courts;

(D) the use of tribal court convictions in the computation of criminal history scores, risk assessment, and for other purposes;

(E) how the federal sentencing guidelines should account for protection orders issued by tribal courts; and

(F) any other issues relating to American Indian defendants and victims, or to offenses committed in Indian Country, that the advisory group considers appropriate;

(4) to recommend to the Commission means to establish regular and meaningful consultation and collaboration with tribal officials in the development of sentencing policies that have tribal implications; and

(5) to perform any other related functions as the Commission requests.

The Tribal Issues Advisory Group shall consist of no more than 17 voting members. Of those 17 voting members, not more than 3 shall be Federal judges, not more than 4 shall be from the Executive Branch, 1 shall be from a federal public defender organization or community defender organization, and not more than 9 shall be at-large members. Each voting member is appointed by the Commission. To be eligible to serve as an at-large voting member, an individual must have expertise, knowledge, and/or experience in the issues considered by the Tribal Issues Advisory Group as described above. The Commission intends that the at-large voting membership shall include individuals with membership in or experience with tribal communities, national advocacy groups, legal academia (with expertise in Indian Law and Federal Criminal Law), legal practice (with expertise in Indian Law and Federal Criminal Law, including public or private criminal defense), American Indian crime victimization, federal probation, and federal corrections. The Commission further intends that: (1) No less than 3 at-large voting members shall be tribal officials, or their designees, appointed in a manner that ensures representation among tribal communities diverse in size, geographic location, and other unique characteristics; (2) no less than 2 at-large voting members shall be attorneys with experience in public or private criminal defense; and (3) no less than 1 at-large voting member shall be an individual with knowledge, expertise, and/or experience in the area of American Indian crime victimization.

The Commission invites any individual who is eligible to be appointed to the at-large voting membership of the Tribal Issues Advisory Group to apply by sending a letter of interest and a resume to the Commission as indicated in the **ADDRESSES** section above.

**Authority:** 28 U.S.C. 994(a), (o), (p), § 995; USSC Rules of Practice and Procedure 5.2, 5.4.

**Patti B. Saris,**

*Chair.*

[FR Doc. 2014–28155 Filed 11–26–14; 8:45 am]

**BILLING CODE 2210–40–P**

# FEDERAL REGISTER

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Part II

## Department of Veterans Affairs

38 CFR Part 17

Exempting Mental Health Peer Support Services From Copayments; Direct Final Rule; Proposed Rule

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 17**

**RIN 2900–AP11**

## Exempting Mental Health Peer Support Services From Copayments

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Direct final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is taking final action to amend its regulation that sets forth the VA services that are not subject to copayment requirements for inpatient hospital care or outpatient medical care. Specifically, the regulation is amended to exempt mental health peer support services from having any required copayment. This removes a barrier that may have previously discouraged veterans from choosing to use mental health peer support services as a viable care option. VA believes that mental health peer support services are a valuable resource for veterans with mental health conditions and wants to ensure that veterans take full advantage of all resources available to them.

**DATES:** This final rule is effective January 27, 2015, without further notice, unless VA receives an adverse comment by January 27, 2015.

**ADDRESSES:** Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AP11—Exempting Mental Health Peer Support Services From Copayments.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number). In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Kristin J. Cunningham, Director Business Policy, Chief Business Office (10NB6), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420; (202) 382–2508. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Peer support services are provided as part of the medical care available to veterans under 38 U.S.C. 1710, specifically as part of mental health care services. Under 38 U.S.C. 7401 and 7402, VA has the authority to appoint peer specialists. A peer specialist is a veteran ''who has recovered or is recovering from a mental health condition'' and is certified to provide peer support services. 38 U.S.C. 7402(b)(13). This certification may be obtained from a VA approved not-for-profit entity or a State approved process. These specialists are appointed by VA to provide veteran support services by relating to the veterans through their own personal experiences in recovering from mental illness. VA uses peer support services to help veterans with mental illness to successfully engage in their treatment through sharing experiences, encouragement, and instilling a sense of hope and skill building to promote recovery. Section 4 of Executive Order 13625, dated August 31, 2012, ordered VA to expand mental health staffing by hiring and training 800 peer-to-peer counselors to ''empower veterans to support other veterans and help meet mental health care needs.'' 77 FR 54784, Sept. 5, 2012.

VA is now exempting mental health peer support services from the copayment requirement set forth in 38 CFR 17.108. Prior to this rulemaking, veterans, unless otherwise exempt, had been required to pay a copayment of fifteen dollars for mental health peer support services. Under 38 U.S.C. 1710(g)(1), VA may not furnish medical services to certain veterans unless the veteran agrees to pay ''the applicable amount or amounts established by the Secretary by regulation.'' VA has interpreted section 1710(g)(1) to mean that VA has the discretion to establish the applicable copayment amount in regulation, even if such amount is zero. Generally, VA calculates the amount of a copayment based on the type of medical care provided and the resources needed to provide such care. In addition, VA may exempt certain care from copayment requirements in an effort to make health care more accessible to veterans, or to encourage veterans to become more actively involved in their medical care, and thereby improve health care outcomes (which, in turn, lowers overall health care costs). VA is making mental health peer support services exempt from copayments in order to make such services more accessible to veterans and encourage veterans' use of such services. Veterans value the dynamic of peer support services because they can relate to other veterans through shared experiences, but because, prior to this rulemaking, such services were subject to copayments, they might have been less attractive to veterans who could benefit from them. VA is making peer support services exempt from copayments by amending 38 CFR 17.108 to add a new paragraph (e)(17) to include mental health peer support services as services that are exempt from copayment requirements. The removal of the copayment will eliminate a potential barrier that could discourage veterans from using mental health peer support services as part of their mental health care. We are also making minor technical corrections to § 17.108(e).

### Administrative Procedure Act

VA believes this regulatory amendment is non-controversial and anticipates that this rule will not result in any significant adverse comment, and therefore is issuing it as a direct final rule. Previous actions of this nature, which remove restrictions on VA medical benefits to improve health outcomes, have not been controversial and have not resulted in significant adverse comments. However, in this **Federal Register** publication, we are publishing a separate, substantially identical proposed rule document that will serve as a proposal for the provisions in this direct final rule if significant adverse comments are filed. See RIN 2900–AP10.

For purposes of the direct final rulemaking, a significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants withdrawing a direct final rule, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process in accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 553). Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered adverse under this procedure. For example, a comment recommending an additional change to the rule will not be considered a significant comment unless the comment states why the rule would be ineffective or unacceptable without the additional change.

Under direct final rule procedures, if no significant adverse comment is received within the comment period, the rule will become effective on the date specified above. After the close of

the comment period, VA will publish a document in the **Federal Register** indicating that no significant adverse comment was received and confirming the date on which the final rule will become effective. VA will also publish a document in the **Federal Register** withdrawing the proposed rule.

However, if any significant adverse comment is received, VA will publish in the **Federal Register** a document acknowledging receipt of a significant adverse comment and withdrawing this direct final rule. In the event this direct final rule is withdrawn because of receipt of any significant adverse comment, VA can proceed with the proposed rulemaking by addressing the comments received and publishing a final rule. Any comments received in response to this direct final rule will be treated as comments regarding the proposed rule. Likewise, any significant adverse comment received in response to the proposed rule will be considered as a comment regarding this direct final rule. VA will consider such comments in developing a subsequent final rule.

**Effect of Rulemaking**

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

**Paperwork Reduction Act**

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

**Regulatory Flexibility Act**

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

**Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm,* by following the link for VA Regulations Published From FY 2004 Through Fiscal Year to Date.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

**Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on October 31, 2014, for publication.

**List of Subjects in 38 CFR Part 17**

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: November 13, 2014.

**William F. Russo,**

*Acting Director, Office of Regulation Policy & Management, Office of the General Counsel, U.S. Department of Veterans Affairs.*

For the reasons set out in the preamble, VA amends 38 CFR part 17 as follows:

## PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

■ 2. Amend § 17.108 by:

■ a. In paragraph (e)(4), removing ''.'' and adding in its place '';''.

■ b. In paragraph (e)(14), removing ''and'' immediately after '';''.

■ c. In paragraph (e)(15), removing ''.'' and adding in its place ''; and''.

■ d. In paragraph (e)(16), removing ''.'' and adding in its place ''; and''.

■ e. Adding a new paragraph (e)(17) to read as follows:

**§ 17.108 Copayments for inpatient hospital care and outpatient medical care.**

* * * * *

(e) * * *

(17) Mental health peer support services.

* * * * *

[FR Doc. 2014–27231 Filed 11–26–14; 8:45 am]

BILLING CODE 8320–01–P

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 17**

**RIN 2900–AP10**

## Exempting Mental Health Peer Support Services From Copayments

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is proposing to amend its regulation that sets forth the VA services that are not subject to copayment requirements for inpatient hospital care or outpatient medical care. Specifically, the regulation would be amended to exempt mental health peer support services from having any required copayment. This would remove a barrier that may have previously discouraged veterans from choosing to use mental health peer support services as a viable care option. VA believes that mental health peer support services are a valuable resource for veterans with mental health conditions and wants to ensure that veterans take full advantage of all resources available to them.

**DATES:** Written comments must be received on or before January 27, 2015.

**ADDRESSES:** Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AP10—Exempting Mental Health Peer Support Services from Copayments.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Kristin J. Cunningham, Director Business Policy, Chief Business Office (10NB6), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420; (202) 382–2508. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Peer support services are provided as part of the medical care available to veterans under 38 U.S.C. 1710, specifically as part of mental health care services. Under 38 U.S.C. 7401 and 7402, VA has the authority to appoint peer specialists. A peer specialist is a veteran ''who has recovered or is recovering from a mental health condition'' and is certified to provide peer support services. 38 U.S.C. 7402(b)(13). This certification may be obtained from a VA approved not-for-profit entity or a State approved process. These specialists are appointed by VA to provide veteran support services by relating to the veterans through their own personal experiences in recovering from mental illness. VA uses peer support services to help veterans with mental illness to successfully engage in their treatment through sharing experiences, encouragement, and instilling a sense of hope and skill building to promote recovery. Section 4 of Executive Order 13625, dated August 31, 2012, ordered VA to expand mental health staffing by hiring and training 800 peer-to-peer counselors to ''empower veterans to support other veterans and help meet mental health care needs.'' 77 FR 54784, Sept. 5, 2012.

VA now proposes to exempt mental health peer support services from the copayment requirement set forth in 38 CFR 17.108. Unless otherwise exempt, Veterans are currently required to pay a copayment of fifteen dollars for mental health peer support services. Under 38 U.S.C. 1710(g)(1), VA may not furnish medical services to certain veterans unless the veteran agrees to pay ''the applicable amount or amounts established by the Secretary by regulation.'' VA has interpreted section 1710(g)(1) to mean that VA has the discretion to establish the applicable copayment amount in regulation, even if such amount is zero. Generally, VA calculates the amount of a copayment based on the type of medical care provided and the resources needed to provide such care. In addition, VA may exempt certain care from copayment requirements in an effort to make health care more accessible to veterans, or to encourage veterans to become more actively involved in their medical care, and thereby improve health care outcomes (which, in turn, lowers overall health care costs). VA proposes to make mental health peer support services exempt from copayments in order to make such services more accessible to veterans and encourage veterans' use of such services. Veterans value the dynamic of peer support services because they can relate to other veterans through shared experiences, but because such services are currently subject to copayments, they may be less attractive to veterans who could benefit from them. VA proposes to make peer support services exempt from copayments by amending 38 CFR 17.108 to add a new paragraph (e)(17) to include mental health peer support services as services that are exempt from copayment requirements. The removal of the copayment would eliminate a potential barrier that could discourage veterans from using mental health peer support services as part of their mental health care. We would also make minor technical corrections to § 17.108(e).

### Administrative Procedure Act

Concurrent with this proposed rule, we also are publishing a separate, substantively identical direct final rule in this **Federal Register**. See RIN 2900–AP11. The simultaneous publication of these documents will speed notice and comment rulemaking under section 553 of the Administrative Procedure Act (5 U.S.C. 553) should we have to withdraw the direct final rule due to receipt of significant adverse comments.

For purposes of the direct final rulemaking, a significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without change. If significant adverse comments are received, VA will publish a document acknowledging receipt of significant adverse comments in the **Federal Register** and withdrawing the direct final rule.

Under direct final rule procedures, unless significant adverse comments are received within the comment period, the regulation will become effective on the date specified in RIN 2900–AP11. After the close of the comment period, VA will publish a document in the **Federal Register** indicating that no adverse comments were received and confirming the date on which the final rule will become effective. VA will also publish a document withdrawing this proposed rule.

In the event the direct final rule is withdrawn because of significant adverse comments, VA can proceed with the rulemaking by addressing the comments received and publishing a final rule. The comment period for the proposed rule runs concurrently with that of the direct final rule. Any comment received under the direct final rule will be treated as a comment regarding the proposed rule. VA will consider such comment in developing a subsequent final rule. Likewise, significant adverse comments submitted to the proposed rule will be considered

as comments regarding the direct final rule.

**Effect of Rulemaking**

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

**Paperwork Reduction Act**

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

**Regulatory Flexibility Act**

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would directly affect only individuals and would not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

**Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm,* by following the link for VA Regulations Published From FY 2004 Through Fiscal Year to Date.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

**Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on October 31, 2014, for publication.

**List of Subjects in 38 CFR Part 17**

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: November 13, 2014.

**William F. Russo,**

*Acting Director, Office of Regulation Policy & Management, Office of the General Counsel, U.S. Department of Veterans Affairs.*

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 17 as follows:

## PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

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■ d. In paragraph (e)(16), removing ''.'' and adding in its place ''; and''.

■ e. Adding a new paragraph (e)(17) to read as follows:

**§ 17.108 Copayments for inpatient hospital care and outpatient medical care.**

* * * * *

(e) * * *

(17) Mental health peer support services.

* * * * *

[FR Doc. 2014–27230 Filed 11–26–14; 8:45 am]

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# FEDERAL REGISTER

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Part III

## Department of Homeland Security

Coast Guard

33 CFR Parts 140, 143, and 146

46 CFR Parts 61 and 62

Requirements for MODUs and Other Vessels Conducting Outer Continental Shelf Activities With Dynamic Positioning Systems; Proposed Rule

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Parts 140, 143, and 146**

**46 CFR Parts 61 and 62**

**[Docket No. USCG–2014–0063]**

**RIN 1625–AC16**

## Requirements for MODUs and Other Vessels Conducting Outer Continental Shelf Activities With Dynamic Positioning Systems

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish minimum design, operation, training, and manning standards for mobile offshore drilling units (MODUs) and other vessels using dynamic positioning systems to engage in Outer Continental Shelf activities. Establishing these minimum standards is necessary to improve the safety of people and property involved in such operations, and the protection of the environment in which they operate. This notice of proposed rulemaking would decrease the risk of a loss of position by a dynamically-positioned MODU or other vessel that could result in a fire, explosion, or subsea spill, and supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

**DATES:** Comments and related material must be submitted to the online docket via *http://www.regulations.gov* or reach the Docket Management Facility on or before February 26, 2015. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before February 26, 2015.

**ADDRESSES:** Submit comments using one of the listed methods, and see **SUPPLEMENTARY INFORMATION** for more information on public comments.

- *Online—http://www.regulations.gov* following Web site instructions.
- *Fax*—202–493–2251.
- *Mail* or *hand delivery*—Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Hand delivery hours: 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays (telephone 202–366–9329).

*Collection of Information.* Submit any comments on the collection of information discussed in section VI.D. of this preamble both to the Coast Guard's docket and to the Office of Information and Regulatory Affairs (OIRA) in the White House Office of Management and Budget. OIRA submissions can use one of the listed methods.

- *Email* (preferred)—*oira_submission@omb.eop.gov* (include the docket number and ''Attention: Desk Officer for Coast Guard, DHS'' in the subject line of the email).
- *Fax*—202–395–6566.
- *Mail*—Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

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

**FOR FURTHER INFORMATION CONTACT:** For information about this document, call or email Lieutenant Jeff Bybee, Coast Guard; telephone 202–372–1357, email *Jeff.B.Bybee@uscg.mil.* For information about viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

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### I. Public Participation and Request for Comments

We encourage you to submit comments (or related material) on this rulemaking. We will consider all submissions and may adjust our final action based on your comments. Comments should be marked with docket number USCG–2014–0063 and should provide a reason for each suggestion or recommendation. You should provide personal contact information so that we can contact you if we have questions regarding your comments, but please note that all comments will be posted to the online docket without change and that any personal information you include can be searchable online (see the **Federal Register** Privacy Act notice regarding our public dockets, 73 FR 3316, Jan. 17, 2008.

Mailed or hand-delivered comments should be in an unbound 8½ x 11 inch format suitable for reproduction. The Docket Management Facility will acknowledge receipt of mailed comments if you enclose a stamped, self-addressed postcard or envelope with your submission.

Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following the Web site's instructions. You can also view the docket at the Docket Management Facility (see the mailing address under **ADDRESSES**) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

### D. Public Meeting

We plan to hold a public meeting and will announce the time and place in a later notice in the **Federal Register**.

### II. Abbreviations

ANSI American National Standards Institute
ASOC Activity Specific Operating Criteria
CAMO Critical Activity Mode of Operation
DHS Department of Homeland Security
DP Dynamic Positioning
DP–1 Equipment class 1
DP–2 Equipment class 2
DP–3 Equipment class 3
DPO Dynamic Positioning Operator
DPOQ Dynamic Positioning Operator, Qualified
DPSAO Dynamic Positioning System Assurance Organization
DPVAD Dynamic Positioning Verification Acceptance Document
FMEA Failure Modes and Effects Analysis
FR Federal Register
GT ITC Gross tonnage as measured under 46 U.S.C. 14302, Convention Measurement System
IEC International Electrotechnical Commission
IMCA International Marine Contractors Association
IMO International Maritime Organization
MERPAC Merchant Personnel Advisory Committee
MISLE Marine Information for Safety and Law Enforcement
MODU Mobile Offshore Drilling Unit

MOU Mobile Offshore Units
MSC Marine Safety Center
MTS Marine Technology Society
NOSAC National Offshore Safety Advisory Committee
NPRM Notice of proposed rulemaking
OCMI Officer in Charge, Marine Inspection
OCS Outer Continental Shelf
OCS NCOE Coast Guard Outer Continental Shelf National Center of Expertise
OMB Office of Management and Budget
OSV Offshore Supply Vessel
§ Section symbol
SMS Safety Management System
STCW Standards for Training Certification and Watchkeeping
U.S.C. United States Code
VSL Value of a statistical life
WSOC Well Specific Operating Criteria

## III. Basis and Purpose

### *A. Basis*

Several sections of the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1331–1356a) provide ''the Secretary of the Department in which the Coast Guard is operating'' with rulemaking authority. The Secretary's authority under all these sections is delegated to the Coast Guard through Department of Homeland Security Delegation No. 0170.1, paragraph II(90).

43 U.S.C. 1333(d)(1) gives the Secretary ''authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the artificial islands, installations, and other devices referred to in subsection (a) [1] of this section or on the waters adjacent thereto, as [the Secretary] may deem necessary.'' The Coast Guard interprets section 1333(d)(1) as conferring authority to regulate any Outer Continental Shelf (OCS) vessel or facility (collectively referred to as ''OCS unit'') attached to the OCS seabed or engaged in OCS activity to support such a unit.[2]

Section 1347(c) requires promulgation of ''regulations or standards applying to unregulated hazardous working conditions related to activities on the [OCS] when . . . such regulations or standards are [determined to be] necessary'' and authorizes the modification ''from time to time'' of ''any regulations, interim or final, dealing with hazardous working conditions on the [OCS].'' Section 1348(c) requires promulgation of regulations for onsite scheduled or unscheduled inspections of OCS facilities ''to assure compliance with . . . environmental or safety regulations.'' Additionally, section 1356 calls for regulations requiring, with limited exceptions, all OCS units to be manned by U.S. citizens or resident aliens and to comply with ''such minimum standards of design, construction, alteration, and repair'' as the Secretary or the Secretary of the Interior establishes.

### *B. Purpose*

Dynamic Positioning (DP) systems typically use computers to automate control of vital power and propulsion systems to maintain a vessel's position using a position referencing system. Mobile offshore drilling units (MODUs) engaged in deepwater drilling and vessels engaged in other operations that require station-keeping adjacent to MODUs or production platforms now routinely use DP systems for cargo, personnel, or fuel transfers where conventional mooring is not practical. Coast Guard regulations have not kept pace with these new technological developments.

A DP incident that results in a loss of position [3] on a MODU or other vessel engaged in Outer Continental Shelf (OCS) activities is a system safety failure that may result in serious consequences for human safety and the environment during certain critical operations. For example, a loss of position on a MODU during well-control operations could result in a subsea spill that is difficult to contain.[4] A logistics vessel could lose position and strike a floating or fixed facility, thereby causing damage to the gas export riser, which may result in an explosion, a loss of life, or an environmental event.[5] A project/construction vessel could lose position while conducting diving operations, risking the lives of the divers.[6]

To reduce the likelihood of a DP incident causing loss of position and the resulting consequences, many large offshore lease-holding corporations require MODUs and other vessels using DP systems while performing Critical OCS Activities [7] on their leases to meet a minimum DP system design standard.[8] Additionally, they require these vessels to implement operating guidelines and employ procedures and decision-support tools to ensure the DP system is operated within its design limits. They also require Dynamic Positioning Operators (DPOs) and other essential personnel to be well trained.

We are proposing DP standards for MODUs and other vessels that use DP to engage in OCS activities because of the risks described above; the ongoing trend of more operators moving further offshore for mineral exploration and production; the expanded use of DP, which is driven in part by the trend of moving operations further offshore and resultant mooring challenges; the difficulty of responding to incidents further offshore, as illustrated by the 2010 DEEPWATER HORIZON incident; the need to update outdated or outmoded Coast Guard regulations to align with changes in the technology

[1] 43 U.S.C. 1333(a) extends the Constitution, laws and civil and political jurisdiction of the United States to, among other things, all artificial islands, and all installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources.

[2] *OCS activity* is defined in 33 CFR 140.10 to mean ''any offshore activity associated with exploration for, or development or production of, the minerals of the Outer Continental Shelf.''

[3] As defined in a MODU's Well Specific Operating Criteria (WSOC) or the Activity Specific Operating Criteria (ASOC) for a vessel other than a MODU. WSOC and ASOC are defined in proposed 46 CFR 62.10–1.

[4] When a MODU performs an emergency disconnect from a well during critical activities involving hydrocarbon pressure, the Blowout Preventer (BOP) is the last line of defense to shut in the well and prevent a subsea spill and/or an uncontrolled fuel source from potentially feeding a fire on the MODU. The potential for failure of the BOP was illustrated during the DEEPWATER HORIZON casualty. The Coast Guard has received multiple voluntary reports of DP system failures that caused a loss of position and an emergency disconnect, including failures during critical activities when the BOP was the only thing preventing a catastrophic spill. Because there is no mandatory reporting requirement, the Coast Guard believes that emergency disconnects during critical activities are much more prevalent than indicated by voluntary reports.

[5] In one example from voluntary reporting, a dynamically-positioned MODU on the U.S. OCS suffered a loss of position during critical activities while attached to a well in April 2010, and the subsea gear was damaged when the MODU performed an emergency disconnect. Another example occurred in July 2005, when the dynamically-positioned logistics vessel SAMUDRA SURAKSHA suffered a loss of position while attempting a personnel transfer and collided with the MUMBAI HIGH NORTH (MHN) platform. The collision severed at least one gas riser, causing a massive fire that destroyed the MHN platform within 2 hours and killed 22 people.

[6] For example, in September 2012, the dynamically positioned project/construction vessel BIBBY TOPAZ suffered a loss of position that severed the umbilical of a diver. Similar incidents involving the severing of diver umbilicals have resulted in diver fatalities.

[7] A *Critical OCS Activity* is defined in 33 CFR 140.305 of this NPRM, in part, as ''OCS Activities where maintaining station is critical because a loss of position could cause a personal injury, environmental pollution, or catastrophic damage.'' Section 140.305 also contains non-exhaustive lists of examples of activities that meet the definitions of Critical OCS Activities on a MODU and Critical OCS Activities on Vessels Other than MODUs. The Coast Guard would provide the DP system industry advance notice and an opportunity to provide input before determining that additional activities meet either of the latter two definitions.

[8] Based on teleconferences with industry that took place in January 2013. The minutes are publicly available at *http://www.uscg.mil/hq/cg5/cg521/*.

and operations that have transpired since these regulations were last updated; and the need to establish appropriate measures that consistently assess DP system capabilities and improve DP system reliability for each OCS activity. These DP standards include operation, design, training, manning, and watchkeeping components.

## IV. Background

### *A. General*

The U.S. Coast Guard, within the U.S. Department of Homeland Security, is responsible for, among other things, protecting the marine environment and promoting the safety of life and property on the OCS. Under OCSLA, Title 46 United States Code, 33 CFR chapter I subchapter N, and 46 CFR chapter I subchapter I–A, the Coast Guard regulates OCS facilities, MODUs, and other vessels engaged in OCS activities, including, but not limited to, tank vessels, offshore supply vessels, and other vessels involved in OCS activities.

The Bureau of Safety and Environmental Enforcement (BSEE), within the U.S. Department of Interior, is responsible for managing the nation's gas, oil, and other mineral resources on the OCS in a safe and environmentally sound manner. Under the OCSLA and Title 30 CFR, BSEE regulates activities such as oil and gas well exploration, drilling, completion, development, production and servicing, as well as pipeline transportation and storage activities under its jurisdiction. BSEE also grants rights-of use and easements to construct and maintain facilities and rights of way for sub-sea pipelines, umbilicals and other equipment. Among other BSEE regulations applicable to oil, gas, and sulfur operations on the OCS, 30 CFR part 250, subpart S, requires covered units to maintain a Safety and Environmental Management System, and 30 CFR part 250, subpart D, sets minimum requirements for blowout preventers to reduce the likelihood and impact of process safety failures.

Under a Memorandum of Agreement [9] between the Coast Guard and BSEE, the Coast Guard is responsible as the lead agency for regulation of DP system design, and all aspects of DP system operation except criteria for well shut-in and disconnect when out of the watch circle.[10]

### *B. Operation and Design Standards*

We initially addressed DP systems in the Coast Guard Eighth District policy letter 01–2003, dated January 22, 2003, ''Use of Dynamic Positioning by Offshore Supply Vessels for Oil and HAZMAT Transfers'' (available in the docket by following the instructions in the ''Viewing comments and documents'' section above). That policy letter provided guidance for certain Offshore Supply Vessels (OSVs) engaged in certain operations in the Gulf of Mexico, and is consistent with International Maritime Organization (IMO) Maritime Safety Committee Circular 645 (MSC/Circ.645), ''Guidelines for Vessels with Dynamic Positioning Systems,'' June 6, 1994, which divides DP system equipment into classes based on reliability levels designated as equipment class 1, 2, or 3. Equipment class 1 (DP–1) is the least reliable and equipment class 3 (DP–3) is the most reliable.

These DP system equipment classes are used today, and IMO MSC/Circ.645 is the foundation for the proposed regulations in this notice. DP system technologies and industry experience, however, have advanced since IMO MSC/Circ.645 was published. Consequently, there is a significant performance disparity among DP systems that have the same equipment class rating, because system configuration, operational, and maintenance decisions may effectively degrade DP systems rated as equipment class 2 (DP–2) or DP–3 to the extent that they perform as if they were rated DP–1. For example, degradation can occur when an operator of a vessel with a DP–2 system chooses to operate with closed bus ties and minimize the number of generators online in order to save fuel and avoid wear and tear on equipment. By doing so, the redundancy afforded by DP–2 may be compromised.

To address this performance disparity, we propose to incorporate IMO MSC/Circ.645 into regulations as mandatory provisions. We also propose to adopt in regulations DP guidance issued by the Marine Technology Society (MTS) [11] as mandatory provisions to provide owners or operators of DP MODUs and other vessels essential information on how to meet some of the requirements in this notice of proposed rulemaking (NPRM).[12]

Additionally, in March 2010, we tasked the National Offshore Safety Advisory Committee (NOSAC) with developing recommendations for DP system design, engineering, and operation standards. The NOSAC provided its recommendations in June 2010 (available in the docket by following the instructions in the ''Viewing comments and documents'' section above), and we have considered them in developing this NPRM. A key feature of the NOSAC recommendations is the risk-based approach of applying higher DP equipment class requirements to higher risk operations. As part of its recommendations, the NOSAC also submitted a draft revision of the DP operations guidance developed by MTS. This draft guidance, which was issued by the Dynamic Positioning Committee of the MTS, also linked DP equipment class to operations.

After receiving the MTS draft guidelines as part of the NOSAC recommendation, we published a draft policy letter, ''Dynamically Positioned Mobile Offshore Drilling Unit Critical Systems, Personnel and Training,'' in the **Federal Register** on December 29, 2011 (76 FR 81957). The MTS was among those that submitted public comment on the draft letter, and we participated in several DP conferences sponsored by MTS. Also, in a ''Notice of Recommended Interim Voluntary Guidance'' published in the **Federal Register** on May 4, 2012 (77 FR 26562), we recommended that owners or operators of DP MODUs voluntarily follow the guidance provided in the

[9] *Memorandum of Agreement Between the Minerals Management Service—U.S. Department of the Interior and the U.S. Coast Guard—U.S. Department of Homeland Security* (MMS/USCG MOA: OCS–04), dated 28 February 2008, Annex I, Items 4.c and 4.d. The Minerals Management Service has since been renamed the Bureau of Safety and Environmental Enforcement. See also, the *Memorandum of Understanding Between the Bureau of Safety and Environmental Enforcement—U.S. Department of the Interior, and the U.S. Coast Guard—U.S. Department of Homeland Security*, dated 27 November 2012. The MOA and MOU are available on the docket by following the instructions under the ''Viewing comments and documents'' section of this preamble.

[10] Watch circles show critical distances between the wellhead and the MODU, and are used to define when a MODU must take certain actions during a loss of position incident to disconnect and separate from the BOP without damage to the MODU or well, injury to the crew, or an environmental event. Watch circles are also used in a similar way by vessels other than a MODU to avoid the adverse effects of a loss of position.

[11] MTS is an international organization incorporated in 1963 to give members of academia, government and industry a common forum for the exchange of information and ideas. Its purpose is to promote awareness, understanding, advancement, and application of marine technology. The MTS Dynamic Positioning Committee was established in 1996 to promote a greater international understanding of DP and related issues, and to provide a forum for the exchange of information about technology, training and education, improvement of reliability, development of guidelines, and other pertinent issues to facilitate incident-free DP System operations.

[12] ''DP Operations Guidance'' (Marine Technology Society, Part 1, Oct. 2010; Part 2, App. 1, March 2012; Part 2, App. 2, July 2012; Part 2, App. 3, July 2012). These documents are available in the docket for this rulemaking by following the instructions in the ''Viewing comments and documents'' section of this NPRM.)

MTS DP Operations Guidance (MTS DP Operations Guide), Part 2, Appendix 1, on MODUs (March 2012). Subsequently, we published a follow-up ''Notice of Recommended Interim Voluntary Guidance'' in the **Federal Register** on October 12, 2012 (77 FR 62247), which recommended that owners or operators of DP vessels other than MODUs [13] that conduct OCS activities on the U.S. OCS follow the 2012 MTS DP Operations Guide, Part 2, Appendix 2, on project construction vessels (July 2012), or Appendix 3, on logistics vessels (July 2012), as appropriate.

This NPRM would require new and existing MODUs, and new vessels other than MODUs, that engage in Critical OCS Activities using a DP system, to comply with certain provisions of IMO MSC/Circ.645 and the MTS DP operations guidance documents listed in the preceding paragraph.[14] These documents outline a process for determining the design limits of a DP system and operating within those limits. The MTS DP Operations Guide provides guidance on determining a DP system's worst-case failure, which is the critical design parameter that drives how the system should be operated. The worst-case failure is used to determine the Critical Activity Mode of Operation (CAMO), which is defined in the MTS DP Operations Guide and in § 140.305 of this NPRM. The DP system's CAMO is then incorporated into the Activity Specific Operating Criteria (ASOC) or Well Specific Operating Criteria (WSOC) [15] covering Critical OCS Activities; those criteria must clearly state when a specific OCS activity is a Critical OCS Activity. Operating a DP system within an ASOC or WSOC appropriate to the specific OCS activity and in its CAMO during Critical OCS Activities helps ensure that the DP vessel is operated within its design limits and reduces the likelihood of a loss of position.

In this NPRM, we propose design and operational standards for DP systems used on MODUs and other vessels. As discussed below in Section V of this NPRM and depicted in Chart A on page 33, we structured these proposed requirements using a risk-based approach tied to the type and size of the MODU or other vessel and whether a Critical OCS Activity is conducted. We are proposing the regulations below after considering the NOSAC recommendations, the MTS and IMO guidance, the current and expected use of DP technology, and the risks associated with loss of position while using DP systems to engage in Critical OCS Activities.

*C. Training, Manning and Watchkeeping Standards*

The increased use of DP provides significant new challenges for the operators and crews of MODUs and other vessels operating on the U.S. OCS. Properly qualified DP system operators and on-watch personnel must have an in-depth knowledge of these positioning systems, be able to constantly and consistently monitor them, and, when appropriate, take manual control to maintain the safety of the vessel, its personnel and the environment. Casualty investigations and anecdotal information regarding near misses due to DP failures have highlighted the need for regulations that address training, manning, and watchkeeping requirements in support of DP systems. The DEEPWATER HORIZON casualty investigation, in particular, highlighted DP operational concerns, including competence, communications, and handling of emergencies, and recommended that we develop operational requirements for vessels fitted with DP.[16]

We do not yet have any operational training standards specifically for DP systems, nor do we have manning or watchkeeping requirements that take into account operations using DP systems. Furthermore, the existing manning and watchkeeping requirements in 46 CFR part 15 apply only to U.S. vessels, including MODUs. To address these gaps, we propose minimum training, watchkeeping, and manning standards for U.S. and foreign MODUs and other vessels using DP systems to engage in OCS activities on the U.S. OCS. We developed these proposed standards after considering internationally accepted standards and input from the industry.

The regulations proposed in this NPRM were developed, in part, based on the recognition that, under applicable law, any MODU or other vessel operating solely with a DP system is a self-propelled motor vessel and is considered to be underway. 46 CFR 10.107 defines ''self propelled'' as ''propelled by machinery'' and ''mechanically propelled.'' Additionally, 46 U.S.C. 2101, paragraph (16), defines ''motor vessel'' as ''a vessel propelled by machinery other than steam.'' Because any vessel operating solely with a DP system is propelled by machinery, such vessels are self-propelled. Similarly, because any vessel operating solely with a DP system is propelled by machinery other than steam, such vessels are motor vessels. Further, such vessels are self-propelled motor vessels regardless of whether the machinery involved is used for the vessel to make way (transiting) or to maintain a fixed position.

Self-propelled motor vessels, which include MODUs operating solely with a DP system, are subject to the Standards for Training Certification and Watchkeeping (STCW) Convention. Under Article III, the STCW Convention applies to seafarers serving on board seagoing ships, including self-propelled MODUs, and existing requirements in 46 CFR 15.1101 specify that a ''seagoing vessel means a self-propelled vessel in commercial service that operates beyond the Boundary Line established by 46 CFR part 7. It does not include a vessel that navigates exclusively on inland waters.'' Because MODUs and other vessels operating solely with a DP system on the U.S. OCS are self-propelled motor vessels operating beyond the Boundary Line, they are seagoing ships for purposes of the STCW Convention. Consequently, the STCW Convention watchkeeping and hours of rest provisions and the training requirements for personnel standing watches apply to mariners serving on MODUs and other vessels using a DP system to engage in OCS activities on the U.S. OCS.

Additionally, MODUs and other vessels operating solely with a DP system are considered to be underway. ''Underway'' is defined in 46 CFR 10.107 as—

> A vessel . . . not at anchor, made fast to the shore, or aground. When referring to a mobile offshore drilling unit (MODU), underway means that the MODU is not in an on-location or laid-up status and includes that period of time when the MODU is deploying or recovering its mooring system.

A vessel operating with DP is underway when it is not: At anchor, made fast to the shore or ocean bottom, aground, or in a laid-up or on-location

[13] Throughout this NPRM, references to ''vessels other than MODUs'' that conduct certain activities or possess certain design characteristics are intended to mean vessels that conduct such activities or possess such characteristics and are not MODUs.

[14] See the discussion of ''Standard DP Requirements (Critical OCS Activities)'' in Section V of this preamble.

[15] ASOC and WSOC are defined in proposed 46 CFR 62.10–1 and are similar to the Activity Specific Operating Guidelines (ASOG) and Well Specific Operating Guidelines (WSOG) in the MTS DP Operations Guide. With Coast Guard concurrence, the content of the ASOC and WSOC may differ from the recommendations in the Operations Guide, and vessels would be required by the proposed regulations to operate within their ASOC or WSOC.

[16] DEEPWATER HORIZON—FINAL REPORT available at *https://homeport.uscg.mil/mycg/portal/ep/contentView.do?contentId=323899&pageTypeId=13489&contentType=EDITORIAL.*

status.[17] Because MODUs and other vessels operating solely with a DP system are considered to be underway, the regulations in 46 CFR subpart B that implement STCW Convention watchkeeping and hours of rest provisions and the training requirements for personnel standing watches also apply to mariners serving on MODUs and other vessels using a DP system to engage in OCS activities on the U.S. OCS.

Further, those regulations are consistent with IMO Resolution A.1079(28), entitled ''Recommendations for the Training and Certification of Personnel on Mobile Offshore Units (MOUs),'' and dated December 4, 2013, which defines a self-propelled MOU as ''a MOU fitted with a mechanical means of propulsion to navigate independently,'' [18] and specifies that all maritime crew members on self-propelled MOUs should meet the requirements of the STCW Convention, as amended.[19]

The 2010 amendments to the STCW Convention contain guidance on the training, experience, and professional competence of personnel who operate DP systems. The guidance specifies the content of the training such personnel should receive and the experience they should possess. We considered the STCW Convention guidance in developing the operational training, manning, and watchkeeping standards in this NPRM.

Additionally, in November 2011, we tasked the NOSAC with developing recommendations for safe standards for personnel operating vessels using DP systems on the OCS. The NOSAC provided its recommendations in November 2012 (available in the docket by following the instructions in the ''Viewing comments and documents'' section above). The NOSAC also submitted reports containing recommended practices for MODUs and other vessels operating DP systems on the U.S. OCS from each of the three main groups of NOSAC stakeholders; specifically, the owners or operators of: (1) OSVs and small vessels; (2) MODUs; and, (3) manned and unmanned barges.

In March 2012, we tasked the Merchant Personnel Advisory Committee (MERPAC) with reviewing the safe operation of dynamically positioned vessels operating on the U.S. OCS. MERPAC provided its recommendations in September 2012 (available in the docket by following the instructions in the ''Viewing comments and documents'' section above).

We considered the recommendations from both advisory committees in developing the training, manning, and watchkeeping standards in this NPRM. Both committees supported the three key recommendations summarized as follows:

*Recommendation 1.* DPOs should be credentialed but not necessarily ''licensed.'' If the DPO is not a licensed officer, a licensed officer of the navigation watch shall be provided, if required.

*Recommendation 2.* Minimum training should meet the standards found in the International Marine Contractors Association's ''The Training and Experience of Key DP Personnel'' (International Marine Contractors Association (IMCA) M 117, Rev. 1, February 2006); and IMO Maritime Safety Committee Circular 738, ''Guidelines for Dynamic Positioning System (DP) Operator Training'' (MSC/Circ.738/Rev. 1, July 2006). In addition to meeting these training standards, further training and/or competency assessments should be required to ensure the proper performance of duties, and should be the responsibility of companies based on the DP system, vessel type, and service/activities.

*Recommendation 3.* Operational measures, including DP system and crew competency requirements, manning, and watch protocols should be based on risk assessments performed under a Safety Management System (SMS).

We agree with the first recommendation that the DPO must be a credentialed mariner, but need not be licensed. The DPO can also be the officer in charge of a navigational watch, provided the DP system and the navigational equipment are collocated, and the person is a qualified DPO who also holds the appropriate mate or officer endorsement.

We fully agree with the second recommendation.

Regarding the third recommendation, we agree with the adoption of operational measures, including the risk-based approach to DP system and crew competency requirements. Additionally, we partially agree with the recommendation that manning and watch protocols be risk based. Because a vessel operating under DP is considered to be underway, MODUs and other vessels using DP must comply with existing laws, regulations, and international requirements on manning and watchkeeping. However, the process to determine watchkeeping and manning protocols should account for the capabilities and limitations of each DP system and the nature of the operations of the vessel, including MODUs. Manning and watch protocols incorporating a risk-based approach would improve the safety of navigation on the U.S. OCS.

Regarding the training requirements of personnel who stand watch on MODUs, we are cognizant that the competency requirements in STCW for masters and officers in charge of the navigational watch may exceed what is required for a MODU. The STCW Convention, however, already permits the issuance of limitations based on vessel types after identifying the competencies that are not applicable. In addition, some flag states already issue certificates of competency for masters restricted to MODUs that would be acceptable for the operation of MODUs using a DP system to engage in OCS activities on the U.S. OCS.

The existing training, watchkeeping, and hours of rest provisions in 46 CFR part 15 applicable to U.S. MODUs and other vessels are consistent with STCW requirements. Furthermore, foreign vessels operating on the U.S. OCS are obligated to comply with STCW requirements because they are seagoing vessels under the STCW Convention. As a party to the STCW Convention, we are proposing changes in this proposed rule to address the gap with respect to the application of STCW requirements to non-U.S. MODUs using a DP system to engage in OCS activities on the U.S. OCS by extending the application of the Convention requirements to them.

Application of the STCW provisions to these MODUs is consistent with the guidance in IMO Resolution A.1079(28), ''Recommendations for the Training and Certification of Personnel on Mobile Offshore Units,'' which specifies that crew members on self-propelled mobile offshore units should meet the requirements of the STCW Convention, as amended.[20] The Dynamic Positioning Operator, Qualified (DPOQ) must have a thorough knowledge of the CAMO and either the ASOC or WSOC, and must be familiar with the vessel's Failure Modes and Effects Analysis (FMEA) so that he or she understands the vessel's capabilities and can anticipate the vessel's movements in the event of DP system failure or other reduced operating capacity. Although we recognize that mariners working on board MODUs and other vessels should

[17] 46 CFR 10.107 defines ''on-location'' as ''a mobile offshore drilling unit [that] is bottom bearing or moored with anchors placed in the drilling configuration.

[18] IMO Resolution A.1079(28), para. 2.

[19] *Id.* at para. 4. This document is available in the docket for this rulemaking by following the instructions in the ''Viewing comments and documents'' section of this NPRM.

[20] IMO Resolution A.1079(28), para. 4.

also have additional knowledge and understanding of the industrial mission, as provided in IMO Resolution A.1079(28), such a requirement is outside the scope of this rulemaking.

*D. Classification, Plan Review, and Certification*

This NPRM proposes to require any MODU that uses a DP system to engage in Critical OCS Activities, or any other vessel that uses a new DP system to engage in Critical OCS Activities, to obtain a DP notation equivalent to IMO MSC/Circ.645 equipment class DP–2 or higher from a classification society recognized under 46 CFR 8.230. The classification society must possess DP system rules that are aligned with IMO MSC/Circ.645 and meet the requirements of proposed 46 CFR 61.50–3 and the MTS DP Operations Guide provisions applicable to the vessel being classed. The Coast Guard Outer Continental Shelf National Center of Expertise (OCS NCOE) would determine whether the classification society is recognized under 46 CFR 8.230, whether its DP system rules are aligned with IMO MSC/Circ.645 and the MTS DP Operations Guide provisions applicable to the vessel being classed, and whether the notations are equivalent to DP–2 or higher. Under proposed § 61.50–20, actions of the OCS NCOE would be appealable to the U.S. Coast Guard Deputy Commandant for Prevention.

Obtaining a classification society notation of DP–2 or higher mitigates the risk of MODUs and other vessels losing position during DP operations on the U.S. OCS. A DP–2 notation from a classification society serves as a fundamental building block for safe DP operations by ensuring a minimum level of reliability for a DP system, but the notation does not consider the mission of the vessel, nor does it address operations. The MTS DP Operations Guide further enhances safe DP operations by ensuring the MODU or other vessel is operated within the design limits of the DP system for the industrial mission it must carry out.

As we discuss further in section V. of this preamble, different levels of risk are associated with different vessels and missions. In general, we are proposing a risk-based approach tied to the type of vessel and whether the vessel conducts Critical OCS Activities. In addition, we propose to distinguish between vessels other than MODUs based on vessel size. For the lower risk category of vessels that conduct Critical OCS Activities, meeting IMO MSC/Circ.645, obtaining surveys from a DP system assurance organization (DPSAO), meeting DP personnel and system training requirements, and following the MTS guidance is sufficient to ensure a satisfactory safety level.

Accordingly, we do not propose to require such vessels to obtain plan review from a DPSAO and obtain a DP notation equivalent to IMO MSC/Circ.645 equipment class DP–2 or higher from a classification society for the purpose of determining compliance with Coast Guard DP requirements. Instead, we would rely on the DPSAO to verify compliance with the provisions of this NPRM and be able to provide evidence of this to the Coast Guard upon request.

This NPRM would require more oversight on MODUs and other larger vessels that use a DP system to engage in Critical OCS Activities. These higher-risk vessels would be required to obtain plan review and surveys from a DPSAO [21] in accordance with § 61.50–3 of this NPRM.

To qualify for Coast Guard authorization to conduct surveys and verify compliance with the provisions in this NPRM, a DPSAO must demonstrate competency and effectiveness in vessel plan review and survey. Some of the criteria the Coast Guard currently uses to recognize classification societies under 46 CFR 8.230 are also applicable to DP system assurance organizations, such as having quality systems based on industry standards, and financial independence from MODU and other vessel owners and builders. Additional criteria would include a documented history of providing FMEA and survey services on a wide variety of MODUs and other vessels with various industrial missions, and a minimum amount of documented history of providing high quality, effective DP assurance, such as recommending enhancements to design or operational measures.

In developing the classification, plan review, and certification provisions of this NPRM, we consulted with organizations that currently conduct DP assurance on MODUs and other vessels on the U.S. OCS, and leaseholders who require MODUs and other vessels with which they contract to follow the MTS DP Operations Guide. Based on this feedback and our experience with classification societies and DPSAOs, we are proposing criteria for DP system assurance organizations that are highly qualified in DP system assurance.

Classification societies and other DPSAOs that are highly qualified in DP system assurance would need to be accepted by the Coast Guard after demonstrating they meet our proposed criteria. After acceptance by the Coast Guard, classification societies and other highly qualified organizations would be eligible to conduct the DP plan review and surveys that would be required on MODUs and other large vessels.

## V. Discussion of Proposed Rule

This NPRM would set standards for MODUs and other vessels that use a DP system for OCS activities, but would not require vessels to be equipped with a DP system. These standards would not prevent owners or operators from choosing to meet a higher standard or seeking approval of equivalent safety measures.

In this NPRM, we took potential economic impact into consideration by phasing in certain vessels, other than MODUs, with existing DP systems. We also propose a risk-based approach tied to the type and size of the MODU or other vessel and the category (critical or non-critical) of OCS activity the DP system is used to conduct. This approach is depicted in Chart A.

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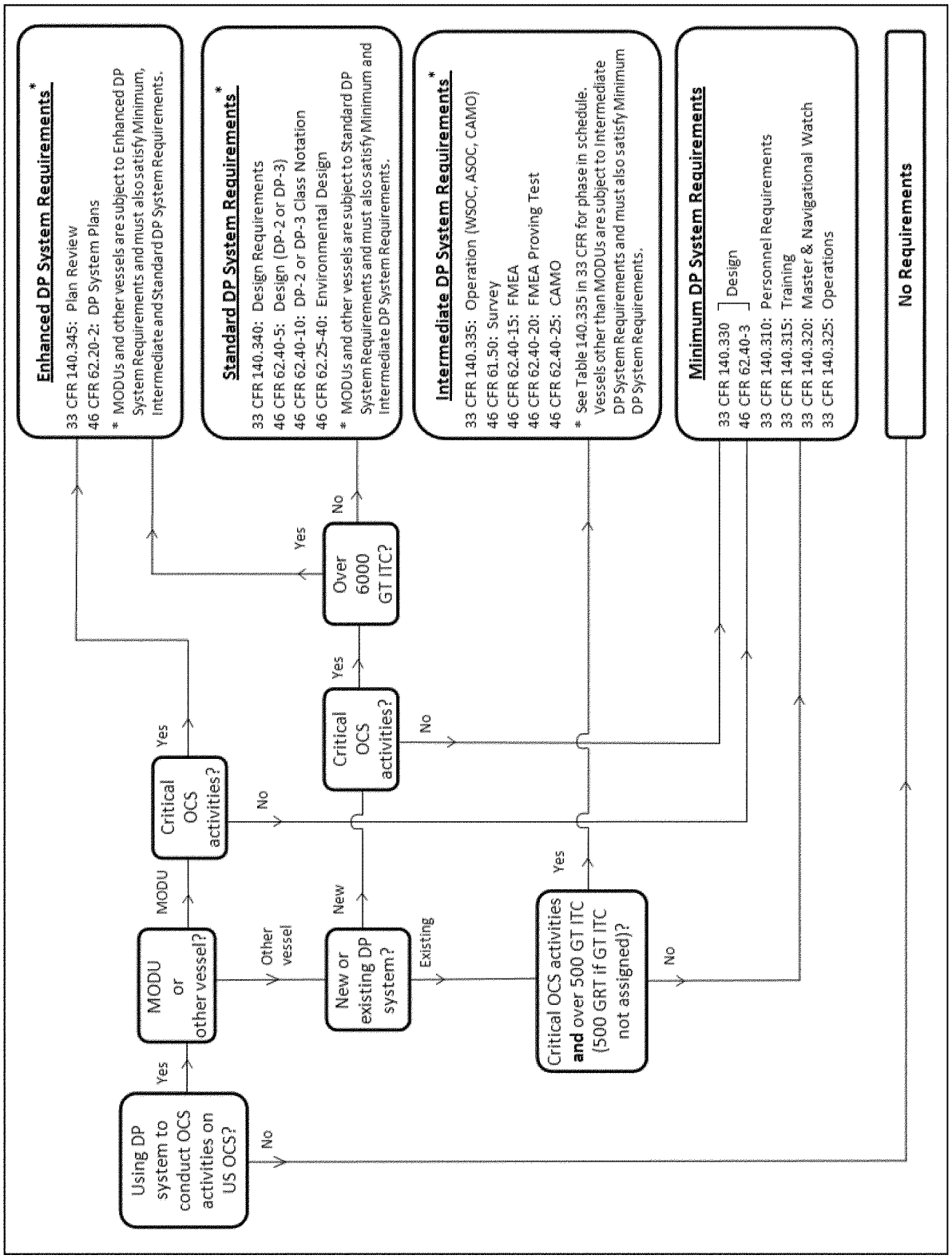
[21] Dynamic Positioning System Assurance Organizations are described in § 61.50–3 of this NPRM.

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The chart depicts five levels of DP requirements (none, minimum, intermediate, standard, and enhanced) that MODUs and other vessels that use a DP system for OCS activities must satisfy depending on the level of risk. The requirements would be progressive; a MODU or other vessel that is subject to the enhanced DP system requirements would need to meet the standard, intermediate, and minimum requirements as well.

When developing these proposed requirements, we considered the risk-based approach of the MTS DP Operations Guide. The MTS DP Operations Guide, in Part 1 of section 4.1, recommends various DP equipment classes based on the type of OCS activity the DP system is used to conduct. A similar approach is taken in

section 4.4, which recommends different numbers and types of position reference sensors based on the OCS activity.

The MTS DP Operations Guide also distinguishes between critical and non-critical activities and recommends more stringent operational requirements for critical activities. The proposed regulations reflect the risk-based approach in the guide by adjusting the DP system reliability standard and level of oversight depending on the size of the vessel and the OCS activity the MODU or other vessel is designed to perform. This NPRM would require owners or operators of DP MODUs and other vessels to follow the MTS DP Operations Guide, which provides essential information to support compliance with some of the requirements proposed in this NPRM.

Primarily, this NPRM would distinguish between MODUs and other vessels that use DP systems to engage in Critical OCS Activities and those that do not by requiring higher DP standards and more robust oversight for Critical OCS Activities. For example, because a MODU has a higher risk profile than a logistics vessel under the MTS DP Operations Guide, this NPRM would require a MODU to meet higher DP standards and be subject to more robust oversight than a logistics vessel.

This NPRM would also distinguish between the sizes of vessels other than MODUs that use a DP system for OCS activities. A primary risk from such vessels is a loss of position that results in a collision with another structure. The consequences of such a collision increase with the size of the vessel. For this reason, we propose to require a higher DP standard for the largest vessels other than MODUs with new DP systems, which are those greater than 6000 GT ITC.

For the same reason, we also propose a phase-in for existing vessels other than MODUs, where the largest such vessels are required to comply first and the smallest—those of 500 GT ITC or less (500 GRT if GT ITC not assigned)—are required to comply only with the minimum DP requirements of this NPRM. The NPRM would require vessels other than MODUs, greater than 500 tons but less than 900 tons, equipped with existing DP systems, to comply with the intermediate requirements within 9 years after publication of the final rule; vessels of at least 900 tons but less than 1900 tons to comply within 6 years after publication of the final rule; and vessels of 1900 tons or more to comply within 3 years after publication of the final rule. The decisions to phase in vessels other than MODUs and apply minimum requirements to the smallest of them are also discussed in the regulatory analysis section of this NPRM. Those proposed provisions are intended to reduce economic impact by providing industry time to transition to the new requirements. A detailed discussion of the top four levels of Chart A follows.

*Minimum DP Requirements (Non-Critical OCS Activities)*

This NPRM would require vessels, other than MODUs, that use an existing DP system to engage in non-critical OCS activities or are 500 GT ITC or less to meet minimum DP requirements. For example, a vessel 500 GT ITC or less that uses an existing DP system to engage in Critical OCS Activities would be required to meet minimum DP requirements, as would a vessel greater than 500 GT ITC that uses an existing DP system to engage in non-critical OCS activities. Additionally, vessels, other than MODUs, that use a new DP system to engage in non-critical OCS activities, and MODUs that use a new or existing DP system for the same purpose, would be required to meet minimum training and DP system requirements. There are no DP incident reporting requirements for MODUs and vessels other than MODUs subject to only Minimum DP System Requirements.

Proposed 33 CFR 140.330 and 46 CFR 62.40–3 would require the DP system controls to be designed and operated in a manner that reduces the probability of adverse events such as a drive-off or drift-off after a DP system failure. The DP system would be required to be equipped with audible and visual alarms that notify the DPO of DP system failure and independent controls immediately available to the DPO that function after the failure.

Proposed 33 CFR 140.315 would establish minimum requirements for DPO and DPOQ training that ensure they are appropriately trained in the use and limitations of the DP system. Both DPOs and DPOQs would be required to be familiar with the CAMO, and either the ASOC or WSOC of their MODU or other vessel, and to demonstrate a fundamental understanding of the specific DP system's FMEA.

Under proposed § 140.325, MODUs and other vessels would be required to have a vessel-specific DP system operating manual on board and readily available to the DPO. Additionally, MODUs and vessels conducting vessel-to-vessel transfer operations using DP systems would need to ensure clear communication and appropriate emergency preparedness between the two vessels, which may have differing DP system capabilities and operating procedures.

*Intermediate DP Requirements*

In addition to meeting the minimum DP requirements described above, proposed 33 CFR 140.335 would require vessels, other than MODUs, greater than 500 GT ITC (500 GRT if GT ITC not assigned) that use a DP system installed before [30 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE] to engage in Critical OCS Activities, to develop and adhere to their CAMO and ASOC. A Critical OCS Activity is defined in proposed 33 CFR 140.305 as an activity on the OCS in which the accuracy and consistency of the vessel's position is a major factor in the safety of personnel, property, and the environment. For the reasons stated in section III.B. of this preamble, we believe that the risk of an injury, collision, or spill incident is higher when a DP system is used to engage in Critical OCS Activities and should be subject to a higher safety requirement.

Additionally, 33 CFR 140.335 would require MODUs that use a DP system to engage in Critical OCS Activities to develop and adhere to their CAMO and WSOC. The CAMO, ASOC, and WSOC would ensure each DP system is operated within its design limits for the specific operation. Owners or operators would also be required to report DP system incidents involving a reactive change from ''green'' to ''yellow'' or ''red'' as defined by the ASOC or WSOC. The reporting requirement would apply to DP system incidents that occur at any time, not just those that occur during Critical OCS Activities.

Proposed 46 CFR 61.50–2 would require DP system surveys to be completed by a DPSAO. In addition, the MODU or vessel owner or operator would be required to provide the Coast Guard with at least 30 days advance notice of these surveys, which would enable the Coast Guard oversight needed to strike a balance between ensuring that third parties are adequately performing delegated functions on the Coast Guard's behalf, and reducing visits to the vessel by the Coast Guard.

The surveys under proposed 46 CFR 61.50–5 through 61.50–15 are based on those described in IMO MSC/Circ.645 and the MTS DP Operations Guide, and would consist of an initial survey, an annual survey that ensures the DP system remains in good working order, and periodic surveys that fully test all systems at least once every 5 years. The specific tests to be conducted during the surveys and the documentation that

would be required are discussed in detail in proposed part 61 of this NPRM.

Proposed 46 CFR 61.50–3 creates requirements that each DPSAO must meet to receive approval from the OCS NCOE to conduct the surveys described above. These provisions include requirements for DPSAOs to produce documents showing they have a history of providing DP assurance to MODUs and vessels other than MODUs, and have adequate resources and experience that demonstrate they are highly qualified to provide DP system oversight.

Proposed 46 CFR 61.50–4 requires an annual report to be submitted by each DPSAO to the OCS NCOE. The annual report must contain each investigation summary reported to the DPSAO under proposed 33 CFR 140.335(i). The annual report would provide valuable feedback and allow the Coast Guard to verify that the FMEA, WSOC, ASOC and CAMO are being updated with lessons learned that address the cause(s) of each incident, thereby reducing the likelihood that future incidents will occur. Additionally, the OCS NCOE may periodically audit the records of DPSAOs to determine whether they are continuing to provide the DP system oversight necessary to verify that DP system are in compliance with the applicable requirements of this NPRM.

Proposed 46 CFR 62.40–15 through 62.40–25 would require MODUs and other vessels to which § 140.335 applies to conduct testing based on the FMEA to determine the CAMO for the DP system. The purpose of the testing is to uncover failure modes. For example, failure modes that could be transmitted through a bus tie should be included in the CAMO. For this type of failure mode, the CAMO should require electrical isolation during Critical OCS Activities to prevent the failure from resulting in a complete power loss and subsequent drift off.

Compliance with these provisions of this NPRM would be documented on the Dynamic Positioning Verification Acceptance Document (DPVAD) issued by a DPSAO under proposed 33 CFR 140.335.

*Standard DP Requirements (Critical OCS Activities)*

In addition to meeting the minimum and intermediate DP requirements described above, proposed 33 CFR 140.340 and 46 CFR 62.25–40 and 62.40–5 would require vessels other than MODUs, of 6000 GT ITC or less, that use a new DP system to engage in Critical OCS Activities, to comply with IMO MSC/Circ.645 and the environmental type testing provisions of International Electrotechnical Commission Standard 60092–504 ''Electrical Installation in Ships'', and would require that such vessels meet the provisions of the applicable MTS DP Operations Guide. Because Critical OCS Activities consist of relatively high-risk activities, including those where loss of position on a vessel could strike the production riser of a floating or fixed facility, which may result in an explosion, a loss of life, and/or an environmental event similar in magnitude to that of the DEEPWATER HORIZON, Critical OCS Activities should be subject to a higher safety requirement.

DP systems on these vessels would, at a minimum, be required to comply with the provisions of IMO MSC/Circ.645 and the MTS DP Operations Guide (incorporated by reference, see § 62.05–1) relevant to equipment class 2 (DP–2) or higher. The applicable provisions of IMO MSC/Circ.645 are the following paragraphs:

1.1 Purpose and Responsibility;
1.3 Definitions;
2 Equipment Classes;
3 Functional Requirements; and
4 Operational Requirements.

As discussed in the ''Background'' section above, IMO MSC/Circ.645 and the MTS DP Operations Guide contain recommendations. Circular 645, however, is a mature, performance based document with wide industry acceptance, and we propose to incorporate it into regulations as mandatory provisions. The proposed regulations would also include a survey and certification scheme different from that in the Circular. Specifically, we propose to require the initial survey to include a Failure Modes and Effects Analysis (FMEA) proving test, and require the Critical Activity Mode of Operation (CAMO) to be identified.

Development of a CAMO and ASOC or WSOC would also be required for each vessel and well, which have different characteristics and risks. Because of these differences, the proposed regulations cannot prescribe in detail the content of these documents. Such regulations would be extremely lengthy, in a constant state of change as DP technology evolves, and prone to overbroad misapplication of standards that should be tailored to each vessel and well.

Instead, we propose to require that owners or operators consult the applicable portions of the MTS DP Operations Guide as a method of drafting these documents and complying with the other mandatory provisions of the regulations. The MTS DP Operations Guide contains principles for the development of these documents that address the risks experienced by today's modern DP vessels. The Guide also contains highly useful examples that will be applicable to a large majority of vessels and wells.

We anticipate that the examples in the MTS DP Operations Guide will be used by industry largely without change. However, some vessels will employ solutions to obtain DP reliability that vary from the examples in the Guide, and will have the option to request the use of alternative guidance from the Coast Guard Office of Design and Engineering Standards (Commandant (CG–ENG)). Where this occurs, the OCMI, the vessel owner or operator, the classification society, and the DPSAO will apply the relevant principles of the MTS DP Operations Guide to ensure the ASOC or WSOC and CAMO provide a sufficient level of DP reliability to meet the DP–2 performance standard in IMO MSC/Circ.645, paragraph 2.2.2.

Owners or operators would also be required under proposed 46 CFR 62.40–10 to obtain an equivalent class notation from a classification society possessing DP system rules that are aligned with IMO MSC/Circ.645 and meet the requirements of proposed 46 CFR 61.50–3 and the MTS DP Operations Guide provisions applicable to the vessel being classed. These other vessels would also need to meet the environmental design requirements of proposed 46 CFR 62.25–40. That section is modeled after a standard promulgated by the International Electrotechnical Commission (IEC) to ensure critical equipment is appropriately designed to withstand the marine environment.[22]

*Enhanced DP Requirements (MODUs and New DP Systems on Large Vessels)*

In addition to meeting the minimum, intermediate, and standard DP requirements described above, proposed 33 CFR 140.345 and 46 CFR 62.20–2 would require vessels other than MODUs, greater than 6000 GT ITC, that use new DP systems to engage in Critical OCS Activities, and MODUs that conduct Critical OCS Activities, to obtain plan review and surveys from a DPSAO, which would be subject to oversight by the Coast Guard.

The enhanced DP requirements are intended to improve DP designs to support the industrial mission of the MODU or large vessel, and are necessary because, as discussed in the Background section of this preamble, a significant performance disparity exists in various

[22] IEC 60092–504, Third Edition 2001–03, Electrical Installations in Ships—Part 504: Special Features—Control and Instrumentation, Clause 5.

DP systems rated DP–2. For example, a DP–2 system on one vessel could consist of a power system with two large generators, two switchboards, and a bus tie; a DP–2 system on another vessel could consist of four smaller generators, four switchboards, and four bus ties. All other things being equal, a bus failure on the first power system would result in a 50 percent reduction in power and thrust, while a bus failure on the second would result in a 25 percent reduction.

For these reasons, and particularly because of the higher risk profile of these vessels when they are engaging in Critical OCS Activities with a DP system, more rigorous safety standards are necessary.

*Dynamic Positioning Verification Acceptance Document (DPVAD)*

Proposed 33 CFR 140.335 would create a new document for vessels other than MODUs of at least 500 GT ITC, and MODUs that use a DP system to conduct Critical OCS Activities.

A DPVAD would document compliance with the requirements of this NPRM. This document would need to be renewed every 5 years, and would be issued by a DPSAO after verifying that the vessel has met the applicable DP requirements in this NPRM.

*Training*

Operating a DP system requires such familiarity with the system that the industry and international community have developed the term DPO to describe a person qualified to operate a vessel in DP system mode. This NPRM proposes to adopt that term, as well as the related concept of a qualified trainee, called a DPOQ. Both terms are defined in proposed 33 CFR 140.305.

We propose to require that when using a DP system to maintain station, a DPO must either operate the DP system or supervise a DPOQ who is operating the DP system. A DPOQ, if present, may operate the DP system if the DPO and the vessel's master have endorsed the DPOQ in writing. Both the DPO and DPOQ must be mariners holding credentials as a rating forming part of the navigational watch, able seafarer-deck, operational-level deck officer, chief mate, master, a rating forming part of the engineering watch, able seafarer-engine, operational-level engineer officer, second engineer, or chief engineer, and must have completed the applicable DP system training set out in proposed 33 CFR 140.315.

The training requirements for the DPO and DPOQ are based on international standards: Section B–V/e of the STCW Code; IMCA M 117 Rev.1, ''The Training and Experience of Key DP Personnel''; and IMO MSC/Circ. 738, ''Guidelines for Dynamic Positioning System (DP) Operator Training''. There are several training facilities in the United States that are certified by the Nautical Institute, which has established industry-accepted standards meeting the IMO and IMCA guidance. Mariners who receive the training specified in proposed 33 CFR 140.315, and familiarize themselves with the specific system to be operated on a particular vessel, are qualified to operate that MODU or other vessel in DP mode.

A DPOQ, by contrast, is a trainee qualified to operate a DP system when directly supervised by a DPO. The DPOQ must complete training that provides an introduction to the functions and use of a DP system, as well as 30 days of training on board any DP system-equipped vessel, and must demonstrate understanding of the specific vessel's system he or she would operate such that the DPO and the vessel's master give written endorsements of the DPOQ's qualifications. This training sequence is based on IMCA M 117, and is in keeping with current industry practices.

Because DP systems vary widely, qualifying as a DPOQ is vessel specific; a DPOQ from one vessel would still require familiarization to qualify as another vessel's DPOQ. The DPOQ must be familiar with the specific vessel's DP system, including the generation, distribution, and management of power. The DPOQ also must have a thorough knowledge of the CAMO and either the ASOC or WSOC, and must be familiar with the vessel's FMEA so that he or she understands the vessel's capabilities and can anticipate the vessel's movements in the event of DP system failure or other reduced operating capacity. Although we recognize that mariners working on board MODUs and other vessels should also have additional knowledge and understanding of the industrial mission, as provided in IMO Resolution A.1079(28), ''Recommendations for the training and certification of personnel on mobile offshore units (MOUs),'' such a requirement is outside the scope of this rulemaking.

All records of training for the DPO and DPOQ must be maintained by that individual and the owner or operator of the vessel. The Coast Guard would accept company letters, course completion certificates from a training institution, letters or course completion certificates from the DP system manufacturer, or certifications from an industry-accepted organization as proof that the seafarer received training.

*Manning and Watchkeeping*

We also propose to include a definition of DP system in 33 CFR 140.305 and 46 CFR 62.10.1 to make clear that a vessel using a DP system is a vessel ''underway.'' As discussed above in the ''Background'' section of this preamble, a vessel using a DP system is underway when it is not at anchor, made fast to the shore or ocean bottom, aground, or in an on-location or laid-up status. Clarifying that a vessel conducting DP operations is underway would ensure that appropriate manning, training, certification, and hours of rest requirements apply.

To address the application of the STCW Convention to MODUs and other vessels using a DP system to engage in OCS activities on the U.S. OCS, we propose manning requirements in 33 CFR 140.320 that meet the training, certification, and watchkeeping provisions of the STCW Convention. The specifics of these requirements are discussed below.

We propose a risk-based approach using a performance standard in 33 CFR 140.310 to determine the number of DPOs and DPOQs necessary for the safe operation of the DP system. The performance standard includes compliance with STCW hours of rest, conditions for the operation with a DPO and DPOQ, use of the officer of the watch as the DPO, and consideration of the nature of the DP operations and the DP system. This approach provides the flexibility to use different configurations when operations or the DP system may require additional personnel, in order to enhance navigational situational awareness.

To ensure proper navigation and adequate operational oversight of DPOs, we are proposing a requirement in 33 CFR 140.320 that any MODU or other vessel using a DP to engage in OCS activities on the U.S. OCS must be under the command of a master and maintain navigational watches.

These proposed requirements are necessary for the safety of the vessel and its personnel in the event of a loss of position that requires the use of manual control, and when other navigational issues arise that are beyond the duties and responsibilities of the DPO. Even when maintaining a fixed position using a functional DP system, a situation may arise, such as avoiding a collision with a vessel, that would be outside of the scope of a DPO's training, authority, and skill level, and require a qualified master and navigational watch. Additionally, these proposed

requirements are consistent with STCW training, certification, and watchkeeping provisions, as well as the requirements in 46 CFR part 15, that are applicable to U.S. MODUs and other vessels.

To address the concern that the requirements in the STCW tables of competency for masters and officers in charge of the navigational watch exceed what is required in these proposed regulations for a MODU, the STCW Convention permits the issuance of limitations based on vessel types after identifying the competencies that are not applicable. Although the proposed requirements do not refer to specific STCW regulations or identify the appropriate competencies (specifically, knowledge, understanding, and proficiency) applicable to MODUs, the Coast Guard will address any differences through the issuance of exemptions and limitations to the credential in accordance with 46 CFR 11.301(f). We may also consider developing policy to identify any differences based on MODU type, if appropriate.

In addition, we propose to include a requirement in 33 CFR 140.320 that the master and officers meet hours of rest requirements in Regulation VIII/1 of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, and Section A–VIII/1 of the Seafarers' Training, Certification and Watchkeeping Code. These provisions would ensure that the watchkeeping personnel and the watches on board MODUs and other vessels are arranged to protect personnel from impairment because of fatigue. These proposed requirements are consistent with the existing regulations in 46 CFR part 15 as applicable to U.S. MODUs and other vessels.

We are also proposing a requirement in 33 CFR 140.310 to ensure that the DPO and the officer of the watch are in direct communications during DP system operation. Nothing in this NPRM, however, is to be interpreted as removing or decreasing the responsibility of the master and watchstanding officers for the safe navigation and operation of the vessel. Changes to the authority of the master and crew on a MODU, including matters relating to a MODU's industrial mission, are outside the scope of this NPRM.

Lastly, we propose to include a requirement in 33 CFR 140.320 that each MODU be issued a manning document identifying the personnel complement necessary to maintain watches and meet the hours of rest requirements. Furthermore, a provision similar to existing 46 CFR 15.520 would permit the flag state to also consider the specialized nature of each MODU, including the limitations and capabilities of the DP system, when determining the minimum manning complement.

## VI. Incorporation by Reference

Material proposed for incorporation by reference appears in 33 CFR 140.7, 46 CFR 61.03–1, and 46 CFR 62.05–1. See **ADDRESSES** for information on viewing this material. Copies of the material are available from the sources listed in 33 CFR 140.7, 46 CFR 61.03–1, and 46 CFR 62.05–1. Before publishing a binding rule, we will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

## VII. Regulatory Analyses

We developed this NPRM after considering numerous statutes and Executive Orders (E.O.s) related to rulemaking. Below, we summarize our analyses based on these statutes or E.O.s.

### *A. Regulatory Planning and Review*

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health 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 NPRM is not a significant regulatory action under section 3(f) of E.O. 12866.

Accordingly, this NPRM has not been reviewed by the Office of Management and Budget. A preliminary Regulatory Analysis (RA) discussing costs, benefits, and alternatives considered is available in the docket by following the instructions in the ''Viewing comments and documents'' section of this preamble above.

Table 1 summarizes the impacts of this NPRM.

TABLE 1—SUMMARY OF AFFECTED POPULATION, COSTS, AND BENEFITS

| Category | Notice of proposed rulemaking |
|---|---|
| Applicability | U.S.- and foreign-flag vessels that use an existing or new DP system. |
| Affected population over 10-year period. | 583 existing OSVs, 53 existing MODUs, and 43 existing crewboats.<br>322 future OSVs, 57 future MODUs, and 20 future crewboats. |
| Industry Costs (7% discount rate) | $20.180 million (annualized).<br>$141.733 million (10-year). |
| Benefits (7% discount rate) | Monetized, avoided property damage and loss of production:<br>$8.812 million (annualized).<br>$61.895 million (10-year).<br>Non-quantified:<br>Reducing the risk of injuries, loss of life, and environmental damage due to a loss of position resulting from a DP failure. |
| Breakeven Analysis | One incident of the magnitude of the SAMUDRA SURAKSHA disaster would need to be prevented every 48 years for the benefits to equal the costs. |

* Please refer to the Regulatory Analysis in the docket for details.

A summary of the RA follows.

During interactions with industry at National Advisory Committees, DP conferences, and industry training seminars in DP design and operations, industry expressed the need for a uniform DP standard from the United States as a Coastal State. In response, we have developed this NPRM, which would provide MODUs and other vessels that engage in OCS Activities while using a DP system on the U.S. OCS a uniform standard that addresses design, construction, and operation of DP systems. This standard would aid

owners or operators in safely meeting energy market demands and pursuing offshore energy ventures that are farther offshore and in deeper waters.

To minimize the costs to industry, we have based our proposed standards and requirements on established guidelines used by today's DP industry, specifically IMO MSC/Circ.645 and the MTS ''DP Operations Guide.'' We have also limited the application of the DP system design standards to existing and new MODUs, and to new vessels other than MODUs (*e.g.*, OSVs and crewboats) that engage in Critical OCS Activities while using a DP system. Vessels other than MODUs, with existing DP systems that conduct Critical OCS Activities, would be ''grandfathered'' from complying with the DP systems design standards, which are the most costly requirements of this NPRM, and would be permitted to phase-in operating standards, such as developing and maintaining an FMEA, CAMO, and ASOCs, reporting and investigating DP incidents, and conducting DP Surveys, according to the applicable date listed in Table 2.

TABLE 2—PHASE-IN SCHEDULE FOR VESSELS (EXCEPT MODUS) WITH EXISTING DP SYSTEMS

| Tonnage of vessel other than MODU | Date requirements effective | Number of OSVs and crewboats affected |
|---|---|---|
| At least 1,900 GT ITC | Date of Final Rule + 3 years | 224 OSVs and 0 Crewboats. |
| At least 900 GT ITC | Date of Final Rule + 6 years | 183 OSVs and 0 Crewboats. |
| Greater than 500 GT ITC | Date of Final Rule + 9 years | 85 OSVs and 1 Crewboat. |

This flexibility in the phase-in schedule is expected to minimize costs for the population of vessels most likely to not be in compliance with the provisions of this NPRM by date of publication of a final rule. Further, by extending the phase-in timeline, we have reduced the possibility that DP testing providers would be overwhelmed by any sudden increase in demand for their services. Therefore, although a less lengthy phase-in schedule would lead to an earlier accrual of benefits, it may not lead to lower costs overall, if indirect costs (such as a lower quality of service, longer delays between testings, and higher prices in the short-term) are also taken into account.

When properly designed and operated within design limits, DP systems provide industry with an ability to safely maintain position, using these rapidly evolving, computerized systems to stay within meters of their desired location even in the face of wind, wave, and current forces. However, these systems are not immune from failures and, because MODUs and other vessels in this industry perform high-hazard industrial missions, including drilling for oil and gas, conducting personnel transfers, and handling large quantities of oil and hazardous materials, a loss of position could result in an incident with significant loss of life or large spill of oil or hazardous materials. Establishing minimum standards for DP systems used to conduct OCS activities would promote the safety of people and property engaged in such operations. While this NPRM would impose no carriage requirements nor require use of DP, it would require that minimum design, operation, manning, personnel, and training requirements be met if the vessel is using DP.

This NPRM would also require vessels engaged in certain critical situations (*e.g.*, transfer of personnel and/or hazardous materials) to meet DP–2 design standards to ensure that a single failure of a primary component does not lead to catastrophic consequences.

Additionally, the provisions required of MODUs and other vessels engaged in Critical OCS Activities enhance the capability of a DP system beyond what it would achieve by obtaining a DP equipment class 2 or 3 notation from a classification society with DP rules aligned with IMO MSC/Circ.645. The enhanced capability enables a MODU or other vessel to more safely perform its industrial mission because the DP system is more fault-tolerant and fault-resistant, and has greater capability to maintain position after a worst-case failure than a vessel operating with DP equipment class 1. Further, these additional provisions would require owners or operators to develop and implement operational measures and decision-support tools (ASOC or WSOC, and CAMO) to operate a DP system within its design limits, mitigating the severity of a DP system failure in the event that one occurred.

Reason for Coast Guard Action

MODUs and other vessels that use DP to engage in OCS activities that operate with lower safety standards may cause harm or increased risk of harm to human safety and the environment. The costs of these lower safety standards (increased risk) are not completely borne by the OSV or MODU owners or operators, so they are external to the business decisions of these owners or operators. The crew, which may face increased risk from lower safety standards, may not have any say in safety-related decisions. Since the crew may be adversely affected by business decisions which it may not be able to mitigate through increasing its price (labor cost), it absorbs the cost of the externality (increased risk from lower safety standards), which is a market failure. Oil spills that result from OSV or MODU accidents also impose an externality in the forms of environmental damage and clean-up costs that are not borne directly by the OSV and MODU owners.

Affected Population

Based on the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) data, we estimate that 583 existing OSVs (460 U.S.-flag), 53 existing MODUs (2 U.S.-flag), and 43 existing crewboats (42 U.S.-flag) would be affected by this NPRM. Using historical population data from MISLE, we forecast that over the 10-year period of this analysis, 322 future OSVs (which include OSVs less than 6,000 GT ITC and OSVs of at least 6,000 GT ITC), 579 future MODUs, and 20 future crewboats would be affected by this NPRM.[23]

[23] Of this, 255 future OSVs, 2 future MODUs, and 16 future crewboats are expected to be U.S.-flag.

TABLE 3—SUMMARY OF AFFECTED POPULATION

| Year | Future OSVs less than 6,000 GT ITC | Existing OSVs less than 6,000 GT ITC | Phased-in OSVs less than 6,000 GT ITC | Future OSVs of at least 6,000 GT ITC | Existing OSVs of at least 6,000 GT ITC | Phased-in OSVs of at least 6,000 GT ITC | Future MODUs | Existing MODUs | Future crewboats | Existing crewboats | Phased-in crewboats |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Base | | 563 | | | 20 | | | 53 | | 43 | |
| 1 | 22 | | 0 | 5 | | 0 | 6 | | 3 | | 0 |
| 2 | 46 | | 0 | 10 | | 0 | 14 | | 6 | | 0 |
| 3 | 54 | | 0 | 15 | | 0 | 20 | | 10 | | 0 |
| 4 | 77 | | 224 | 20 | | 20 | 27 | | 12 | | 0 |
| 5 | 102 | | 0 | 25 | | 0 | 33 | | 14 | | 0 |
| 6 | 128 | | 0 | 30 | | 0 | 38 | | 15 | | 0 |
| 7 | 159 | | 183 | 35 | | 0 | 43 | | 16 | | 0 |
| 8 | 195 | | 0 | 40 | | 0 | 48 | | 17 | | 0 |
| 9 | 233 | | 0 | 45 | | 0 | 53 | | 18 | | 0 |
| 10 | 272 | | 85 | 50 | | 0 | 57 | | 20 | | 1 |

This NPRM would create design, operating, manning, and safety standards by adding or amending regulations in the following categories:

*Minimum DP System Requirements*

*DPO and DPOQ Personnel and Training*[24] (33 CFR 140.310 and 140.315)—would establish the minimum number of DPOs and DPOQs necessary for the safe operation of the DP system, as well as minimum training and experience requirements that a DPO or DPOQ must meet prior to operating a DP system on the U.S. OCS. A DPO or DPOQ must demonstrate thorough knowledge of the vessel's DP system components, operational manuals, and the CAMO and ASOC or WSOC. We expect no additional cost to be incurred by industry as a result of these manning requirements and training procedures, because industry contracts currently require these standards.[25] In addition to incorporating these standards into this NPRM, we would also require company letters, course completion certificates from a training institution, letters or course completion certificates from the DP system manufacturer, or certification from an industry-accepted organization as proof of completion of training requirements. We estimate that it would cost industry $14.30 per DPO or DPOQ to have this documentation made available for review by a Coast Guard official during an inspection (6 minutes × $143.00 per hour). This cost would be incurred by an owner or operator each time a new DPO/DPOQ is hired.

*DP Manning Requirements* (33 CFR 140.320)—would require all applicable MODUs and other vessels using a DP system to engage in OCS activities on the U.S. OCS to be under the command of a master and have an adequate number of mates or navigational watches to meet the hours of rest requirements in Regulation VIII/1 of the STCW and Section A–VIII/1 of the ''Seafarers' Training, Certification and Watchkeeping Code.'' By providing some flexibility in the minimum number of required masters and navigational watches, we expect that all but six vessels would comply with this requirement prior to the issuance of a final rule in order to compete in international markets that already require this standard.[26] We estimate that if a vessel would not have complied with this requirement in the absence of a final rule, then at most it would incur an annual cost of $1,193,920. This maximum cost would be incurred if a vessel did not meet the minimum number of mates and navigational watches as required in this proposed provision. We estimate that each of the six non-compliant MODUs would need to hire two new masters and six new navigational watches in order to comply with the hours of rest requirements in STCW.[27]

*Intermediate DP System Requirements*

*FMEA and FMEA Proving Test Document*[28] (33 CFR 140.335, 46 CFR 62.40–15 and 62.40–20)—would require all applicable vessels that use a DP system while engaging in Critical OCS Activities to complete and maintain an FMEA and an FMEA proving test document. An FMEA would test a vessel's DP system to establish design and operational limits, which could then be used to develop a CAMO and ASOC or WSOC. With these support tools, operators would have criteria for deciding when to cease operations to prevent a worst-case failure from occurring.

Based on roundtable discussions that included a majority of the owners and operators of MODUs operating on the U.S. OCS,[29] we expect that all existing and future MODUs would comply with this requirement even in the absence of this NPRM in order to compete in international markets. However, similar roundtable discussions with OSV and crewboat owners and operators indicated that roughly 50 percent of current vessels would not be in compliance with this proposed requirement. Owners and operators of OSVs and crewboats further indicated that it is likely that a similar percentage of future vessels would also not be compliant with these proposed requirements in the absence of a rule. Through statements given by FMEA testing providers, we estimate that it

[24] In year 1, we expect that 585 OSVs less than 6,000 GT ITC, 25 OSVs of at least 6,000 GT ITC, 59 MODUs, and 46 crewboats would incur costs as a result of this provision. Over the 10-year study, 1,078 vessels would incur costs.

[25] Based on teleconferences with industry that took place in January 2013. The minutes are publicly available at *http://www.uscg.mil/hq/cg5/cg521/*.

[26] After examining all applicable vessels' Minimum Safe Manning Certificates, we found only six existing U.S. OCS MODUs that would not comply with this requirement. All six of these MODUs are owned by a single entity and are flagged by Liberia, which considers these MODUs non-self-propelled.

[27] The Coast Guard assumes that these positions would operate under current industry practices: A master and navigational watch would work a 28-day on/off schedule, with each work day consisting of an 8-hour shift; the master would then be on call for the remainder of the day, while three navigational watches would rotate 8-hour shifts throughout the day. We also expect that two masters and six navigational watches would alternate 28-day on/off rotations throughout the year in order to keep that MODU operational year round. As a result, one crew, which consists of three navigational watches and one master, would work seven rotations per year, while the other group would work six rotations per year.

[28] In year 1, we expect that 12 OSVs under 6,000 GT ITC, and 2 crewboats would incur costs as a result of this provision. Over the 10-year study, 390 OSVs under 6,000 GT ITC and 14 crewboats would incur costs.

[29] During the development of this NPRM, the Coast Guard held three roundtable discussions with representatives from various industry segments. Participants and summaries from these discussions are available at *http://www.uscg.mil/hq/cg5/cg521/*.

would cost an owner or operator of a OSV or crewboat a one-time payment of $275,000 per vessel to comply with this proposed requirement.

*CAMO and ASOC or WSOC*[30] (33 CFR 140.335)—would require all applicable vessels to include in the vessel's DP Operations Manual a defined CAMO and, depending on whether the vessel is a MODU or vessel other than a MODU, a ASOC or WSOC. A vessel's CAMO is developed after conducting an FMEA to determine a DP system's worst-case failure. The CAMO will tabulate how to configure the vessel's DP system, including power generation and distribution, propulsion, and position reference systems, so that the DP system, as a whole is fault tolerant and fault resistant. The vessel's CAMO is then used to develop an ASOC or WSOC that will provide criteria on the operational, environmental, and equipment performance limits considered necessary for safe DP system operations while operating on a well. These tools are supplements to a DP–2 or higher class system, which would further decrease the probability that a worst-case failure could occur.

Based on roundtable discussions with MODU owners and operators, all existing and future MODUs are expected to comply with the requirement that a MODU must have a WSOC, although only 70 percent of existing and future MODUs have—or are expected to have—developed a CAMO in the absence of this proposed rule.[31] Similar conversations with owners and operators of OSVs and crewboats indicated that approximately 50 percent of current vessels would not be compliant with either of these requirements. Owners and operators of OSVs and crewboats further indicated that it is likely that a similar percentage of future vessels would also not be compliant with these requirements in the absence of a rule. Through statements provided by industry, we estimate that it would cost an owner or operator a one-time payment of $9,120 per vessel to develop a CAMO and ASOC or WSOC simultaneously (160 hours × $59.00 per hour), or $4,560 to develop a CAMO or ASOC or WSOC separately (80 hours × $59.00 per hour).

*Report Reactive Change of DP Status*[32] (33 CFR 140.335)—would require all applicable vessels to report to an authorized DPSAO any incident in which the vessel experiences a reactive change of the DP system's status from green to yellow and/or red. Neither the Coast Guard nor the IMO or MTS currently require vessels that use DP systems to report changes in status. The Coast Guard reviewed documents compiled by the International Marine Contractors Association (IMCA), which is an international trade association that represents offshore, marine, and underwater engineering companies. The IMCA documents compile Dynamic Positioning station-keeping incidents voluntarily reported by IMCA members. Although the documents do not specifically note whether an incident results in a change in status (*i.e.,* green to red or yellow), IMCA notes that an activated red DP alert status would classify as an incident. We use the IMCA incident rate per vessel as the best available data on the change in status from green to red.

Based on a review of IMCA station keeping incident reports from 2004 through 2010 (which is the last year the report was available publically), we estimated that a vessel would experience a reactive change of the DP system's status from green to red an average of 1.45 times per year.[33] Based on subject matter expert input from Coast Guard personnel in the Office of Design and Engineering Standards, we assume that vessels would incur a similar number of reactive changes of the DP system's status from green to yellow, and therefore estimate that an owner or operator would need to report an average of 2.90 incidents per year per vessel. The rate of DP incidents per vessel may decrease over time as a result of other requirements in this proposal. We assess the impact of the decreased incident rate in the Benefits section of this document.

Because this proposed requirement would be new, we anticipate creating new burdens for industry. We estimate that it would cost an owner or operator $47.67 per change in DP status to comply with this proposed requirement (20 minutes × $143 per hour). Further, we estimate that it would cost the authorized DPSAO $13.67 per change in DP status to review and record the information, which we assume would be passed on to the owner or operator through the form of the DPSAO charging higher prices for its services (20 minutes × $41.00 per hour).[34]

*DP Incident Investigations*[35] (33 CFR 140.335)—would require all applicable MODUs and other vessels to conduct a DP incident investigation for every reported DP status change from green to red or yellow, and then to submit a summary report of the investigation's findings to the authorized DPSAO. As every DP incident would require a DP investigation, we estimate that an average of 2.90 DP incident investigations would need to be conducted per year per vessel.

After conducting roundtable discussions with owners and operators of MODUs and other vessels, we determined that all existing MODUs and 50 percent of existing OSVs are currently conducting DP investigations following a DP incident, despite not being required to do so.[36] Through these same roundtable discussions, we determined that no owners or operators of crewboats currently conduct an investigation following a DP incident. For owners or operators that do not, or would not, conduct a DP incident investigation in the absence of a rule, we estimate that it would cost $570 per DP incident to conduct the investigation (10 hours × $57.00 per hour).[37]

In addition to the costs that would be incurred to conduct DP incident investigations, all owners or operators using DP while conducting Critical OCS Activities would experience new costs to submit the summary report of the DP investigation to the authorized DPSAO.

[30] In year 1, we expect that 15 OSVs, and 2 crewboats would incur costs as a result of this provision. Over the 10-year study, 390 OSVs under 6,000 GT ITC, 40 OSVs of at least 6,000 GT ITC, 35 MODUs (only the cost of a CAMO), and 14 crewboats would incur costs.

[31] Based on teleconferences with industry that took place in January 2013. The minutes are publicly available at *http://www.uscg.mil/hq/cg5/cg521/.*

[32] In year 1, we expect that 22 OSVs under 6,000 GT ITC, 5 OSVs of at least 6,000 GT ITC, 59 MODUs, and 3 crewboats would incur costs as a result of this provision. Over the 10-year study, 764 OSVs under 6,000 GT ITC, 70 OSVs of at least 6,000 GT ITC, 110 MODUs, and 21 crewboats would need to report DP incidents.

[33] These reports can be purchased through the IMCA Web site at: *http://www.imca-int.com/.*

[34] According to a Coast Guard Subject Matter Expert, it would take an owner or operator 20 minutes to report a DP status change to a DPSAO—which is expected to be done via email, and that it would take an employee from the DPSAO an additional 20 minutes to read and respond to this report.

[35] In year 1, we expect that 12 OSVs under 6,000 GT ITC, 3 OSVs of at least 6,000 GT ITC, and 3 crewboats would incur costs to conduct DP investigations. Additionally, 22 OSVs under 6,000 GT ITC, 5 OSVs of at least 6,000 GT ITC, 59 MODUs, and 3 crewboats would incur costs to submit DP investigation reports to the DPSAO during the first year. Over the 10-year study, 383 OSVs under 6,000 GT ITC, 35 OSVs of at least 6,000 GT ITC, and 21 crewboats would incur costs to conduct DP investigations, and 895 OSVs under 6,000 GT ITC, 70 OSVs of at least 6,000 GT ITC, 110 MODUs, and 21 crewboats would need to submit DP investigation reports.

[36] Based on teleconferences with industry that took place in January 2013. The minutes are publicly available at *http://www.uscg.mil/hq/cg5/cg521/.*

[37] According to a Coast Guard Subject Matter Expert, it would take 10 hours on average for a ship engineer employed by the owner or operator to conduct a DP incident investigation.

As this is a new reporting requirement, it is not expected that any of the affected population would be compliant with this part of the provision in the absence of this NPRM. Consequently, we estimate that it would cost an owner or operator $119.10 per DP incident investigation to write the summary report and then submit it to the authorized DPSAO ((2 hours × $57.00 per hour) + $5.10 shipping fee).[38] Further, we estimate that it would cost an authorized DPSAO $82.00 per report to review and record the information, which we assume would then be passed on to the owner or operator through the form of the DPSAO charging higher prices for its services (2 hours × $41.00 per hour).[39]

*Annual DP Incident Investigation Report*[40] (46 CFR 61.50–4)—would require a DPSAO to submit an annual report containing a summary of each DP incident investigation conducted throughout the year for all vessels using its services. Because this would be a new requirement, we anticipate new burdens for industry and estimate that it would cost an owner or operator $169.10 per year to have the DPSAO file the annual report ((4 hours × $41.00 per hour) + $5.10 shipping fee).[41] Further, we estimate that it would cost the Government $150.00 per report to review the information provided and respond if necessary (2 hours × $75.00 per hour).

*Emergency Disconnects and Serious Marine Incidents Resulting from a DP Status Change from Green to Red (33 CFR 140.335)*—would require all applicable vessels to report to the cognizant OCMI any incident in which the vessel initiates an emergency disconnect or experiences a serious marine incident (as defined by 46 CFR 4.03–2) after experiencing a reactive change of the DP system's status from green to red. Based on a review of IMCA documents from 2004 through 2010, we estimated that a vessel would need to initiate an emergency disconnect 19 percent of the time it experiences a DP change in status. Further, based on the same industry documents, a serious marine incident (as defined by 46 CFR 4.03–2) would occur 5 percent of the time a vessel experiences a reactive change of the DP system's status from green to red. Because this is a new requirement, we anticipate creating new burdens for industry. We estimate that it would cost an owner or operator $47.67 per status change resulting in either an emergency disconnect or serious marine incident to comply with this requirement (20 minutes × $143.00 per hour). Further, we estimate that it would cost the government $25.00 per report to review and record the information (20 minutes × $75.00 per hour).

*Dynamic Positioning Verification and Acceptance Document (DPVAD)*[42] (33 CFR 140.335)—would create a new document for MODUs and applicable vessels, other than MODUs, that use a DP system to conduct Critical OCS Activities. This document would be issued by the authorized DPSAO that performed the vessel's DP surveys, and would need to be renewed once every 5 years.

According to a Coast Guard Subject Matter Expert, it is expected that it would take an additional 15 minutes for a DPSAO surveyor to complete the DPVAD, as the DPVAD would be issued by the same DPSAO that conducted the vessel's DP surveys. As a result, we estimate that it would cost an owner or operator $10.25 once every 5 years to comply with this provision (15 minutes × $41.00 per hour).

*DP Surveys*[43] (46 CFR 61.50–2, 61.50–5, 61.50–10, and 61.50–15)—would require all applicable vessels to have a DPSAO conduct DP system surveys on an initial, periodic, and annual basis. The organization could be the classification society that issues the DP notation under 62.40–5, because the NPRM would require that the classification society issuing the DP notation be highly qualified in DP system assurance. During the initial survey, and again during the periodic survey 5 years later, a full FMEA test must be performed. Based on roundtable discussions with owners and operators of MODUs and other vessels, of at least 6,000 GT ITC, we have determined that all existing vessels are currently in compliance with this requirement and that all future vessels would also be in compliance with this requirement.[44] However, this provision would also require a DPSAO to notify the cognizant OCMI at least 30 days in advance of the time and location of these DP surveys. Because this is a new requirement, we anticipate new burdens for industry. We estimate that it would cost an owner or operator $4.10 per year to comply with this requirement (6 minutes × $41.00 per hour).[45] Further, we anticipate that the OCMI would be present during most DP surveys. However, as we anticipate that these surveys would occur in conjunction with another Coast Guard inspection, the cost incurred by the Coast Guard to attend DP surveys would be minimized. We estimate that it would cost the Government an additional $607.50 per survey as a result of this NPRM ((6 minutes to record the time and location of survey + 8 hours to attend the survey) × $75.00 per hour).[46]

Standard DP System Requirements

*DP System Equipment and Notation Requirements*[47] (46 CFR 62.40–5)—would require all applicable vessels that use a DP system while engaging in Critical OCS Activities to use, at a minimum, a DP–2 class system and to obtain, at a minimum, a DP–2 class notation.

Based on vessel specification sheets made publicly available by MODU owners and operators, all existing MODUs comply with this proposed requirement, even in the absence of this NPRM, in order to compete in international markets.[48] The same cannot be said about vessels other than MODUs that use DP, however. After

[38] According to a Coast Guard Subject Matter Expert, it would take a ship engineer 2 additional hours to write a DP investigation summary and then submit it to the DPSAO. Also included in this estimate is the time it would take on average to make changes to the vessel's CAMO and ASOCs/WSOCs.

[39] According to a Coast Guard Subject Matter Expert, it would take a DPSAO employee 2 hours on average to read through the report and respond if necessary.

[40] In year 1, we expect that 22 OSVs under 6,000 GT ITC, 5 OSVs of at least 6,000 GT ITC, 59 MODUs, and 3 crewboats would incur costs as a result of this provision. Over the 10-year study, 764 OSVs under 6,000 GT ITC, 70 OSVs of at least 6,000 GT ITC, 110 MODUs, and 21 crewboats would need to submit annual DP investigation reports.

[41] According to a Coast Guard Subject Matter Expert, it would take a DPSAO employee 4 hours on average to prepare the Annual DP Incident Investigation Report on behalf of the owner or operator.

[42] In year 1, we expect that 22 OSVs under 6,000 GT ITC, 5 OSVs of at least 6,000 GT ITC, 59 MODUs, and 3 crewboats would incur costs as a result of this provision. Over the 10-year study, 764 OSVs under 6,000 GT ITC, 70 OSVs of at least 6,000 GT ITC, 110 MODUs, and 21 crewboats would need to receive a DPVAD.

[43] In year 1, we expect that 22 OSVs under 6,000 GT ITC, 5 OSVs of at least 6,000 GT ITC, 59 MODUs, and 3 crewboats would incur costs as a result of this provision. Over the 10-year study, 764 OSVs under 6,000 GT ITC, 70 OSVs of at least 6,000 GT ITC, 110 MODUs, and 21 crewboats would need to report the time and location of the DP Survey.

[44] Based on teleconferences with industry that took place in January 2013. The minutes are publicly available at *http://www.uscg.mil/hq/cg5/cg521/.*

[45] According to a Coast Guard Subject Matter Expert, it would take a DPSAO employee 6 minutes on average to notify the OCMI on the time and location of the DP Survey.

[46] According to a Coast Guard Subject Matter Expert, a DP Survey would take approximately 8 hours to conduct.

[47] In year 1, we expect that 12 OSVs under 6,000 GT ITC, and 3 crewboats would incur costs to obtain DP–2 class notation. Over the 10-year study, 143 OSVs under 6,000 GT ITC, and 20 crewboats would incur costs as a result of this requirement.

[48] We assume that owners and operators of MODUs will continue to follow this practice in the future.

examining existing OSV's and crewboat's vessel specification sheets, we have determined that only 60 percent of existing OSVs and 70 percent of existing crewboats that use DP would comply with the DP–2 equipment requirement. Because of the mechanical and structural demands associated with DP–2 systems or higher that are not feasible to satisfy in older vessels, the Coast Guard proposes to make the existing population of OSVs and crewboats exempt from the DP–2 equipment requirements of this NPRM.

Our research indicates, however, that offshore oil and gas entities are starting to require that all new, contracted OSVs be equipped with DP–2 systems or higher.[49] This same request is not yet being made for all new, contracted crewboats though. As a result, we estimate that in the years 1 through 3 following the passage of a final rule, one, newly constructed crewboat per year would incur costs in order to comply with the DP–2 equipment requirement. In later years though, all crewboats are expected to be equipped with a DP–2 classed system even in the absence of this proposed rule.

In addition to determining the percentage of existing OSVs and crewboats that would comply with the equipment standard in this proposed rule, we also determined through looking at vessel specification sheets that only 50 percent of existing OSVs and 0 percent of existing crewboats would comply with the class notation requirement. We have found that although this NPRM would grandfather certain vessels (other than MODUs) that use a DP system installed prior to issuance of any rule from this provision, owners or operators of OSVs and crewboats have pointed out during roundtable discussions that it is likely that a similar percentage of future vessels would also not be compliant with this requirement in the absence of a proposed rule.

We estimate that it would cost an owner or operator $876,237 per vessel to comply with the requirement that a vessel using DP to engage in Critical OCS Activities must use a DP–2 class system or higher, and an additional one-time payment of $64,250 per vessel to obtain a DP–2 class notation.

Enhanced DP System Requirements

*DP System Plans*[50] (46 CFR 62.20–2)—would require all MODUs and other vessels, of at least 6,000 GT ITC, that use a DP system installed on or after the effective date of a final rule to submit their DP system plans to a DPSAO for approval. The organization could be the classification society that issues the DP notation under 62.40–5, because the NPRM would require that the classification society issuing the DP notation be highly qualified in DP system assurance. As proposed, these plans must include a system description, specifications of position reference and environmental monitoring sensors or systems, the location of thrusters and control system components, details of the DP system monitoring and alarm system, FMEA proving test documents and annual survey documents, the vessel's CAMO, and the DP system designer's or manufacture's self-certification of the DP system control equipment to the environmental design standards.

Based on roundtable discussions with owners and operators of MODUs and other vessels, of at least 6,000 GT ITC, we have determined that all vessels currently would be in compliance with this requirement in the absence of a rule.[51] However, this provision would also require the DPSAO to submit the plans to the Coast Guard Outer Continental Shelf National Center of Expertise (OCS NCOE). Because this is a new requirement, we anticipate new burdens for industry. We estimate that it would cost a DPSAO $25.60 ((30 minutes × $41.00 per hour) + $5.10 shipping fee) to submit a vessel's DP system plan.[52] Further, we estimate that it would cost the Government $2,700.00 (36 hours × $75.00 per hour) to review a DP system plan.

Other

*Dynamic Positioning System Assurance Organization Application Process* (46 CFR 61.50–3 and 62.40–5)—would require a DPSAO (for the purposes of conducting DP surveys under 61.50) to apply to the Coast Guard for acceptance to provide these services. This provision provides guidelines as to who should apply, as well as what information the applicant should provide in the application. We estimate that it would cost a DPSAO $1,235.10 to prepare and submit each application ((30 hours × $41.00 per hour) + $5.10 shipping fee). Further, we estimate that it would cost the Government $600.00 per application to review each document and reach a decision (8 hours × $75.00 per hour).

Request for Comment

We would appreciate additional comments on our cost assumptions, including rates of current compliance. Information is specifically requested on the following:

(1) Fraction of current MODUs, OSVs and crewboats using DP–1, DP–2, or DP–3.

(2) Fraction of newly built MODUs, OSVs and crewboats being equipped with DP–1, DP–2, or DP–3.

(3) Frequency of changes in DP status from green to red and green to yellow.

(4) Costs to develop an FMEA and WSOC/ASOC.

(5) Additional cost to equip a newly built vessel with DP–2 instead of DP–1.

Please submit all comments and related material according to the instructions given in the **DATES**, **ADDRESSES**, and Public Participation and Request for Comments sections of this preamble above.

Costs

We estimate the total average costs of this NPRM to industry for a 10-year period as summarized in Table 4.[53]

TABLE 4—TOTAL INDUSTRY COST OF NPRM

[Per year]

| Year | Undiscounted costs | Discounted costs | |
|---|---|---|---|
| | | 7% | 3% |
| 1 | $13,295,128 | $11,612,479 | $12,531,933 |

[49] Tollefsen, Sveinung. ''DP systems in the OSV Industry,'' May 2010. *http://dspace.mit.edu/bitstream/handle/1721.1/64580/727052552.pdf?sequence=1.*

[50] In year 1, we expect that 5 OSVs of at least 6,000 GT ITC, and 59 MODUS would incur costs to submit their DP system plans to the DPSAO. Over the 10-year study, 50 OSVs of at least 6,000 GT ITC, and 110 MODUs would incur costs as a result of this proposed requirement.

[51] Based on teleconferences with industry that took place in January 2013. The minutes are publicly available at *http://www.uscg.mil/hq/cg5/cg521/.*

[52] According to a Coast Guard Subject Matter Expert, it would take 30 minutes for a DPSAO to prepare and submit a vessel's DP system plan to the Coast Guard.

[53] We document the costs at a 7- and 3-percent discount rate as set forth by guidance in the Office of Management and Budget's (OMB) Circular A–4.

TABLE 4—TOTAL INDUSTRY COST OF NPRM—Continued

[Per year]

| Year | Undiscounted costs | Discounted costs | |
|---|---|---|---|
| | | 7% | 3% |
| 2 | 13,583,758 | 11,864,581 | 12,803,995 |
| 3 | 10,900,925 | 8,898,402 | 9,975,891 |
| 4 | 44,460,494 | 33,918,698 | 39,502,573 |
| 5 | 12,960,131 | 9,240,394 | 11,179,523 |
| 6 | 12,958,982 | 8,635,117 | 10,852,943 |
| 7 | 40,540,725 | 25,246,726 | 32,963,320 |
| 8 | 15,177,650 | 8,833,530 | 11,981,377 |
| 9 | 15,965,539 | 8,684,195 | 12,236,256 |
| 10 | 29,112,460 | 14,799,299 | 21,662,405 |
| Total | 208,955,792 | 141,733,422 | 175,690,215 |
| Annualized | | $20,179,651 | $20,596,253 |

The 10-year discounted present value cost to industry of this NPRM is approximately $141.733 million ($73.239 million to domestic owners or operators), based on a 7-percent discount rate, and $175.690 million ($91.389 million to domestic owners or operators), based on a 3-percent discount rate. The annualized cost to industry is $20.180 million ($10.428 million to domestic owners or operators), based on a 7-percent discount rate, and $20.596 million ($10.714 million to domestic owners or operators), based on a 3-percent discount rate.

Table 5 summarizes the total 10-year present value cost to industry of this NPRM by risk profile and requirement.

TABLE 5—TOTAL MARGINAL AND ANNUALIZED INDUSTRY COSTS FOR NPRM BY RISK PROFILE

| Requirement | 10-year cost | | | Annualized | |
|---|---|---|---|---|---|
| | Undiscounted | 7% | 3% | 7% | 3% |
| **Minimum DP Manning Requirements** | | | | | |
| Cost to Provide Proof of Training | $467,996 | $332,365 | $400,855 | $47,321 | $46,992 |
| Cost to Comply with DP Manning Requirements | 71,635,200 | 50,313,567 | 61,106,279 | 7,163,520 | 7,163,520 |
| Total | 72,103,196 | 50,645,932 | 61,507,133 | 7,210,841 | 7,210,512 |
| **Intermediate DP System Requirements** | | | | | |
| Cost to Complete FMEA and FMEA Proving Test Document | 111,100,000 | 74,383,054 | 92,903,263 | 10,590,474 | 10,891,097 |
| Cost to Develop CAMO and ASOC or WSOC | 4,208,880 | 2,858,478 | 3,540,664 | 406,983 | 415,074 |
| Cost to Report DP Status Changes from Green to Red or Yellow | 905,587 | 565,296 | 734,721 | 80,485 | 86,132 |
| Cost to Conduct DP Incident Investigations | 6,591,592 | 4,081,179 | 5,329,997 | 581,068 | 624,838 |
| Cost to Submit Annual DP Incident Investigation Report | 860,550 | 537,146 | 698,162 | 76,478 | 81,846 |
| Cost to Report Emergency Disconnect and Serious Marine Incidents | 28,791 | 18,548 | 23,667 | 2,641 | 2,774 |
| Cost to Obtain a DPVAD | 14,719 | 9,594 | 12,159 | 1,366 | 1,425 |
| Cost to Report DP Surveys | 20,865 | 13,024 | 16,928 | 1,854 | 1,984 |
| Total | 123,730,983 | 82,466,319 | 103,259,560 | 11,741,349 | 12,105,171 |
| **Standard DP System Requirements** | | | | | |
| Cost to Obtain DP–2 System Equipment | 2,628,711 | 2,299,523 | 2,478,534 | 327,400 | 290,560 |
| Cost to Obtain DP–2 Class Notation | 10,472,750 | 7,119,161 | 8,803,142 | 1,013,608 | 1,031,997 |
| Total | 13,101,461 | 9,418,684 | 11,281,676 | 1,341,009 | 1,322,557 |
| **Enhanced DP System Requirements** | | | | | |
| Cost to Submit DP System Plans | 4,096 | 3,222 | 3,670 | 459 | 430 |
| Total | 4,096 | 3,222 | 3,670 | 459 | 430 |

We also expect that the Government would incur labor costs to review DPO/DPOQ training certificates, annual DP investigation reports, notices of Emergency Disconnects or Serious Marine Incidents that resulted from a DP failure, DPSAO applications, and DP system plans, as well as to attend DP surveys. Table 6 summarizes the 10-year costs of this NPRM to the Government.

TABLE 6—TOTAL GOVERNMENT COST OF NPRM

[Per year]

| Year | Undiscounted costs | Discounted costs | |
|---|---|---|---|
| | | 7% | 3% |
| 1 | $286,068 | $267,353 | $277,735 |
| 2 | 153,180 | 133,793 | 144,387 |
| 3 | 165,220 | 134,869 | 151,200 |
| 4 | 382,700 | 291,960 | 340,024 |
| 5 | 409,808 | 292,187 | 353,504 |
| 6 | 436,068 | 290,570 | 365,200 |
| 7 | 608,143 | 378,721 | 494,476 |
| 8 | 645,120 | 375,466 | 509,264 |
| 9 | 683,585 | 371,825 | 523,911 |
| 10 | 785,380 | 399,247 | 584,396 |
| Total | 4,555,270 | 2,935,991 | 3,744,096 |
| Annualized | 418,019 | 438,922 | |

The 10-year discounted present value cost to the Government of this NPRM is approximately $2.936 million based on a 7-percent discount rate, and $3.744 million based on a 3-percent discount rate. The annualized cost to industry is approximately $0.418 million, based on a 7-percent discount rate, and $0.439 million, based on a 3-percent discount rate.

Table 7 summarizes, by requirement, the total 10-year present value cost of this NPRM to the Government.

TABLE 7—TOTAL MARGINAL AND ANNUALIZED GOVERNMENT COSTS FOR NPRM BY RISK PROFILE

| Requirement | 10-Year cost | | | Annualized | |
|---|---|---|---|---|---|
| | Undiscounted | 7% | 3% | 7% | 3% |
| **Minimum DP Manning Requirements** | | | | | |
| Cost to Review Proof of Training | $245,453 | $174,317 | $210,238 | $24,819 | $24,646 |
| Total | 245,453 | 174,317 | 210,238 | 24,819 | 24,646 |
| **Intermediate DP System Requirements** | | | | | |
| Cost to Review Annual DP Incident Investigation Report | 763,350 | 476,475 | 619,304 | 67,839 | 72,601 |
| Cost to Review Emergency Disconnect and Serious Marine Incidents | 15,100 | 9,728 | 12,413 | 1,385 | 1,455 |
| Cost to Record and Attend DP Surveys | 3,091,568 | 1,929,724 | 2,508,182 | 274,749 | 294,035 |
| Total | 3,870,018 | 2,415,928 | 3,139,899 | 343,974 | 368,092 |
| **Standard DP System Requirements** | | | | | |
| No Cost to Government | | | | | |
| Total | 0 | 0 | 0 | 0 | 0 |
| **Enhanced DP System Requirements** | | | | | |
| Cost to Review DP System Plans | 432,000 | 339,849 | 387,093 | 48,387 | 45,379 |
| Total | 432,000 | 339,849 | 387,093 | 48,387 | 45,379 |
| **Other Requirements** | | | | | |
| Cost to Review DPSAO Applications | 7,800 | 5,523 | 6,866 | 786 | 805 |
| Total | 7,800 | 5,523 | 6,866 | 786 | 805 |

We estimate that the combined total 10-year present value cost of this NPRM to industry and Government is $144.669 million ($74.991 million for domestic owners or operators), discounted at 7 percent, and $179.434 million ($93.665 million for domestic owners or operators), discounted at 3 percent. We estimate that the combined annualized cost to industry and government is $20.598 million ($10.677 million for domestic owners or operators), based on a 7-percent discount rate, and $21.035 million ($10.980 million for domestic owners or operators), based on a 3-percent discount rate.

Table 8 summarizes the combined 10-year cost of this NPRM to industry and the Government.

TABLE 8—TOTAL COST OF NPRM

[Per year]

| Year | Undiscounted costs | Discounted costs | |
|---|---|---|---|
| | | 7% | 3% |
| 1 | 13,581,195 | 11,879,832 | 12,809,668 |
| 2 | 13,736,938 | 11,998,374 | 12,948,382 |
| 3 | 11,066,145 | 9,033,271 | 10,127,091 |
| 4 | 44,843,194 | 34,210,658 | 39,842,597 |
| 5 | 13,369,939 | 9,532,582 | 11,533,027 |
| 6 | 13,395,049 | 8,925,687 | 11,218,143 |
| 7 | 41,148,868 | 25,625,447 | 33,457,795 |
| 8 | 15,822,770 | 9,208,996 | 12,490,640 |
| 9 | 16,649,124 | 9,056,020 | 12,760,167 |
| 10 | 29,897,840 | 15,198,546 | 22,246,801 |
| Total | 213,511,062 | 144,669,412 | 179,434,311 |
| Annualized | 20,597,670 | 21,035,175 | |

Benefits

As offshore drilling industry operations move farther offshore, maintaining vessel position and height becomes an increasingly more difficult task, especially as water depth precludes mooring. The vessel's position and height depend on an understanding of many variables, such as the speed and direction of waves and the wind, both of which can be very irregular at distances farther offshore. DP systems not only remove this uncertainty, they can also predict future changes in wave speed and direction based on current conditions.

However, despite this advanced technology (and in some cases, because of this technology) a loss of position can still occur while operating under DP. Due to the high-risk environment that OSVs and MODUs work in, such a loss of position could result in catastrophic consequences. Property damage, environmental damages, and human casualties could occur in the event of a loss of position or propulsion.

Table 9 presents the range of potential consequences at risk in the event of a DP loss of position or propulsion on a MODU, OSV, or crewboat.

TABLE 9—POTENTIAL MONETARY CONSEQUENCES AT RISK THAT COULD RESULT FROM A DP SYSTEM LOSS OF POSITION

| Consequence category | Range of potential consequences |
|---|---|
| Property Damage from Collision | $5 million to $1 billion. |
| Environmental Pollution | $5 million to $500 million. |
| Riser Lost on Seabed | $7 million to $70 million. |
| Pipe Bent or Buckled | $3 million to $30 million. |
| Downtime from Production | Up to $500 thousand per day. |
| Loss of Life | $9.1 million per statistical life. |

At this time, the Coast Guard does not have a comprehensive source of information on changes in DP status and the resulting loss of position incidents, as vessels of all types currently do not have to report DP failures to the Coast Guard. A provision of this NPRM seeks to gather this data.

The following incidents illustrate the potential consequences at risk if a position is lost during DP operations. In April 2010, the MODU DISCOVERER CLEAR LEADER experienced a DP system failure that resulted in a loss of position while conducting well control operations on the U.S. OCS. During the incident, the DPO was able to initiate a cease operations response, however, an emergency disconnect was required. Although the MODU's blow-out preventer was able to prevent a spill that could potentially have been on the magnitude of the DEEPWATER HORIZON incident, the subsea gear of the MODU suffered damages as a result of the MODU's loss of position. The Coast Guard's MISLE database lists property damages of $760,000 as a result of this incident. Further, the vessel experienced a loss of revenue during the time when its operations were suspended.

In September 2012, a DP incident involving the construction OSV BIBBY TOPAZ occurred off the coast of Scotland. During dive support activities, the BIBBY TOPAZ suffered a DP system failure that resulted in a loss of position. At the time of the incident, three divers were in the water, and when the vessel experienced a loss of position, the umbilical cord of one of the divers was severed. The diver was unable to return to the diving bell and had to instead rely on his standby air tank for almost 40 minutes. When the rescue team found the diver, he was unconscious, although the team was able to revive him. While

this incident did not result in any fatalities, the vessel's loss of position put the lives of three divers at risk. The VSL of the lives that could have been lost as a result of this incident is $27,300,000. Although this incident did not take place in U.S. waters, dive support activities while operating under DP are regularly conducted on the U.S. OCS, with similar consequences at risk.

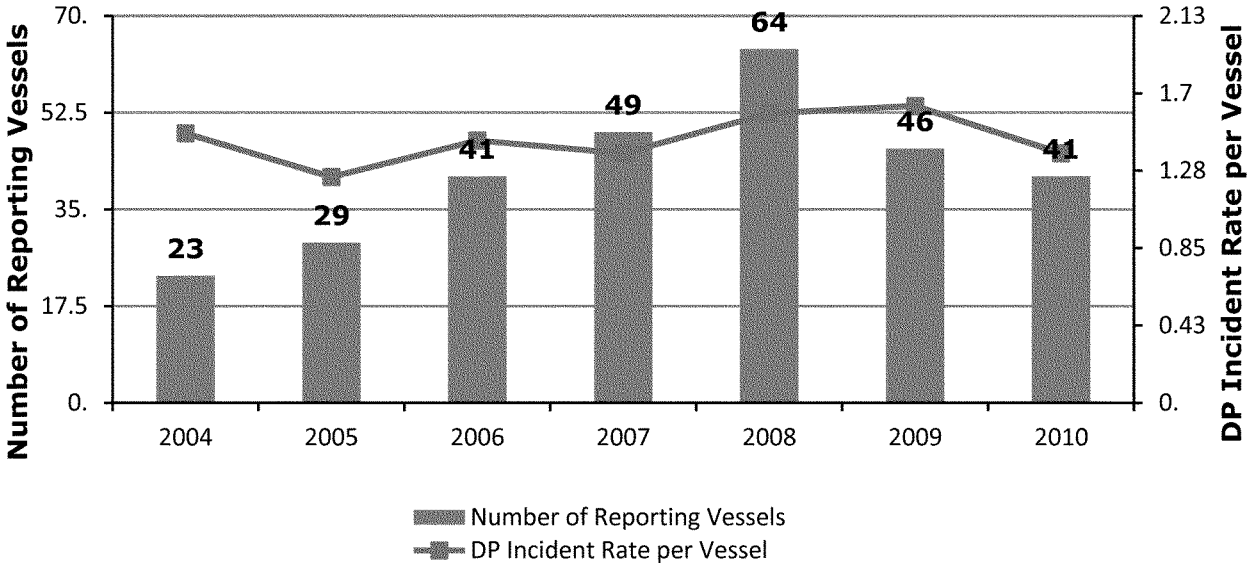
Neither of these incidents capture fully the potential worst-case consequences of a loss of position that results from a collision under power of a MODU, OSV, or crewboat. The allision of the logistics OSV SAMUDRA SURAKSHA with a drilling platform illustrates the types and potential magnitude of worst-case consequences that could result from an OSV loss of position. In July 2005, the SAMUDRA SURAKSHA was transferring personnel off the coast of India when the vessel experienced a loss of position [54] and collided with a platform, severing a gas riser in the process. Although an emergency shut-off of the gas riser was initiated, gas was released, resulting in an explosion and massive fire. Twenty-two crewmen lost their lives or went missing as a result of the explosion, which, when monetized at $9,100,000, amounts to $200,200,000. We use the fatalities as a reasonable worst-case scenario of the potential consequences at risk from a loss of position and resulting collision between vessels or platforms. The incident also had environmental damage, property damage and loss of production impacts.

This NPRM mitigates the risk of a DP loss of position in several ways. This NPRM provides other guidance on design and operation standards for all DP vessels. The development of decision support tools such as CAMOs and ASOC or WSOC would provide DPOs and DPOQs with a summarized and easy to understand guide on the limits to safe operating conditions, which would help DPOs and DPOQs react quicker to prevent or mitigate a loss of position while operating DP systems.

Furthermore, requiring owners or operators of vessels using DP systems to examine DP failures and submit documents describing the time, location, and reason for why a system failure occurred will enable industry and the Coast Guard to better understand the causes of these failures and, in time, develop programs to prevent these same failures from occurring in the future. Additionally, this information can provide assistance to manufacturers and operators of DP systems in order to contribute to more efficient and safer DP systems and practices in the future.

To better understand how many DP system incidents occur per year, we reviewed reports from the International Marine Contractors Association (IMCA), which collects and reports incidents of DP station-keeping incidents provided on a voluntary basis by its members. From 2004 through 2010, the IMCA lists 429 reported DP system incidents. However, this figure likely underestimates the number of DP system incidents that occurred because during that time period, members of the IMCA were not required to report station-keeping incidents. As a result of this under-reporting, we use the average rate per year at which DP system incidents occurred per vessel during that same time period, instead of the average number of DP incidents reported per year, since the rate is less likely to be influenced by the number of vessels reporting. Figure 1 displays the trend in the number of DP incidents reported to the IMCA from 2004 through 2010.

Figure 1: Rate of DP Incidents per Vessel




Although reporting to the IMCA is voluntary, and therefore may not represent the true population mean of the entire affected population's DP incident rate, the IMCA data show that the rate of DP system incidents has remained relatively stable throughout the 7-year period studied, even as the number of vessels reporting has increased.[55] This suggests that DP system incidents occur on a relatively

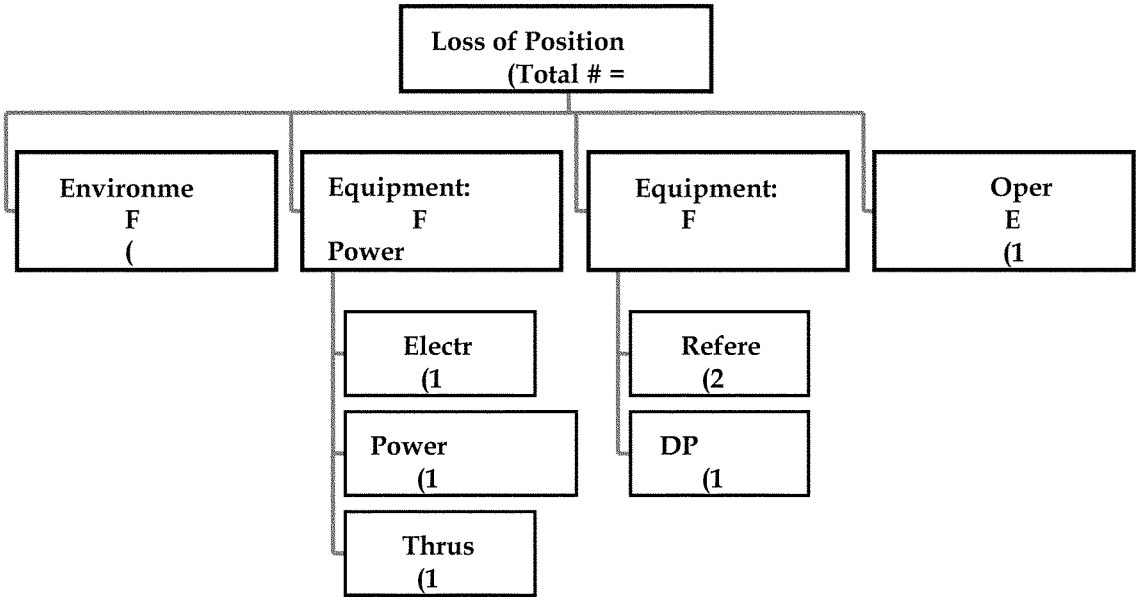
[54] The vessel was equipped with DP but was not operating under DP at the time of the loss of position.

[55] Because this information was voluntarily provided to the IMCA, the reporting population may not be representative of the population as a whole. However, as the IMCA is the only organization that currently collects this data, it is the best data available at this time.

consistent basis (one to two times per vessel per year).

The IMCA's report then categorizes the cause of each DP system incident that was reported as the fault of either: Environmental force, power/thrust equipment, DP equipment, or operator error. Figure 2 summarizes the categories as a percentage of the total number of DP system incidents that occurred from 2004 through 2010 (429 total).

Figure 2: Causes of DP System Incidents




Although Figure 2 shows that only 13 percent of all DP system incidents are directly linked to operator error, nearly 94 percent could have been mitigated by attention to human factors—environmental faults could have been reduced through the development of a well defined ASOC or WSOC, power/thrust faults could have been mitigated through the development of a properly defined CAMO, DP system faults could have been reduced through the development of a well defined ASOC or WSOC, and operator faults could have been diminished through DPOs and DPOQs becoming more familiar and experienced with a vessel's ASOC or WSOC.[56]

With regard to the nonhuman, factor-related elements of this NPRM, DP system incidents resulting from power generation or thrust faults could have been mitigated through the redundancy provided by DP–2, and by developing and maintaining a vessel's CAMO. A CAMO would ''identify the equipment configuration and methods of operation that ensure the vessel meets its maximum level of redundancy, functionality and operation and that no single fault will exceed the identified worst case failure.'' [57] Additionally, a CAMO would define the most robust configuration for the vessel's power plant set-up, thrusters, power management, etc., thereby diminishing the likelihood that an incident could occur as a result of human negligence in designing the vessel's operating systems.

Furthermore, the development and maintenance of an ASOC or WSOC could reduce the probability that a DP system incident occurs as a result of a DP reference or DP computer fault. The ASOC or WSOC would define, among other things, ''maximum environmental operating conditions, maximum offsets permissible from the set point position, position reference systems, and auxiliary systems performance limits and failures.'' [58] These guidelines would program the DP computer to signal to the DPO or DPOQ to cease operations whenever the vessel diverged from the maximum limits set in the ASOC or WSOC.

While the majority of DP system incidents are correctly identified and resolved through the DPO or DPOQ manually taking control of the system, inaction or delayed action can have immense consequences. If left unchecked, a DP incident could result in a loss of position or propulsion, a short circuit of the electrical equipment, and/or an emergency disconnect. These events could result in major property damage to the vessel and/or any surrounding vessels and facilities, lost revenue as a result of any downtime caused by damages, injury or loss of life, and/or environmental damage as a result of released oil or other chemicals.

Table 10 provides greater detail on how each NPRM provision supports one of the four below categories:

- Design Standards and Classification;
- Operations;
- Manning and Training; and
- Reporting.

[56] International Marine Contractors Association. ''Dynamic Positioning Station Keeping Incidents: Incidents reported for 2008 (DP system 19)''. Pg. 2.

[57] International Marine Contractors Association. ''Guidance on Operational Activity Planning''. November 2012. Pg. 9.

[58] IMCA. ''Guidance on Operational Activity Planning''. November 2012. Pg. 11.

TABLE 10—DESCRIPTION OF BENEFITS OF THE NPRM

| Key provision | Design standards & classification | Operations | Manning & training | Reporting | Description | How provision reduces risk |
|---|---|---|---|---|---|---|
| **33 CFR Part 140—Navigation and Navigable Waters** | | | | | | |
| 140.310 DP system personnel requirements. | ..... | ..... | ..... | ..... | Requires all vessels that use a DP system to conduct OCS activities to have a DPO or DPOQ who is properly trained and has no other responsibilities outside of DP. | Codifies industry standards that each DPO and DPOQ must follow while performing duties, which reduces the likelihood of casualties occurring from operator fatigue, inattention or inexperience. |
| 140.315 Minimum DP system training requirements. | ..... | ..... | ..... | ..... | Defines the minimum training requirements that each DPO and DPOQ must have before operating a DP system. | Codifies industry standards that each DPO and DPOQ must follow while performing duties, which reduces the likelihood of casualties occurring from inexperience. |
| | | | | | Requires owners or operators to make available their DPO's or DPOQ's course completion certificates for DP training. | Enables compliance verification for this critical area to ensure that each DPO and DPOQ has received the proper training and has the necessary experience required to correctly operate a DP system in routine and emergency operations. |
| 140.320 DP system Manning requirements. | ..... | ..... | ..... | ..... | Defines the minimum manning requirements to which all MODUs must adhere while using DP to conduct OCS activities. | Codifies industry standards that each DPO and DPOQ must follow while performing duties. Ensures that each DPO and DPOQ is sufficiently rested and prepared to handle the challenges of operating a DP system. Ensures that each DPO or DPOQ is in direct communication with a licensed master and navigational watch at all times while a MODU is using dynamic positioning to conduct OCS activities, enabling correct actions for routine and emergency situations and thus reduce the likelihood of casualties occurring from personnel miscommunication. |
| 140.325 Operations. | ..... | ..... | ..... | ..... | Requires all vessels that use a DP system to conduct OCS activities to meet the DP Operation Standards in paragraph 4.4 IMO MSC/Circ. 645. | Provides a uniform operating standard to which all flag DP vessels must adhere. This would reduce the probability of operator faults occurring as a result of a lack of familiarity or experience with a DP operating system. |
| 140.330 Minimum design standards and testing. | ..... | ..... | ..... | ..... | Requires all vessels that use a DP system to conduct OCS activities to meet the DP Design Standards in paragraph 3.4.1 of IMO MSC/Circ. 645. | Provides design standards to ensure a fault tolerant, fault resistant DP vessel that minimizes risk of loss of position if one component fails. |
| 140.335 Intermediate DP system requirements. | ..... | ..... | ..... | ..... | Requires all applicable vessels to conduct vessel surveys and maintain an FMEA, FMEA proving test document, and a CAMO. | Ensures that specifics of system design, construction and operation are developed and tested to ensure that redundancy is actually achieved and systems function as intended. |

TABLE 10—DESCRIPTION OF BENEFITS OF THE NPRM—Continued

| Key provision | Design standards & classification | Operations | Manning & training | Reporting | Description | How provision reduces risk |
|---|---|---|---|---|---|---|
| | | | | | In addition to meeting the minimum DP Operating Requirements, all MODUs and applicable non-drilling vessels must also maintain a CAMO and ASOC or WSOC, respectively, as described in the MTS DP Operation Guidelines. | Ensures that all vessels and MODUs have well documented course-of-action and DP incident emergency response plans for all OCS activities. Reduces the probability that significant casualties or property damage could occur, since the DP system would be programmed, following rigorous testing during the FMEA, to recognize maximum environmental conditions, maximum offsets permissible from the set position, position reference systems, and auxiliary systems. |
| | | | | | All applicable vessels must report a DP system status change from green to red or yellow to a DPSAO. | Provides Coast Guard officials with information on how often DP station-keeping incidents occur and why, and enables the Coast Guard to ensure that operations can be resumed safely. |
| | | | | | All applicable vessels must conduct a DP investigation whenever the DP status changes from green to yellow or red and submit a summary from the investigation to the DPSAO indicating whether the cause of the DP incident was addressed in the vessel's FMEA, CAMO, and ASOC or WSOC. | Ensures that FMEAs, CAMOs, and ASOC or WSOC are updated based on casualties to prevent similar DP incidents from occurring in the future. This would reduce the probability that significant casualties or property damage could occur in the future. |
| | | | | | All applicable vessels must have the DPSAO complete an annual DP incident investigation report. This report would be reviewed annually by the OCS NCOE. | Provides Coast Guard officials with information on how and why DP failures occur. This information provides valuable feedback to ensure that future such incidents do not occur, which would reduce the probability of significant casualties or property damage from occurring in the future. |
| | | | | | All applicable vessels must report a DP incident that resulted in an emergency disconnect and/or serious marine incident to the cognizant OCMI. | Ensures that the Coast Guard is notified immediately of DP incidents that result in catastrophic damages and/or injuries and fatalities. This would allow the Coast Guard to take immediate action if a serious event occurred, and to ensure that operations are not resumed until the cause of the incident has been addressed. |
| | | | | | Creates a new document, a DPVAD, which would be issued by DPSAO to MODUs and applicable vessels other than MODUs that use a DP system while conducting Critical OCS Activities. This document would be issued after the vessel has completed its DP surveys. | Ensures safe design and operation for all vessels that use a DP system while conducting Critical OCS Activities. Ensures that FMEA and CAMO are developed and maintained, which would reduce the likelihood of significant casualties or property damage from occurring in the future. |

TABLE 10—DESCRIPTION OF BENEFITS OF THE NPRM—Continued

| Key provision | Design standards & classification | Operations | Manning & training | Reporting | Description | How provision reduces risk |
|---|---|---|---|---|---|---|
| 140.340 Standard DP system requirements. | ..... | ..... | ..... | ..... | Requires all applicable vessels to obtain DP notation equivalent to Equipment class 2 or higher from an authorized classification society. | Reduces probability of a DP system failure occurring by adding second component that would be required to fail before system failure. |
| 140.345 Enhanced DP system requirements. | ..... | ..... | ..... | ..... | In addition to meeting the design and operating requirements found in 140.335 and 140.340, all MODUs and new vessels other than MODUs of at least 6,000 GT ITC must also submit, and have approved, the vessel's design and operating plans by the DPSAO that conducted the vessel's initial survey. | Provides increased assuredness of safe design and operation for all vessels that use a DP system to conduct Critical OCS Activities by requiring independent third party verification of design and planned operations. Ensures that FMEA and CAMO are developed and maintained, which would reduce the likelihood of significant casualties or property damage from occurring in the future. |
| 140.350 Operational control. | ..... | ..... | ..... | ..... | Permits the cognizant OCMI to suspend an applicable vessel from using DP, if the vessel is found to be not in compliance with the requirements in this part. | Ensures safe design and operation for all vessels that use a DP system while conducting Critical OCS Activities. This will reduce the likelihood of significant casualties or property damage from occurring in the future. |
| **46 CFR Part 61—Periodic Tests and Inspections** | | | | | | |
| 61.50–2 Surveys | ..... | ..... | ..... | ..... | Requires all MODUs and applicable vessels other than MODUs that use a DP system while conducting Critical OCS Activities, to complete DP surveys conducted by a DPSAO. | Ensures safe design and operation for all vessels that use a DP system to conduct Critical OCS Activities by requiring independent evaluation of systems. Periodic surveys ensure that FMEA and CAMO are maintained, which would reduce the likelihood of significant casualties or property damage from occurring in the future. |
| | | | | | Requires the DPSAO conducting the vessel's DP survey to notify the OMCI at least 30 days prior to the survey. | Allows Coast Guard officials the opportunity to participate in DP system surveys providing government oversight and quality control for third parties. The Coast Guards presence will verify and complement the findings of a third-party surveyor, thereby ensuring that DP system equipment is operational and properly maintained, which would reduce the likelihood of a loss of position occurring in the future. |
| 61.50–3 Acceptance of dynamic positioning system assurance organizations. | ..... | ..... | ..... | ..... | Creates specifications that DPSAO must meet in order to receive approval from the Coast Guard Outer Continental Shelf National Center of Expertise (OCS NCOE) to conduct DP surveys, FMEA testing, and plan reviews. | Ensures that DPSAOs are highly qualified at conducting an FMEA, testing a vessel's CAMO and ASOC or WSOC, and conducting DP failure investigations. This would reduce the likelihood that significant casualties or property damage occur because of a poorly created CAMO or ASOC or WSOC. |

TABLE 10—DESCRIPTION OF BENEFITS OF THE NPRM—Continued

| Key provision | Design standards & classification | Operations | Manning & training | Reporting | Description | How provision reduces risk |
|---|---|---|---|---|---|---|
| 61.50–4 Oversight of dynamic positioning system assurance organizations. | ..... | ..... | ..... | ..... | All applicable vessels must have the DPSAO complete an annual DP failure investigation report. This report would be reviewed annually by the OCS NCOE. | Provides Coast Guard officials with information on how and why DP failures occur. This information provides valuable feedback to ensure that future such incidents do not occur, which would reduce the probability of significant casualties or property damage from occurring in the future. Further, this information would allow the Coast Guard to determine whether the DPSAO is still under compliance with the requirements necessary of an authorized DPSAO specified in 61.50–3. |
| 61.50–5, 61.50–10, 61.50–15 Initial, periodic, and annual surveys of DP systems. | ..... | ..... | ..... | ..... | Requires all vessels that use a DP system to conduct Critical OCS Activities to have surveys to ensure compliance with DP system requirements. Additionally, these sections require that the authorized DP assurance organization conducting the survey notify the Coast Guard on the location and time of the survey. | Ensures safe design and operation for all vessels that use a DP system to conduct Critical OCS Activities. Tests a vessel's FMEA and CAMO to ensure that they are developed and maintained, which would reduce the likelihood of significant casualties or property damage from occurring in the future. Allows Coast Guard officials the opportunity to participate in DP system surveys. The Coast Guards presence will verify and complement the findings of a third-party surveyor, thereby ensuring that DP system equipment is operational and properly maintained, which would reduce the likelihood of a loss of position occurring in the future. |
| **46 CFR Part 62—Vital System Automation** | | | | | | |
| 62.20–2 Required plans for DP systems. | ..... | ..... | ..... | ..... | Requires all MODUs that conduct Critical OCS Activities and all other vessels of at least 6,000 GT ITC that have installed a DP system on or after the effective date of this final rule to submit a DP system plan to assurance DPSAO. | Ensures safe design for all vessels that use a DP system to conduct Critical OCS Activities by requiring that systems be verified by independent third party, which would reduce the probability of significant casualties or property damage. Classification, plan review and certification requirements serves as a fundamental building block for safe DP operations by ensuring a minimum level of reliability for a DP system verified by a qualified third party, particularly for higher risk vessels. |
| | | | | | Requires the DPSAO to submit a copy of the approved DP system plan, as well as the Annual Survey Document in subsequent years, to the commanding officer of the Marine Safety Center. | The Coast Guard's oversight would verify and complement the findings of a third-party surveyor, thereby ensuring that DP system equipment is operational and properly maintained, which would reduce the likelihood of a loss of position occurring in the future. It would further provide for government oversight. |
| 62.25–40 Environmental design standards on OCS units. | ..... | ..... | ..... | ..... | Incorporates IEC environmental standards into Title 46. | Reduces the risk of pollution or a subsea spill by ensuring that design of DP system equipment meets environmental standards. |

TABLE 10—DESCRIPTION OF BENEFITS OF THE NPRM—Continued

| Key provision | Design standards & classification | Operations | Manning & training | Reporting | Description | How provision reduces risk |
|---|---|---|---|---|---|---|
| 62.40–3, and 62.40–5, 62.40–10 Design standards and classification for DP systems on OCS. | ..... | ..... | ..... | ..... | Requires all vessels that use a DP system to conduct Critical OCS Activities to meet the DP Operation Standards in IMO MSC/Circ. 645 and recommend following the MTS DP Operation Guidelines. Requires all applicable vessels to obtain DP notation equivalent to Equipment class 2 or higher from an authorized classification society. | Reduces probability of a DP system failure occurring, because a DP–2 system must maintain position at all times, excluding incidents involving the loss of a compartment. |
| | | | | | All applicable vessels must maintain an FMEA that demonstrates compliance with the applicable provisions of IMO MSC/Circ.645 for DP equipment class 2 or higher. | Ensures that all vessels and MODUs meet their maximum level of redundancy, functionality, and operation, and that no single fault would exceed the identified worst-case failure. This would reduce the likelihood of significant casualties or property damage, since the DP system would alert the DPO or DPOQ before a worst-case failure occurs. |
| 62.40–15, 62.40–20 FMEA and FMEA proving test documents. | ..... | ..... | ..... | ..... | Requires vessel owners or operators to create and maintain a vessel's FMEA and FMEA test proving document. | Ensures that each vessels' and MODUs' DP system failure modes are assessed and tested to ensure that limits are understood and in compliance with regulations. |
| 62.40–25 Critical Activity Mode of Operation (CAMO). | ..... | ..... | ..... | ..... | Requires owners or operators to develop and maintain a CAMO. | Ensures that all vessels and MODUs meet their maximum level of redundancy, functionality, and operation and that no single fault would exceed the identified worst-case failure. This would reduce the likelihood of significant casualties or property damage, since the DP system would alert the DPO or DPOQ before a worst-case failure occurs. |

Because DP is an emerging technology and there are no existing requirements for reporting DP incidents, we have casualty reports of uncertain quality, constraining our ability to conduct a casualty review. However, we attempt to quantify the potential benefits that are expected to result from the requirements in this NPRM using the best available information that we have gathered from various segments of industry. These benefits focus on damages only, and not on fatalities, injuries or environmental damage given the limitations in data noted.

In publicly available documents (2004 through 2010), the IMCA estimates that an average of 1.45 DP incidents occur per vessel every year.[59] Next, we estimate the number of DP incidents that are expected to occur given the forecasted population figures and the average DP incident rate per vessel per year.

Next, we calculate the number of DP incidents that resulted in a loss of position and damages using IMCA station keeping incident reports provided from 2004 through 2010. The average percentage of incidents that resulted in vessel damages from 2004 through 2010 was 6 percent for non-drilling vessels and 4 percent for drilling vessels.

Using the average percentage of incidents that result in vessel damage and the total number of incidents forecasted to occur during the 10-year period of our study, we then calculate the total cost that would occur to industry as a result of DP incidents. According to the MTS ''Reliability and Risk Analysis,'' for DP incidents that result in damages, ''the average incident cost for drilling is estimated to be $2 million, which includes rig downtime, possible damage, the possibility of a fishing job, and even the remote possibility of lost well control.''[60] We note that this cost does not take into account the possibility of injuries or loss of life that could result from DP incidents, and, therefore, is likely an underestimate. We then adjust this estimate to $2,902,891 to account for inflation that occurred between 1997 and 2013.[61] For non-drilling vessels, we estimate that the cost per DP incident

[59] Although reporting to the IMCA is voluntary, we accept this average rate, as it is the best available data currently available.

[60] Marine Technology Society. ''Reliability and Risk Analysis,'' Dynamic Positioning Conference. October 21–22, 1997. Page 29.

[61] Inflation Adjustment Calculation = > 2013 value =. The average annual CPI–U data was obtained from the BLS at *http://stats.bls.gov/cpi/cpifiles/cpiai.txt.*

that results in damages is $132,991.[62] We calculated this figure by estimating the percentage difference between day rates for non-drilling vessels and drilling vessels, and then multiplying that percentage by the inflation adjusted total damages provided in the MTS ''Reliability and Risk Analysis.'' [63]

For DP incidents that do not result in damages, we calculate the cost to investigate the incident, as well as the lost revenue that would occur while the investigation was taking place. According to a Coast Guard Subject Matter Expert, it was determined that it would take an engineer 10 hours on average to investigate a DP incident, at an hourly loaded wage of $57.[64] Further, the Coast Guard estimates that a non-drilling vessel would lose $10,070 of revenue per DP incident that does not result in any damages, and a drilling vessel would lose $219,794 of revenue per DP incident that does not result in any damages.[65] This lost revenue would occur as a result of operations having to be stopped while the engineer conducts the DP incident investigation.

Following this calculation (our baseline), we then calculate the cost of DP incidents following the effective date of our final rule. First, we needed to calculate the rate of DP incidents that are expected to occur after publication of a final rule. Based on roundtable conversations with owners and operators of DP vessels that operate on the U.S. OCS, we estimate that DP incidents would be reduced by 95 percent after adopting the MTS DP Operations guidance.[66] If we assume that the vessels were experiencing the industry average number of incidents per year, 1.45, prior to adopting the MTS guidance, then a 95-percent reduction in DP incidents would equate to vessels experiencing only 0.0725 DP incidents per year following adoption of the MTS guidance.[67] Using this new figure, we recalculated the number of DP incidents that are expected to occur given the forecasted population figures. However, we continue to use the original DP incident rate (1.45 incidents per vessel per year) for vessels that would not benefit from this proposed rule, or would not benefit from the proposed rule until the applicable phase-in date.

After implementation of the NPRM, we estimate that 2,926 DP incidents for vessels other than MODUs (OSVs and crewboats) and 361 DP incidents for drilling vessels (MODUs) would be prevented over the 10-year period of our analysis.

Using the same methodology that we used to calculate the cost of DP incidents that would occur without this proposed rule, we then estimate the total cost of DP incidents after implementation of this proposed rule. We assume that the average percentage of DP incidents that result in damages remains the same.

We estimate that the reduction in the occurrence of DP failures would result in avoided damages of $115.849 million ($28.375 million to owners or operators of domestic vessels), discounted at a 7-percent rate, and $146.289 million ($37.050 million to owners or operators of domestic vessels), discounted at a 3-percent rate, over the 10-year period of our analysis. The annualized benefits are estimated to be $16.494 million ($4.040 million to owners or operators of domestic vessels), discounted at a 7-percent rate, and $17.150 ($4.343 million to owners or operators of domestic vessels), discounted at a 3-percent rate.

Table 11 summarizes the total damages avoided that would accrue to industry from issuing this NPRM. These avoided damages would accrue from a reduction in the frequency of DP failures, which would reduce vessel downtime, possible damage, and the possibility of lost well control. These benefits do not reflect the potential reduction in the risk of injuries or fatalities that would likely occur after implementation of this NPRM. Figure 3 supplements Table 11 by providing a graphical representation of the difference between the cumulative total costs incurred by noncompliant vessels prior to the issuance of a final rule, and the cumulative total costs incurred by noncompliant vessels after issuance of a final rule.

TABLE 11—TOTAL 10-YEAR AVOIDED DAMAGES FROM NPRM

| Time period | Undiscounted benefits | | | Discounted benefits | | Annualized benefits | |
|---|---|---|---|---|---|---|---|
| | Vessels other than MODUs | Drilling vessels | Total | 7% | 3% | 7% | 3% |
| Total Damages from DP Incidents prior to DP System Rule | $105,234,662 | $126,218,084 | $231,452,746 | $157,200,830 | $194,581,898 | $22,381,862 | $22,810,935 |
| Total Damages from DP Incidents after DP System Rule | 51,101,224 | 3,746,191 | 54,847,415 | 41,351,452 | 48,293,037 | 5,887,517 | 5,661,417 |
| Estimated Benefits from Following MTS Guidance | 54,133,438 | 122,471,893 | 176,605,331 | 115,849,378 | 146,288,861 | 16,494,345 | 17,149,517 |

* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

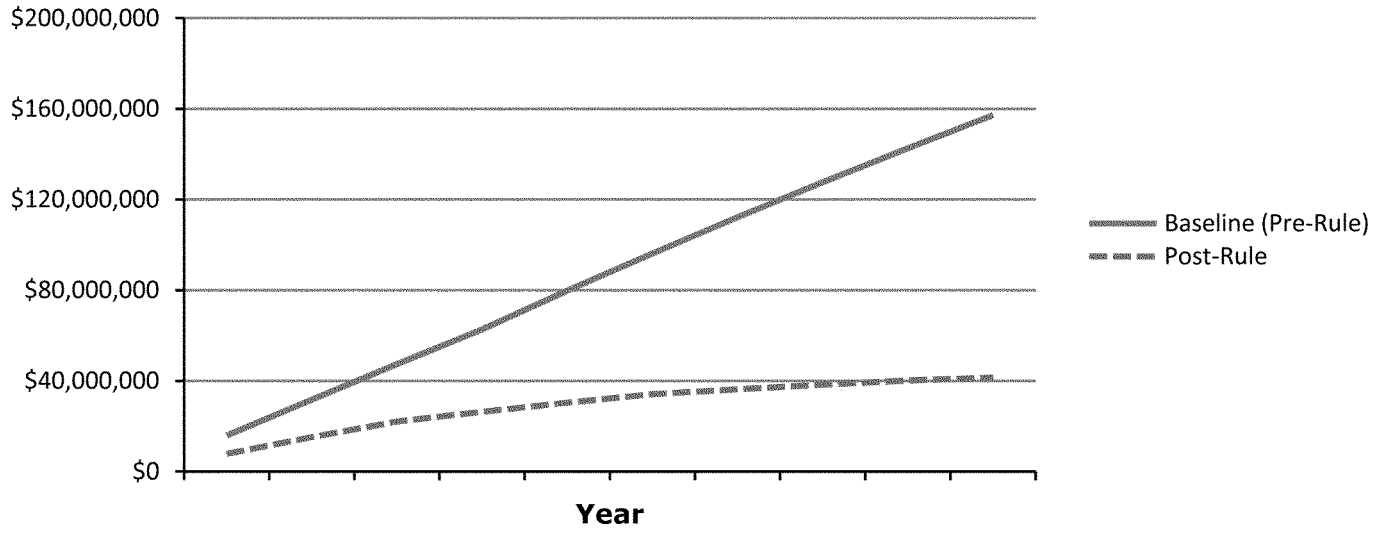
[62] Calculation used = > × $2,902,891.

[63] Day rate for non-drilling vessel = $23,818. ''Dynamic Positioning System Research Task Order,'' by Rolling Bay, LLC August 2012. The average day rate for drilling vessels = $527,506.

[66] This reduction is based on a decrease in the frequency of DP position-loss incidents, from a frequency of six DP position-loss incidents in 6 months prior to adoption of the MTS DP Operations guidance, to five position-loss incidents in 8 years following the adoption of the guidance.

[67] New DP incident rate per vessel per year = 1.45 × 0.05.

Figure 3: Comparison of Cumulative Total Costs of DP Incidents (Before and After Final Rule)




Request for Comment

We request additional comments on our benefit model assumptions. Information is specifically requested on the following:

(1) Frequency of changes in DP status from green to red, and green to yellow;

(2) The rate of DP incidents that result in damages and the type and amount of these damages;

(3) The effectiveness of the proposed rule in reducing DP incidents, loss of position, and resulting consequences; and

(4) Case studies on DP incidents that resulted in a loss of position.

**DATES:** Comments and related material must be submitted to the online docket via *http://www.regulations.gov* or reach the Docket Management Facility on or before February 26, 2015. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before February 26, 2015.

**ADDRESSES:** Submit comments using any one of the listed methods, and see **SUPPLEMENTARY INFORMATION** for more information on public comments.

- *Online—http://www.regulations.gov* following Web site instructions.
- *Fax*—202–493–2251.
- *Mail*—Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand delivery—mail* address, 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays (telephone 202–366–9329).

Comparison of Costs vs. Benefits

We estimate that the total annualized net cost of this NPRM is $4.219 million ($6.680 million to domestic owners or operators), discounted at a 7-percent rate, and $3.930 million ($6.653 million to domestic owners or operators), discounted at a 3-percent rate. Tables 12 and 13 summarize the net costs that would be incurred as a result of the publication of this NPRM. Figure 4 then compares the cumulative net present value, using a 7-percent discount rate, as a result of publication of this NPRM to the net present value of not requiring the provisions in this NPRM (*i.e.,* the baseline).

TABLE 12—TOTAL CUMULATIVE NET PRESENT VALUE FROM NPRM

| Year | Discounted costs | | Discounted benefits | | Net present value | |
|---|---|---|---|---|---|---|
| | 7% | 3% | 7% | 3% | 7% | 3% |
| 1 | $11,879,832 | $12,809,668 | $8,008,721 | $8,319,739 | ($4,683,985) | ($4,865,887) |
| 2 | 23,878,206 | 25,758,050 | 16,568,099 | 17,556,832 | (8,122,981) | (8,577,177) |
| 3 | 32,911,477 | 35,885,141 | 25,319,946 | 27,368,422 | (8,404,405) | (8,892,677) |
| 4 | 67,122,135 | 75,727,738 | 36,404,432 | 40,277,695 | (31,530,576) | (35,826,001) |
| 5 | 76,654,716 | 87,260,764 | 49,473,907 | 56,089,844 | (27,993,683) | (31,546,879) |
| 6 | 85,580,403 | 98,478,907 | 62,079,796 | 71,933,404 | (24,313,481) | (26,921,461) |
| 7 | 111,205,850 | 131,936,702 | 75,965,563 | 90,063,319 | (36,053,161) | (42,249,341) |
| 8 | 120,414,846 | 144,427,343 | 89,321,957 | 108,179,291 | (31,905,763) | (36,624,010) |
| 9 | 129,470,866 | 157,187,510 | 102,476,664 | 126,714,614 | (27,807,076) | (30,848,853) |
| 10 | 144,669,412 | 179,434,311 | 115,849,378 | 146,288,861 | (29,632,908) | (33,521,407) |
| Total | 144,669,412 | 179,434,311 | 115,849,378 | 146,288,861 | (29,632,908) | (33,521,407) |
| Annualized | 20,597,670 | 21,035,175 | 16,494,345 | 17,149,517 | 4,219,059 | 3,929,732 |

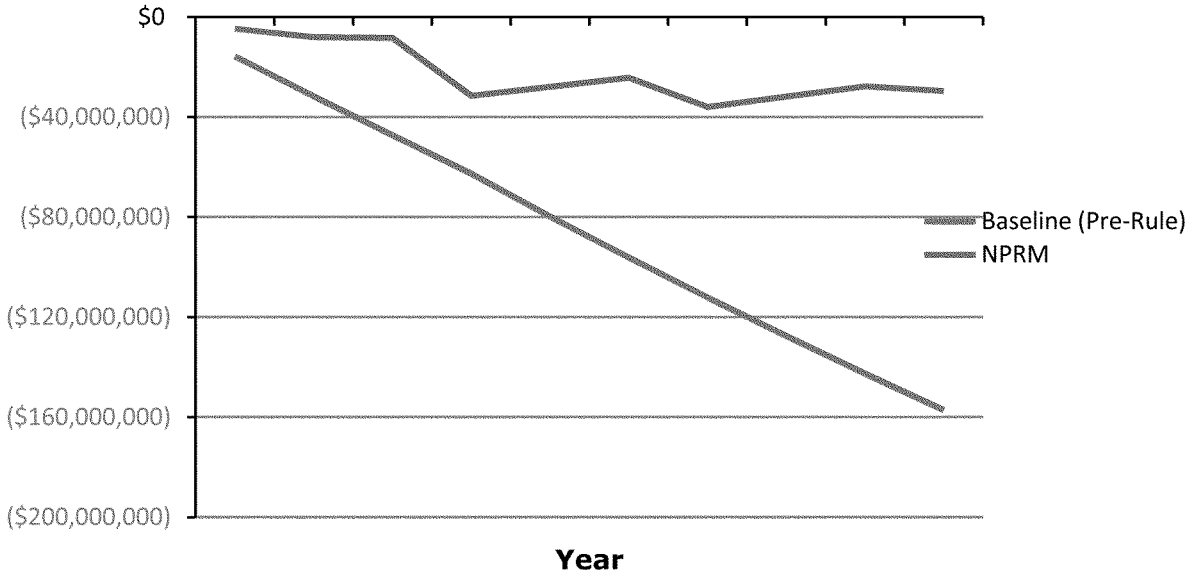
TABLE 13—COMPARISON OF ANNUALIZED BENEFITS AND COSTS TO INDUSTRY AND GOVERNMENT

[7-Percent discount rate]

| Rule | Cost to industry | Total benefits | Net benefits |
|---|---|---|---|
| DP System NPRM | $20,597,670 | $16,494,345 | ($4,219,059) |

* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

Figure 4: Comparison of the Cumulative Net Present Cost (Baseline vs. NPRM)




These net benefits do not include the potential reduction in the number of injuries or fatalities that would likely occur after publication of this NPRM. As a result, these net benefits are likely to be underestimated.

Breakeven Analysis

Based on monetized benefits from reduction in property damage and lost productivity, the NPRM would not result in positive net benefits. However, our monetized estimates do not include benefits that would accrue to society from reducing the risk of fatalities or environmental damage from an oil spill that could result from a catastrophic DP event, such as a collision with a MODU during drilling operations caused by a DP-related loss of position. It is likely then, that we have underestimated the total benefits that would result from this proposed rule. Unfortunately, because of data limitations, we are unable to calculate the risk of a catastrophic event causing fatalities or oil spills that would be prevented as a result of requiring the provisions in this proposed rule. Instead, we estimate the number of fatalities that would need to be prevented per year in order for this proposed rule to be cost neutral, by using the value of a statistical life (VSL).[68] Using the VSL to monetize the value of fatalities and fatalities prevented, the NPRM would need to prevent 0.5 fatalities per year from occurring during the 10-year period for net benefits to equal the net cost of this NPRM.

Table 14 summarizes this breakeven analysis.

TABLE 14—EXPAND DP SYSTEMS IN OCS NPRM, BREAKEVEN ANALYSIS

[7 percent, annualized]

| NPRM requirement | Annualized net cost | Fatalities prevented to breakeven |
|---|---|---|
| Total for NPRM requirements | ($4,219,059) | 0.46 |

The consequences of a loss of position while using DP can be high. In order to put this breakeven analysis in perspective, we consider and compare the impacts of two events to illustrate potential worst case scenarios that could result from a DP-related loss of position. First, as an example of the fatalities that could result from a loss of position and subsequent collision, we use the SAMUDRA SURAKSHA incident as a reasonable worst case scenario. In order

[68] Value of a statistical life is currently measured at $9.1 million. ''Guidance on Treatment of the Economic Value of a Statistical Life,'' prepared for the U.S. Department of Transportation, April 2013. *http://www.dot.gov/sites/dot.dev/files/docs/VSL%20Guidance%202013.pdf.*

for this proposed rule's benefits to equal its costs, one worst case event on the magnitude of the SAMUDRA SURAKSHA which resulted in 22 fatalities, would need to be prevented approximately every 48 years to breakeven.[69]

A loss of position and collision could result in a catastrophic oil spill if a MODU is involved and the blowout preventer does not engage or fails (as was the case during the DEEPWATER HORIZON). The DEEPWATER HORIZON oil spill illustrates the potential environmental damage that could result from an oil spill from an uncontrolled well. The DEEPWATER HORIZON incident resulted in an estimated 4.9 million barrels of oil spilled. To date, the responsible party has spent $14 billion on cleanup costs alone. This estimate of cleanup costs does not include additional restoration costs under the Natural Resource Damage Assessment process or other liabilities or settlements.[70] Assuming a $14 billion cleanup cost for a reasonable worst case catastrophic oil spill, the proposed rule would have to prevent one such event every 1,000 years to breakeven.

Alternatives

We examined several alternatives with varying degrees of vessel applicability and required provisions. Of the alternatives examined, we selected the alternative that provided industry with the largest amount of flexibility without sacrificing maritime safety. The Coast Guard considered the following alternatives:

- Proposed Alternative (NPRM);
- Alternative 2: Grandfathering all existing non-drilling DP vessels;
- Alternative 3: No Grandfathering and No Phase-in Period;
- Alternative 4: Proposed Alternative Plus Additional DP Manning Requirements for non-drilling vessels with new or upgraded DP systems; and
- Alternative 5: Alternative 3 Plus Additional DP Manning Requirements.

Because of the frequency of DP-related incidents, as well as the potential for severe consequences that could occur as the result of an incident, the Coast Guard decided that the benefits that would be gained through requiring compliance from existing OSVs and crewboats would outweigh any additional costs that would be incurred by industry.

In order to minimize the impact on existing OSVs and crewboats, the Coast Guard developed the proposed alternative, which uses a phase-in schedule to provide existing non-drilling vessels with some flexibility in meeting the provisions of this proposed alternative. Further, the Coast Guard decided to grandfather existing non-drilling vessels from being required to comply with the most costly provisions in this proposed rule—-the provisions that would require a vessel using DP to use a DP–2 system or higher and obtain a DP–2 or high class notation.

Through providing flexibility to existing OSVs and crewboats, the proposed alternative minimizes costs, without sacrificing benefits that could accrue from a larger population of vessels.

Table 15 summarizes the alternatives considered. The costs and benefits displayed are for both total 10-year costs and benefits and the annualized cost and benefits discounted at a 7 percent annual rate. Because the net benefits do not include the potential reduction in the number of injuries or fatalities that are likely to occur after issuance of a final rule, Table 15 also includes the number of fatalities that would need to be prevented for the costs of this proposed rule to equal the benefits.

TABLE 15—COMPARISON OF ALTERNATIVES

| Proposal | Annualized cost (7% discount rate) | Annualized benefits (7% discount rate) | Annualized net cost (7% discount rate) | Number of fatalities needed to be prevented per year to breakeven | Impact of alternative |
|---|---|---|---|---|---|
| Proposed Alternative. | $20,597,670 | $16,494,345 | ($4,219,059) | 1 fatality per year | • Offers protection for 91% of crew from risk of DP failure.<br>• Mitigates risk for 462 vessels.<br>• Reduces costs by allowing continued use of existing DP–1 systems as long as they meet good operational practices.<br>• Minimizes burden by allowing phase-in of operational requirements based on risk. |
| Alternative 2 ..... | 13,307,230 | 13,688,325 | (265,983) | 0 fatalities per year | • Offers protection for 51% of crew from risk of DP failure.<br>• Mitigates risk for 205 vessels.<br>• Minimizes burden by grandfathering non-drilling vessels that have installed a DP system prior to the effective date of a final rule. |
| Alternative 3 ..... | 25,718,386 | 21,699,818 | (4,896,965) | 1 fatality per year | • Offers protection for 100% of crew from risk of DP failure.<br>• Mitigates risk for 528 vessels.<br>• Requires non-drilling vessels that have installed a DP system prior to the effective date of a final rule to comply with all operational requirements before issuance of final rule. |
| Alternative 4 ..... | 137,508,218 | 16,494,345 | (121,332,655) | 14 fatalities per year. | • Offers protection for 91% of crew from risk of DP failure. |

[69] We acknowledge that the SAMUDRA SURAKSHA incident would not be avoided or its consequences mitigated as a result of this proposed rule since it involved a foreign flag vessel operating in foreign waters.

[70] ''Active Shoreline Cleanup Operations from Deepwater Horizon Accident End'', press release from BP, 15 April 2014, available at: *http://www.bp.com/en/global/corporate/press/press-releases/active-shoreline-cleanup-operations-dwh-accident-end.html.*

TABLE 15—COMPARISON OF ALTERNATIVES—Continued

| Proposal | Annualized cost (7% discount rate) | Annualized benefits (7% discount rate) | Annualized net cost (7% discount rate) | Number of fatalities needed to be prevented per year to breakeven | Impact of alternative |
|---|---|---|---|---|---|
| Alternative 5 ..... | 625,109,533 | 21,699,818 | (608,728,065) | 67 fatalities per year. | • Mitigates risk for 462 vessels.<br>• Minimizes burden by allowing phase-in of operational requirements based on risk.<br>• Requires additional manning requirements for new builds that industry is unlikely to meet on its own.<br>• Offers protection for 100% of crew from risk of DP failure.<br>• Mitigates risk for 528 vessels.<br>• Requires non-drilling vessels that have installed a DP system prior to the effective date of a final rule to comply with all operational requirements before issuance of final rule.<br>• Requires additional manning requirements for all vessels using DP that industry is unlikely to meet on its own. |

* Net Cost does not include avoided fatalities or other benefits of this proposed rule.
* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

Although Table 15 shows that Alternative 2, which would grandfather all existing non-drilling vessels from having to comply with this proposed rule, minimizes net costs, Alternative 2 would reduce the risk of a fatality the least out of all of the alternatives. This is because fewer vessels would benefit from the proposed requirements, and thus the probability of a DP incident, which could result in a fatality, would remain at its current rate for a majority of existing vessels using DP on the U.S. OCS. Furthermore, given the catastrophic damage potential of DP-related incidents from non-drilling vessels, the additional costs are relatively small. In Table 16, we summarize the risk of fatality addressed and the cost to address that risk in each of the alternatives.

TABLE 16—COMPARISON OF THE RISK OF FATALITY ADDRESSED BY ALTERNATIVE

| Proposal | Total crew subject to risk of fatality—baseline | Crew with risk of fatality addressed | Percentage of potential fatality risk addressed | Annualized cost | Cost per fatality risk addressed |
|---|---|---|---|---|---|
| Alternative 1 ..... | 5,119 | 4,675 | 91 | $20,179,651 | $4,316.50 |
| Alternative 2 ..... | 5,119 | 2,623 | 51 | 13,072,297 | 4,983.72 |
| Alternative 3 ..... | 5,119 | 5,119 | 100 | 24,990,468 | 4,881.90 |
| Alternative 4 ..... | 5,119 | 4,675 | 91 | 137,090,199 | 29,324.11 |
| Alternative 5 ..... | 5,119 | 5,119 | 100 | 624,381,615 | 121,973.36 |

Table 16 shows that the cost to reduce the risk of a fatality occurring while a vessel is using DP is minimized under the proposed alternative.[71]

Alternative 1: Proposed Alternative

The analysis for this alternative is discussed in detail previously in this RA.

Alternative 2: Grandfathering All Vessels Other Than MODUs With Existing DP Systems

For this alternative, the Coast Guard would grandfather all vessels other than MODUs with existing DP systems, and OSVs and crewboats with an existing DP system would not be required to comply with any of the DP requirements in this NPRM. As a result, this would provide industry with the greatest amount of flexibility in meeting the requirements in the proposed alternative, because it would only require future OSVs and crewboats to comply with the provisions in this proposed rule, in addition to still requiring MODUs with existing and future DP systems to comply immediately with the provisions in the proposed alternative. This approach was created after taking into account the increased risk profile of MODUs, as well as current industry practices. By examining the existing population of MODU's vessel specification sheets, we determined that all existing MODUs operating on the U.S. OCS that utilize DP would comply with the most costly

[71] To estimate this cost, we first derive the total number of crew members working onboard vessels which currently do not comply with this proposed rule in its entirety. Next, we calculate the number of crew members working on board vessels which would benefit from the provisions in each of the alternatives listed above. The cost to address this risk is then estimated by dividing the annualized cost of each alternative by the number of crew members expected to be on board vessels which would benefit from the provisions in each of the alternatives.

provisions in this NPRM. Because of this, as well as the higher risk profile of MODUs, we elected not to grandfather in MODUs with existing DP systems as outlined in this alternative.

We considered Alternative 2 because of the large proportion of OSVs and crewboats with existing DP systems that would not be compliant with the most costly DP provisions in this NPRM. However, because of the high risk potential of DP-related incidents, we decided that the benefits that would be gained through requiring compliance from existing OSVs and crewboats would outweigh the additional costs that would be incurred by industry.

Alternative 3: No Grandfathering and No Phase-in Period

For this alternative, the Coast Guard would require all vessels other than MODUs with existing DP Systems to comply with the requirements in this proposed rule immediately following issuance of a final rule. This alternative would affect the same number of existing OSVs and crewboats as in proposed alternative, but would not permit existing vessels to phase-in DP requirements.

We considered this Alternative 3 because of the high probability that significant consequences could occur as a result of a DP failure. However, this alternative places a larger burden on industry that cannot be justified by either the added benefits that would be incurred by requiring the existing population of non-drilling vessels using DP to comply with the requirements in the NPRM immediately following publication of a final rule (the net cost of this alternative is greater than the proposed alternative), or the reducing the risk of death for a greater number of crew members. As a result, we rejected Alternative 3.

Alternative 4: Additional DP Manning Requirements

Under Alternative 4, all vessels, with the exception of MODUs, that have a new DP system would be required to have a DPO or DPOQ whose only responsibility is operating the DP system.

We rejected this alternative because industry is unlikely to comply with the additional DP manning requirements in the absence of this NPRM. As such, industry would incur large costs that would not be justified by the benefits.

Alternative 5: Additional DP Manning Requirements With No Grandfathering

Alternative 5 would also require additional DP manning requirements, but would not grandfather vessels other than MODUs that have an existing DP system. Because industry is not currently complying with this requirement and is not expected to comply with it in the future, we expect that this provision would burden industry with large costs that would likely force a large number of vessels out of the market. We, consequently, rejected this alternative.

*B. Small Entities*

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard prepared this Initial Regulatory Flexibility Analysis (IRFA) that examines the impacts of the NPRM on small entities (5 U.S.C. 601 *et seq.*). Due to the anticipated impacts on small businesses, Coast Guard is including an analysis of the NPRM requirements for informational purposes.

A small entity may be—

- A small independent business, defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act (5 U.S.C. 632);
- A small not-for-profit organization; and
- A small governmental jurisdiction (locality with fewer than 50,000 people).

An IRFA addresses the following:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;
- A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule; and
- A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

1. Description of the Reasons Why Action by the Agency Is Being Considered

Agencies take regulatory action for various reasons, one of which is the failure of markets to reach socially optimal outcomes. The market failures prompting this proposed rule result from the absence of economic incentives that promote an optimal outcome.

The absence of economic incentives that promote an optimal outcome results in a negative externality. A negative externality is an adverse byproduct of a transaction not accounted for within the transaction. In this case, MODUs and other vessels that use DP to engage in OCS activities that operate with lower safety standards may cause harm or increased risk of harm to human safety and the environment. The cost of these lower safety standards (increased risk) is not completely borne by the OSV or MODU owners, so they are external to the business decisions of these owners. The crew, which may face increased risk from lower safety standards, may not have any say in safety-related decisions. Since the crew may be adversely affected by business decisions which it may not be able to mitigate through increasing its price (labor cost), it absorbs the cost of the externality (increased risk from lower safety standards) which is a market failure. Oil spills that result from OSV or MODU accidents also impose an externality in the form of environmental damage and clean-up costs that are not borne directly by the OSV and MODU owners.

2. Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule

Establishing these minimum standards is necessary to improve the safety of people and property involved in such operations, and the protection of the environment in which they operate. This proposed rule would decrease the risk of a loss of position by a dynamically-positioned MODU or other vessel that could result in a fire, explosion, or subsea spill, and supports the Coast Guard's strategic goals of maritime safety and protection of natural resources.

Several sections of the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1356a,) provide ''the Secretary of the Department in which the Coast Guard is operating'' with rulemaking authority. The Secretary's authority under all these sections is delegated to the Coast Guard through Department of Homeland Security Delegation No. 0170.1, paragraph II(90).

43 U.S.C. 1333(d)(1) gives the Secretary ''authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the

artificial islands, installations, and other devices referred to in subsection (a) of this section or on the waters adjacent thereto, as [the Secretary] may deem necessary.'' The Coast Guard interprets section 1333(d)(1) as conferring authority to regulate any OCS vessel or facility (collectively referred to as ''OCS unit'') attached to the OCS seabed or engaged in OCS activity to support such a unit.[72]

Section 1347(c) requires promulgation of ''regulations or standards applying to unregulated hazardous working conditions related to activities on the outer Continental Shelf when . . . such regulations or standards are [determined to be] necessary'' and authorizes the modification ''from time to time'' of ''any regulations, interim or final, dealing with hazardous working conditions on the Outer Continental Shelf.'' Section 1348(c) requires promulgation of regulations for onsite scheduled or unscheduled inspections of OCS facilities ''to assure compliance with . . . environmental or safety regulations.'' Additionally, section 1356 calls for regulations requiring, with limited exceptions, all OCS units to be manned by U.S. citizens or resident aliens and to comply with ''such minimum standards of design, construction, alteration, and repair'' as the Secretary or the Secretary of the Interior establishes.

3. Description of and, Where Feasible, an Estimate of the Number of Small Entities To Which the Proposed Rule Will Apply

Through review of the Coast Guard's MISLE database, as well as comparing owners' annual revenues to the small business threshold as defined by the Small Business Administration, we determined the number of small entities within drilling and non-drilling owners that would be affected by this proposed rule. We did not find any drilling or non-drilling vessels owned by governments or non-profits.

Table 17 provides the SBA's revenue thresholds for the entities that are affected by this proposed rule. We used these standards in our analysis to determine which entities should be defined as small.

TABLE 17—STANDARD SIZE OF REVENUE OF ENTITIES AFFECTED BY NPRM

| NAICS code | Description of NAICS group | Standard size of revenue |
|---|---|---|
| 213112 | Support Activities for Oil and Gas Operations | $7,000,000 |
| 487210 | Water Transportation Excursion | 7,000,000 |
| 488330 | Navigation Services to Shipping | 35,000,000 |
| 488390 | Other Support Activities for Water Transportation | 35,000,000 |
| 522220 | Sales Financing | 7,000,000 |
| 532411 | Commercial Air, Rail, and Water Transportation Equipment Rentals and Leasing | 7,000,000 |
| 541990 | All Other Professional Scientific and Technical Services | 14,000,000 |

Through this analysis, we determined that all existing MODUs, 60 percent of all existing OSVs of at least 500 GT ITC, 58 percent of all existing OSVs less than 500 GT ITC, and 63 percent of all existing crewboats exceed these small business standards.[73]

The following tables summarize our findings.

TABLE 18—SIZE OF MODUS AFFECTED BY NPRM

| | Number of owners | Number of vessels |
|---|---|---|
| Entities with Data—Above Threshold | 2 | 4 |
| Entities with Data—Below Threshold | 0 | 0 |
| Total Small Entities | 0 | 0 |
| Total | 2 | 4 |
| Percentage of Small Entities | 0.0% | 0.0% |

The annual revenue for MODU owners that would be affected by this proposed rule is within a range of $875,000,000 to $3,000,000,000. Our results indicate that all drilling vessels using DP and currently operating on the U.S. OCS exceed the small business standards presented in Table 17.

Next, we examined publicly available revenue data for owners and operators of OSVs of at least 500 GT ITC that use DP while operating on the U.S. OCS. These vessels would be required to comply with a majority of the provisions of this proposed rule by the date specified in Table 2 of this Regulatory Analysis section. Table 19 summarizes our analysis on owners or operators of OSVs of at least 500 GT ITC.

TABLE 19—SIZE OF OSVS OF AT LEAST 500 GT ITC AFFECTED BY NPRM

| | Number of owners | Number of vessels |
|---|---|---|
| Entities with Data—Above Threshold | 21 | 401 |

TABLE 19—SIZE OF OSVS OF AT LEAST 500 GT ITC AFFECTED BY NPRM—Continued

| | Number of owners | Number of vessels |
|---|---|---|
| Entities with Data—Below Threshold | 14 | 56 |
| Total Small Entities | 14 | 56 |
| Total | 35 | 457 |
| Percentage of Entities | 40% | 12% |

Through our analysis, we estimate that approximately 40 percent of owners or operators of existing OSVs of at least 500 GT ITC that use DP are defined as small by the SBA threshold. The annual revenue stream of the entities affected by this proposed rule that are defined as small is within a range of $630,000 to $51,834,000.

We then examined revenue data for owners or operators of OSVs less than 500 GT ITC. Although these owners or operators would incur some cost as a result of this proposed rule, existing vessels in this group would be

[72] *OCS activity* is defined in 33 CFR 140.10 to mean ''any offshore activity associated with exploration for, or development or production of, the minerals of the Outer Continental Shelf.''

[73] We have separated our analysis of OSVs into OSVs of at least 500 GT ITC and OSVs under 500 GT ITC in order to account for the phase-in schedule which would only require OSVs of at least 500 GT ITC to meet more stringent DP requirements.

grandfathered from the most costly provisions.

Table 20 describes the results of our analysis on the revenue streams of owners or operators of OSVs less than 500 GT ITC.

TABLE 20—SIZE OF OSVS LESS THAN 500 GT ITC AFFECTED BY NPRM

| | Number of owners | Number of vessels |
|---|---|---|
| Entities with Data—Above Threshold | 14 | 48 |
| Entities with Data—Below Threshold | 10 | 23 |
| Total Small Entities | 10 | 23 |
| Total | 28 | 71 |
| Percentage of Small Entities | 42% | 32% |

Using annual revenue data from public databases, we estimate that approximately 42 percent of the owners of vessels less than 500 GT ITC are small entities. The annual revenues for owners or operators defined as small entities range from $565,000 to $3,750,000. The median revenue per small entity owner is $3,109,500, while the mean revenue is $2,556,965.

Lastly, we examined the revenue streams of owners or operators of crewboats that use DP on the U.S. OCS. Table 21 summarizes our findings.

TABLE 21—SIZE OF CREWBOATS AFFECTED BY NPRM

| | Number of owners | Number of vessels |
|---|---|---|
| Entities with Data—Above Threshold | 8 | 36 |
| Entities with Data—Below Threshold | 3 | 7 |
| Total Small Entities | 3 | 7 |
| Total Entities | 11 | 43 |
| Percentage of Small Entities | 27% | 16% |

Using annual revenue data from public databases, we estimate that approximately 27 percent of the owners or operators of crewboats are small entities. The annual revenues for crewboat owners or operators defined as small entities range from $162,000 to $2,200,000. The median revenue per small entity owner or operator is $1,081,000, while the mean revenue is $1,147,667. As with OSVs less than 500 GT ITC, however, these vessels would be grandfathered from having to comply with the most costly provisions in this proposed rule.

4. A Description of the Projected Reporting, Recordkeeping and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities That Would Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

In general, this proposed rule would require owners or operators of vessels that use DP on the U.S. OCS to—

- Make available to the OCMI upon request a copy of a DPO/DPOQ's certificate of completion of DP training courses;
- Use DP–2 or higher systems if conducting Critical OCS Activities;[74]
- Receive a DP–2 class notation;
- Conduct an FMEA;
- Develop and maintain a CAMO and ASOC or WSOC;
- Report DP system incidents to an authorized DP assurance organization;
- Conduct DP incidents investigations whenever the DP system status changes from green to yellow or red;
- Report Serious Marine Incidents that result from a DP incident to the OCMI;
- Submit a copy of a DP incident investigation report to the OCMI annually;
- Report the time and location of a DP survey to the OCMI at least 30 days prior to the survey; and
- Submit a copy of the vessel's DP system plan if the vessel is a MODU or of at least 6,000 GT ITC.

Our research indicates that all MODUs and OSVs that plan on using DP on the U.S. OCS will be built with a DP–2 system even in the absence of this proposed rule. Further, all existing MODUs that use DP on the U.S. OCS already are operating with DP–2 or higher systems. Lastly, because existing OSVs and crewboats would be grandfathered from having to comply with this requirement, we anticipate that only one future crewboat owner per year could potentially incur this cost. Therefore, this provision is expected to have a minimal impact on industry as a whole.

To determine the impact of this proposed rule on an individual owner or operator, we calculated the expected cost for the vessel categories examined above to comply with all applicable provisions.

Expected Cost to MODUs

Because all drilling (MODU) owners or operators exceed the small business threshold and the expected cost to these owners or operators is estimated to be well below their annual revenue streams, we instead begin our analysis with the expected cost to owners or operators of OSVs of at least 500 GT ITC.

Expected Cost to OSVs of at Least 500 GT ITC

We estimate that the total first-year cost of this NPRM to noncompliant owners or operators of existing OSVs of at least 500 GT ITC would be $286,835 per vessel. Table 22 summarizes the cost per provision to these noncompliant vessels.

TABLE 22—FIRST-YEAR COSTS TO AN EXISTING NON-COMPLIANT OSV OF AT LEAST 500 GT ITC

| Requirement | First year cost |
|---|---|
| Make Available DPO/DPOQ Training Certificates | $114.40 |
| Replace DP–1 Crewboats | 0.00 |
| Cost to receive DP–2 Class Notation | 0.00 |
| Conduct an FMEA | 275,000.00 |
| Develop a CAMO and ASOC | 9,120.00 |
| Report DP System Incidents | 177.87 |
| Conduct DP Incident Investigation And Write Report | 2,236.19 |
| Report Serious Marine Incidents Resulting from DP Incident | 3.46 |
| Submit Annual DP Incident Investigation Report | 169.10 |
| Obtain DPVAD | 10.25 |
| Report DP Surveys | 4.10 |

[74] Or choose to not operate with DP.

TABLE 22—FIRST-YEAR COSTS TO AN EXISTING NON-COMPLIANT OSV OF AT LEAST 500 GT ITC—Continued

| Requirement | First year cost |
|---|---|
| Submit DP Systems Plan | 0.00 |
| Total | 285,835.36 |

* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

After a review of the Coast Guard's MISLE database, as well as vessel profiles that are publicly available on company Web sites, we estimate that roughly 50 percent of existing OSVs that would be phased-in to the DP requirements of this proposed rule would incur this entire cost. We estimate that the remaining owners or operators of existing OSVs affected by this proposed rule would incur a cost of $1,062.36 per vessel.[75]

Additionally, through conversations with members of industry, we expect that 50 percent of future OSVs of at least 500 GT ITC would also incur the full cost displayed in Table 22. Like the existing population, the rest are expected to incur a cost of $1,062.

We then use the population estimates in Table 3 of this Regulatory Analysis section to calculate the expected first-year cost to an owner or operator of an OSV of at least 500 GT ITC.

Using the expected value formula,

*Expected First-Year Cost* =
((247 *existing DP vessels* $_{no\ compliance}$ × $286,835)
+ (265 *existing DP vessels* $_{partial\ compliance}$ × $1,062)
+ (418 *existing vessels* $_{without\ DP}$ × $0)
+ (12 *future DP vessels* $_{no\ compliance}$ × $286,835)
+ (17 *future DP vessels* $_{partial\ compliance}$ × $1,062))/(959 *Total Vessels Affected*)

we estimate that the expected average first-year cost as a result of this proposed rule to owners or operators of OSVs of at least 500 GT ITC would be $77,778.88.

Using this expected average first-year cost, we then estimate the first-year revenue impact to the small entities that we identified in Table 19. During the first-year of implementation, we estimate that 71 percent of these 14 owners or operators would incur a cost less than 5 percent of their annual revenue stream. The remaining 28 percent would incur costs less than 13 percent of their annual revenue stream.

TABLE 23—FIRST-YEAR REVENUE IMPACT TO SMALL ENTITIES THAT OWN OSVS OF AT LEAST 500 GT ITC

| Revenue impact range | Impact from first year costs |
|---|---|
| Expected cost per vessel | $77,779 |
| 0% < Impact < 1% | 21% |
| 1% < Impact < 3% | 21% |
| 3% < Impact < 5% | 29% |
| 5% < Impact < 10% | 7% |
| Above 10% | 21% |

* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

This proposed rule is also expected to have reoccurring costs. We estimate that the annual cost to owners or operators of OSVs of at least 500 GT ITC that meet none of the applicable provisions would be $2,573.

Table 24 summarizes the reoccurring costs incurred by an owner or operator of a vessel that would not comply with any of the applicable provisions of this proposed rule.

TABLE 24—ANNUAL COST TO AN EXISTING NON-COMPLIANT OSV OF AT LEAST 500 GT ITC

| Requirement | First year cost |
|---|---|
| Make Available DPO/DPOQ Training Certificates | $42.90 |
| Replace DP–1 Crewboats | 0.00 |
| Cost to receive DP–2 Class Notation | 0.00 |
| Conduct an FMEA | 0.00 |
| Develop a CAMO and ASOC | 0.00 |
| Report DP System Incidents | 170.87 |
| Conduct DP Incident Investigation And Write Report | 2,236.19 |
| Report Serious Marine Incidents Resulting from DP Incident | 3.46 |
| Submit Annual DP Incident Investigation Report | 169.10 |
| Obtain DPVAD | 0.00 |
| Report DP Surveys | 4.10 |
| Submit DP Systems Plan | 0.00 |
| Total | 2,633.61 |

* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

We estimate that all owners or operators of OSVs of at least 500 GT ITC would incur this cost following the first year.

Using these total costs, we then estimate the expected annual cost to an owner or operator of an OSV of at least 500 GT ITC.

The estimated expected annual cost incurred by owners or operators of OSVs of at least 500 GT ITC is $1,485.70. This expected cost is estimated to be less than 0.1% of the

[75] These vessels are expected to already comply with the FMEA, CAMO and ASOC, and DP Investigation requirements.

annual revenue of the two entities identified as small.

Expected Cost to an OSV Less Than 500 GT ITC

During development of the phase-in schedule summarized in Table 2 of this Regulatory Analysis section, we realized that the risk profile of OSVs less than 500 GT ITC that use DP on the U.S. OCS was much smaller than the risk profile of larger-sized vessels that use DP. As a result, we decided to grandfather these smaller existing vessels, not only from being required to use DP–2 or higher systems, but also from being required to comply with the FMEA, CAMO, ASOC, and DP failure and incident reporting requirements.

We estimate that because of these less stringent requirements, the total first-year cost of this NPRM to noncompliant owners or operators of existing OSVs less than 500 GT ITC is $126.00 per vessel. Table 25 summarizes the cost per proposed provision to these noncompliant vessels.

TABLE 25—FIRST-YEAR COSTS TO AN EXISTING NON-COMPLIANT OSV LESS THAN 500 GT ITC

| Requirement | First year cost |
|---|---|
| Make Available DPO/DPOQ Training Certificates | $114.40 |
| Replace DP–1 Crewboats | 0.00 |
| Cost to receive DP–2 Class Notation | 0.00 |
| Conduct an FMEA | 0.00 |
| Develop a CAMO and ASOC | 0.00 |
| Report DP System Incidents | 0.00 |
| Conduct DP Incident Investigation And Write Report | 0.00 |
| Report Serious Marine Incidents Resulting from DP Incident | 0.00 |
| Submit Annual DP Incident Investigation Report | 0.00 |
| Obtain DPVAD | 0.00 |
| Report DP Surveys | 0.00 |
| Submit DP Systems Plan | 0.00 |
| Total | 114.40 |

* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

We expect that none of the existing population of OSVs less than 500 GT ITC that use DP would be in compliance with the proposed requirement that all DPOs and DPOQs make available to the Coast Guard upon request the certificates of completion from their DP training course. As such, the entire population of OSVs less than 500 GT ITC that use DP would incur a cost of $114.40 in the first year.

Using the same methodology as before, we estimate the expected average cost to these owners or operators per vessel using the following formula:

$$Expected\ First - Year\ Cost = \frac{(71\ existing\ DP\ vessels\ \ x\ \$114) + (77\ existing\ vessels_{without\ DP}\ \ x\ \$0)}{478\ Total\ Vessels}$$

We estimate that the expected average first-year cost to owners or operators is $54.88 per vessel. Using this expected cost, we then analyze the expected impact on owners or operators identified as small entities in Table 20. During the first year of implementation, we estimate that all OSVs less than 500 GT ITC would incur a cost of less than 0.1 percent of their annual revenue stream.

Table 26 summarizes the revenue impact that this NPRM would have on the existing population of small entities owning or operating OSVs less than 500 GT ITC.

TABLE 26—FIRST-YEAR REVENUE IMPACT TO SMALL ENTITIES THAT OWN OSVS LESS THAN 500 GT ITC

| Revenue impact range | Impact from first year costs |
|---|---|
| Expected Cost per Vessel | $54.88 |
| 0% < Impact < 1% | 100% |
| 1% < Impact < 3% | 0% |
| 3% < Impact < 5% | 0% |
| 5% < Impact < 10% | 0% |
| Above 10% | 0% |

* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

In subsequent years, vessel owners or operators of OSVs less than 500 GT ITC are expected to have costs slightly less than those estimated in Table 25 as a result of this proposed rule. We estimate that in later years, owners or operators of OSVs less than 500 GT ITC that use DP would incur a cost of $21.35 annually.

Table 27 summarizes the reoccurring costs that these owners or operators can expect if this proposed rule is implemented.

TABLE 27—FIRST-YEAR COSTS TO AN EXISTING NON-COMPLIANT OSV LESS THAN 500 GT ITC

| Requirement | First year cost |
|---|---|
| Make Available DPO/DPOQ Training Certificates | $44.50 |
| Replace DP–1 Crewboats | 0.00 |

TABLE 27—FIRST-YEAR COSTS TO AN EXISTING NON-COMPLIANT OSV LESS THAN 500 GT ITC—Continued

| Requirement | First year cost |
|---|---|
| Cost to receive DP–2 Class Notation | 0.00 |
| Conduct an FMEA | 0.00 |
| Develop a CAMO and ASOC | 0.00 |
| Report DP System Incidents | 0.00 |
| Conduct DP Incident Investigation And Write Report | 0.00 |
| Report Serious Marine Incidents Resulting from DP Incidents | 0.00 |
| Submit Annual DP Incident Investigation Report | 0.00 |
| Obtain DPVAD | 0.00 |
| Report DP Surveys | 0.00 |
| Submit DP Systems Plan | 0.00 |
| Total | 44.50 |

* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

Again, we expect that all owners or operators of existing OSVs less than 500 GT ITC that use DP would incur the full annual cost listed in Table 27.

Using these estimated annual costs, we then calculate the expected annual cost to an owner or operator of an OSV less than 500 GT ITC.

The estimated expected annual cost incurred by owners or operators of OSVs of at least 500 GT ITC is $21.35. We estimate the distribution of the revenue impact to small entities as a result of this expected annual cost to be the same as the distribution of the revenue impact as a result of expected first-year costs. Therefore, we estimate the impact for all owners or operators of OSVs less than 500 GT ITC to be less than 0.1 percent of their annual revenue streams.

Expected Cost to a Crewboat

Although existing crewboats that use DP while conducting critical OSC operations on the U.S. OCS would be grandfathered from having to comply with the most costly requirements in this proposed rule (replacing a DP–1 system with a DP–2 or higher system, conducting an FMEA, and developing and maintaining a CAMO and ASOC), future crewboats would not be granted this luxury.

In order to comply with the proposed DP equipment provision, it is likely that an owner or operator who had planned to build a crewboat with a DP–1 system to conduct Critical OCS Activities would instead need to purchase a larger vessel in order to meet the greater mechanical and structural demands of a DP–2 system.[76] We estimate, then, that this proposed requirement would cost an owner or operator $876,237 in order to comply.[77] It is unlikely, however, that a small entity would choose to pay this cost up-front. Instead, we assume that an owner or operator would finance the cost of this purchase over 10 years. We estimate that the annual mortgage payment would be $124,756 to finance this cost over 10 years at a 7-percent interest rate. We considered that less favorable financing terms, such as shorter loan durations or higher mortgage rates, would be possible. In those cases, the annual cost would be higher.

Table 28 summarizes, by proposed requirement, the first-year cost to owners or operators of future crewboats that did not meet any of the applicable provisions in this proposed rule.

TABLE 28—FIRST-YEAR COSTS TO A FUTURE NON-COMPLIANT CREWBOAT

| Requirement | First year cost |
|---|---|
| Make Available DPO/DPOQ Training Certificates | $114.10 |
| Replace DP–1 Crewboats | 124,756.44 |
| Cost to receive DP–2 Class Notation | 64,250.00 |
| Conduct an FMEA | 275,000.00 |
| Develop a CAMO and ASOC | 9,120.00 |
| Report DP System Incidents | 177.87 |
| Conduct DP Incident Investigation And Write Report | 2,236.19 |
| Report Serious Marine Incidents Resulting from DP Incident | 3.46 |
| Submit Annual DP Incident Investigation Report | 169.10 |
| Obtain DPVAD | 10.25 |
| Report DP Surveys | 4.10 |
| Submit DP Systems Plan | 0.00 |
| Total | 475,841.80 |

* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

Table 28 shows that the estimated first-year cost to owners or operators of future crewboats that would not meet any of the requirements in this proposed rule is, after financing, $475,841.80 per vessel.

[76] Although the owner or operator has the option to not conduct Critical OSC activities or not use DP while conducting Critical OCS activities, the Coast Guard does not anticipate these to be likely alternatives, since these alternatives would effectively remove the vessel from being considered for future work from contractors. Therefore, the Coast Guard believes that the preferred option will be purchasing a DP–2 crewboat instead of a DP–1 crewboat.

[77] See the Cost section of this Regulatory Analysis for more detail on this cost.

However, this cost would only be incurred by a small percentage of owners that would have built a DP–1 crewboat in the absence of this proposed rule. In addition to these owners, we estimate that there would be some owners who would incur a smaller cost, because they are expected to build crewboats with DP–2 systems even in the absence of this proposed rule. Finally, we expect that there will be some owners who would choose not to build a crewboat with DP, and therefore, would not incur costs from this proposed rule.[78]

In addition to new builds, owners or operators of existing crewboats that use DP systems would also incur a cost to comply with the reporting requirements of this proposed rule. Using publicly available data on vessel specifics, we estimate that, of existing vessels that use DP, 30 percent use DP–1 systems, with the remainder using DP–2 systems.[79] Further, there are 224 crewboats currently operating in U.S. waters that do not use DP systems.

We estimate that this proposed rule would result in a first-year cost of $114.40 per vessel to owners or operators of existing crewboats that use DP systems, as they would be grandfathered from being required to comply with most of the requirements in this proposed rule.

Table 29 summarizes this estimated cost.

TABLE 29—FIRST-YEAR COSTS TO AN EXISTING NON-COMPLIANT CREWBOAT

| Requirement | First year cost |
|---|---|
| Make Available DPO/DPOQ Training Certificates | $114.40 |
| Replace DP–1 Crewboats | 0.00 |
| Cost to receive DP–2 Class Notation | 0.00 |
| Conduct an FMEA | 0.00 |
| Develop a CAMO and ASOC | 0.00 |
| Report DP System Incidents | 0.00 |
| Conduct DP Incident Investigation And Write Report | 0.00 |
| Report Serious Marine Incidents Resulting from DP Incident | 0.00 |
| Submit Annual DP Incident Investigation Report | 0.00 |
| Obtain DPVAD | 0.00 |
| Report DP Surveys | 0.00 |
| Submit DP Systems Plan | 0.00 |
| Total | 114.40 |

* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

Although the first-year cost to owners or operators for future builds is estimated to be large, this cost will be borne by only a small percentage of crewboat owners or operators. Because we assume, for simplicity, that these owners or operators already own or operate crewboats that are in operation today, we calculate the expected first-year cost to the existing eight crewboat owners or operators in business today.

Using the expected value formula,

$$Expected\ Cost = \frac{((43\ existing\ DP\ vessels\ x\ \$114) + (224\ existing\ vessels_{no\ DP}\ x\ \$0) + (2\ future\ vessels_{DP-2}\ x\ \$351{,}085) + (1\ future\ vessels_{DP-1}\ x\ \$475{,}842)}{270\ Total\ Crewboats}$$

we estimate that the expected average first-year cost to crewboat owners or operators would be $4,381.23 as a result of this proposed rule.

Using this expected average first-year cost, we then estimate the first-year revenue impact to the three small entities identified earlier in Table 21. During the first-year of implementation, we estimate that 67 percent of these owners or operators would incur a cost less than 1 percent of their annual revenue stream. The other owners or operators would incur costs less than 3 percent of their annual revenue stream.

Table 30 summarizes the revenue impact that this NPRM would have on the existing population of small crewboat owners.

TABLE 30—FIRST-YEAR REVENUE IMPACT TO SMALL ENTITIES THAT OWN CREWBOATS

| Revenue impact range | Impact from first year costs |
|---|---|
| Expected Cost per Vessel | $4,381.23 |
| 0% < Impact <1% | 67% |
| 1% < Impact <3% | 33% |
| 3% < Impact <5% | 0% |
| 5% < Impact <10% | 0% |
| Above 10% | 0% |

* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

In subsequent years, we expect that the annual cost to comply with this NRPM would decrease significantly for owners or operators of newly-built crewboats and slightly for owners or operators of existing crewboats.

Table 31 summarizes the annual cost to an owner or operator of a new crewboat that would not have met the design standards of this proposed rule.

[78] Through statistical analysis, we estimate that 1 crewboats per year would incur the full cost listed in Table 28 in the first three years following issuance of a final rule.

[79] These percentages are based on a review of all existing crewboats' vessel specifics, 13 crewboats list DP–1 systems, 30 list DP–2 systems, and 224 list no DP system.

TABLE 31—ANNUAL COSTS TO A FUTURE NON-COMPLIANT CREWBOAT

| Requirement | First year cost |
|---|---|
| Make Available DPO/DPOQ Training Certificates | $44.50 |
| Replace DP–1 Crewboats | 124,756.44 |
| Cost to receive DP–2 Class Notation | 0.00 |
| Conduct an FMEA | 0.00 |
| Develop a CAMO and ASOC | 0.00 |
| Report DP System Incidents | 177.87 |
| Conduct DP Incident Investigation And Write Report | 2,236.19 |
| Report Serious Marine Incidents Resulting from DP Incident | 3.46 |
| Submit Annual DP Incident Investigation Report | 169.10 |
| Obtain DPVAD | 0.00 |
| Report DP Surveys | 4.10 |
| Submit DP Systems Plan | 0.00 |
| Total | 127,391.65 |

* Numbers may not add due to rounding.
* Dollar figures are in 2013 terms.

For future builds that would meet the DP design standards even in the absence of this proposed rule, the estimated annual cost to owners or operators is $2,635.21. Lastly, we estimate that owners or operators of existing crewboats that use DP would incur an annual cost of $44.50.

Using the same formula we used above, we calculate the expected annual cost per vessel to a crewboat owner or operator.

$$Expected\ Annual\ Cost = \frac{((43\ existing\ DP\ vessels\ x\ \$45) + (224\ existing\ vessels_{no\ DP}\ x\ \$0) + (2\ future\ vessels_{DP-2}\ x\ \$2{,}635) + (1\ future\ vessels_{DP-1}\ x\ \$127{,}392)}{270\ Total\ Crewboats}$$

We estimate that the expected annual cost to crewboat owners or operators is $498.43 per vessel as a result of this proposed rule. After the first year of implementation, all crewboat owners who are defined as small entities would incur a cost less than 0.01 percent of their revenue stream annually.

5. An Identification, to the Extent Practicable, of All Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

There are no relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

6. A Description of any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of Applicable Statutes and That Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities

Because of the frequency of DP-related incidents, as well as the severe consequences that could occur as the result of an incident, we decided that the benefits that would be gained through requiring compliance from existing OSVs and crewboats would outweigh any additional costs that would be incurred by industry.

To minimize the impact on existing OSVs and crewboats, we developed the proposed alternative, which uses a phase-in schedule to provide existing non-drilling vessels with some flexibility in meeting the provisions of this proposed alternative. Further, we decided to grandfather existing non-drilling vessels from being required to comply with the most costly provisions in this proposed rule, namely, the provisions that would require a vessel using DP to use a DP–2 system or higher and obtain a DP–2 or higher class notation.

By providing flexibility to existing OSVs and crewboats, the proposed alternative minimizes costs without sacrificing benefits that could accrue from a larger population of vessels.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this NPRM would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under the ''Public Participation and Request for Comments'' section of this preamble.

*C. 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 NPRM so that they can better evaluate its effects on them and participate in the rulemaking. If the NPRM would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult LT Jeff Bybee, Project Manager, CG–ENG–1, Coast Guard, telephone 202–372–1357. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

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).

*D. Collection of Information*

This NPRM would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information,

and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

*Title:* Requirements for MODUs and Other Vessels Conducting Outer Continental Activities with Dynamic Positioning Systems.

*OMB Control Number:* 1625—NEW.

*Summary Of The Collection Of Information:* Title 33 CFR Sections 140.315, 140.335, and Title 46 CFR 61.50–4, 61.50–3, 61.50–2, and 62.20–2 of this NPRM would have COI requirements for vessel owners or operators, and authorized DP assurance providers (DPSAOs). Section 140.315 would require owners or operators to provide the Coast Guard proof of the training records for their DPOs and DPOQs within 48 hours of a request. Section 140.335 (j) would require a vessel owner or operator to report to the cognizant OCMI a DP incident that results in either an emergency disconnect or a serious marine incident as defined by 46 CFR 4.03–2.

Proposed § 61.50–4 would require an authorized DP assurance provider to submit a DP incident investigation report annually to OCS NCOE if the vessel is a MODU conducting Critical OCS Activities; is a vessel other than a MODU conducting Critical OCS Activities while using a DP system installed after the effective date of a final rule; or is a vessel other than a MODU conducting Critical OCS Activities, and is greater than 500 GT ITC and uses a DP system installed prior to the effective date of the final rule. Section 61.50–3 would require a prospective DP assurance organization to submit an application to the OCS NCOE prior to being recognized by the Coast Guard as an authorized DPSAO. Sections 61.50–2 would require the DPSAO conducting a vessel's DP survey to notify the cognizant OCMI of the time and location of a DP initial and annual survey at least 30 days prior to when the survey would take place. Finally, § 62.20–2 would require an DPSAO to submit a copy of the DP system plan for each MODU or other vessel of at least 6,000 GT ITC that uses a DP system to conduct Critical OCS Activities.

*Need for Information:* The Coast Guard is requesting this information to determine whether a vessel satisfies the new regulatory requirements for vessel designs and operations, DP surveys, and DPO and DPOQ training. Furthermore, this information is required to better understand why DP system incidents occur.

*Proposed Use of Information:* The Coast Guard would use this information to determine whether a vessel satisfies the new regulatory requirements for vessel designs and operations, DP surveys, and DPO and DPOQ training. This information also would be used to better understand why DP system incidents occur.

*Description of the Respondents:* The respondents would be vessel owners or operators, ship engineers, and authorized DPSAOs of U.S.- and foreign-flag OSVs and MODUs that operate on the U.S. OCS.

*Number of Respondents:* This NPRM, if promulgated, would have 719 respondents in the first year after the effective date of a final rule.[80] Over the course of the 3-year collection period, there would be 784 respondents.[81]

*Frequency of Response:* The number of responses per year of this NPRM would vary by requirement. Owners or operators must provide proof of training for each DPO and DPOQ employed (we expect eight training certificates would need to be made available during the first year and three training certificates, on average, in subsequent years, to account for a worker turnover rate of 38.9 percent per year).[82] Owners or operators would be required to report, to the cognizant OCMI, DP incidents that result in an emergency disconnect or serious marine incident, which we estimate would occur at a rate of 0.19 and 0.05 per vessel per year, respectively. An authorized DP assurance provider would need to submit an application to the OCS NCOE in order to become an authorized DPSAO.

Additionally, the DPSAO would need to submit an annual summary report, per vessel, of DP incidents investigations that were conducted throughout the year. A DPSAO would also be required to submit a vessel's DP system plan once. Finally, an authorized DPSAO would need to report the time and location of their initial DP survey once per vessel, as well as report the time and location of their annual DP survey once per year per vessel starting in the second year.

*Burden of Response:* The burden per response for each regulatory requirement varies. Details are shown in Table 32 for the burden to industry.

TABLE 32—SUMMARY OF INDUSTRY BURDEN FROM COLLECTION OF INFORMATION

| PRA Item | Total annual number of responses | Average burden per response (in hours) | Total annual burden (in hours) |
|---|---|---|---|
| Make Available Certificates of Training Completion for DPOs/DPOQs Year 1 [140.315(d)] | 5,720 | 0.1 | 572.0 |
| Make Available Certificates of Training Completion for DPOs/DPOQs Year 2 [140.315(d)] | 2,545 | 0.1 | 254.5 |
| Make Available Certificates of Training Completion for DPOs/DPOQs Year 3 [140.315(d)] | 2,534 | 0.1 | 253.4 |
| Submit Annual DP Failure Investigation Report to OCMI Year 1 [61.50–4(b)] | 89 | 4.0 | 356.0 |
| Submit Annual DP Failure Investigation Report to OCMI Year 2 [61.50–4(b)] | 129 | 4.0 | 516.0 |
| Submit Annual DP Failure Investigation Report to OCMI Year 3 [61.50–4(b)] | 152 | 4.0 | 608.0 |
| Report DP Failures that Result in Emergency Disconnects to OCMI Year 1 [140.335(j)] | 16 | 0.3 | 5.3 |
| Report DP Failures that Result in Emergency Disconnects to OCMI Year 2 [140.335(j)] | 18 | 0.3 | 6.0 |
| Report DP Failures that Result in Emergency Disconnects to OCMI Year 3 [140.335(j)] | 20 | 0.3 | 6.7 |
| Report DP Failures that Result in Serious Marine Incidents to OCMI Year 1 [140.335(j)] | 6 | 0.3 | 2.0 |
| Report DP Failures that Result in Serious Marine Incidents to OCMI Year 2 [140.335(j)] | 9 | 0.3 | 3.0 |
| Report DP Failures that Result in Serious Marine Incidents to OCMI Year 3 [140.335(j)] | 11 | 0.3 | 3.7 |
| Submit DPSAO Application to OCSNCOE Year 1 [61.50–3] | 4 | 30.0 | 120.0 |
| Submit DPSAO Application to OCSNCOE Year 2 [61.50–3] | 1 | 30.0 | 30.0 |
| Submit DPSAO Application to OCSNCOE Year 3 [61.50–3] | 1 | 30.0 | 30.0 |

[80] This is calculated from the sum of the projected affected population figures listed earlier in this analysis (610 OSVs, 59 MODUs, 46 crewboats, and 4 DPSAOs).

[81] This is calculated from the sum of the projected affected population figures at the end of the three year collection period of the analysis (652 OSVs, 73 MODUs, 53 crewboats, and 6 DPSAOs).

[82] These numbers are based on the assumption that each entity will need eight DPOs or DPOQs on staff.

TABLE 32—SUMMARY OF INDUSTRY BURDEN FROM COLLECTION OF INFORMATION—Continued

| PRA Item | Total annual number of responses | Average burden per response (in hours) | Total annual burden (in hours) |
|---|---|---|---|
| Report Initial Surveys to OCMI Year 1 [61.50–2] | 89 | 0.1 | 8.9 |
| Report Initial Surveys to OCMI Year 2 [61.50–2] | 40 | 0.1 | 4.0 |
| Report Initial Surveys to OCMI Year 3 [61.50–2] | 23 | 0.1 | 2.3 |
| Report Annual Surveys to OCMI Year 1 [61.50–2] | | 0.1 | |
| Report Annual Surveys to OCMI Year 2 [61.50–2] | 89 | 0.1 | 8.9 |
| Report Annual Surveys to OCMI Year 3 [61.50–2] | 129 | 0.1 | 12.9 |
| Submit DP System Plans to MSC Year 1 [62.20–2] | 64 | 0.5 | 32.0 |
| Submit DP System Plans to MSC Year 2 [62.20–2] | 13 | 0.5 | 6.5 |
| Submit DP System Plans to MSC Year 3 [62.20–2] | 11 | 0.5 | 5.5 |
| Total: Year 1 | 5,988 | | 1,096 |
| Total: Future Years | 5,725 | | 1,751 |
| Total | 11,713 | | 2,848 |

*Estimate of Total Annual Burden:* This NPRM would have a first-year burden on industry of approximately 1,096 hours. The average annual burden on industry of this NPRM would be approximately 876 hours.

*E. Federalism*

A rule has implications for federalism under E.O. 13132 (''Federalism''), if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this NPRM under E.O. 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within fields foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) This NPRM addresses the design, construction, maintenance, operation, training, and personnel qualification of MODUs and other vessels equipped with DP systems. For the portions of this NPRM that are promulgated under the authorities of 46 U.S.C. 3306, 3703, 7101, and 8101, the States may not regulate within these fields. Thus, these rules are consistent with the principles of federalism and preemption requirements in E.O. 13132.

Additionally, for those portions of this NPRM that are promulgated under the authority of 43 U.S.C. 1333, States are also field preempted from prescribing safety regulations on the OCS. Congress specifically granted the exclusive authority, through delegation by the DHS Secretary, to the Coast Guard, stating that the Coast Guard ''shall have the authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the artificial islands, installations, and other devices'' or on ''the waters adjacent thereto'' on the OCS. Furthermore, States do not have jurisdiction to regulate on the OCS. Because states may not regulate within these categories on the OCS, this proposed rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

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

*F. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any 1 year. Though this NPRM would not result in such an expenditure, we do discuss the effects of this NPRM elsewhere in this preamble.

*G. Taking of Private Property*

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

*H. Civil Justice Reform*

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

*I. Protection of Children*

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

*J. Indian Tribal Governments*

This NPRM does not have tribal implications under E.O. 13175, Consultation and Coordination with

Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*K. Energy Effects*

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

*L. Technical Standards*

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

This NPRM uses the following voluntary consensus standards:

- IEC 60092–504—Electrical Installation in Ships—Part 504: Special Features—Control and Instrumentation Third Edition, 2001 (''IEC 60092–504'')
- IMO Circular 645—Guidelines for Vessels with Dynamic Positioning Systems, 1994 (''IMO MSC/Circ.645'')
- Marine Technology Society DP Operations Guidance (''MTS DP Operations Guide''), Part 1, October 2010
- Marine Technology Society DP Operations Guidance (''MTS DP Operations Guide''), Part 2, Appendix 1, March 2012
- Marine Technology Society DP Operations Guidance (''MTS DP Operations Guide''), Part 2, Appendix 2, July 2012
- Marine Technology Society DP Operations Guidance (''MTS DP Operations Guide''), Part 2, Appendix 3, July 2012

The proposed sections that reference these standards and the locations where these standards are available are listed in 33 CFR 140.7, and 46 CFR 61.03–1, and 62.05–1. If you disagree with our analysis of the voluntary consensus standards listed above or are aware of voluntary consensus standards that might apply but are not listed, please send a comment to the docket using one of the methods under **ADDRESSES**. In your comment, please explain why you disagree with our analysis and/or identify voluntary consensus standards we have not listed that might apply.

*M. Environment*

We have analyzed this NPRM under Department of Homeland Security Management Directive 023–1 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this NPRM is categorically excluded from further environmental documentation under figure 2–1, paragraphs (34)(a),(c),(d), and (e) of the Instruction, which exclude regulations that are editorial or procedural and regulations concerning: Internal agency functions or organization; training, qualifying, licensing and disciplining of maritime personnel; manning, documentation, inspection and equipping of vessels; and equipment approval and carriage requirements. This NPRM is also categorically excluded under paragraph 6(a) of the Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy, published in the **Federal Register** on July 23, 2002 (67 FR 48243), which excludes regulations concerning vessel operation and safety standards. The environmental impact associated with requiring additional equipment, training, and improved facilities will be insignificant. An ''Environmental Analysis Check List'' is available in the docket by following the instructions in the ''Viewing comments and documents'' section above.

**List of Subjects**

*33 CFR Part 140*

Continental shelf, Incorporation by reference, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

*33 CFR Part 143*

Continental shelf, Marine safety, Occupational safety and health, Vessels.

*33 CFR Part 146*

Continental shelf, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Vessels.

*46 CFR Part 61*

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

*46 CFR Part 62*

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 140, 143, and 146, and 46 CFR parts 61 and 62 as follows:

**Title 33—Navigation and Navigable Waters**

## PART 140—GENERAL

■ 1. The authority citation for part 140 continues to read as follows:

**Authority:** 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 140.7 to read as follows:

**§ 140.7 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Ave., SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) American National Standards Institute (ANSI), 11 West 42nd Street, New York, NY 10036, *http://www.ansi.org/.*

(1) ANSI A10.14–1975—Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use, IBR approved for § 142.42.

(2) ANSI/UL1123–1987—Standard for Marine Buoyant Devices, IBR approved for § 143.405.

(3) ANSI Z41–1983—American National Standard for Personal Protection-Protective Footwear, IBR approved for § 142.33.

(4) ANSI Z87.1–1979—Practice for Occupational and Educational Eye and Face Protection, IBR approved for § 142.27.

(5) ANSI Z88.2–1980—Practices for Respiratory Protection, IBR approved for § 142.39.

(6) ANSI Z89.1–1981—Safety Requirements for Industrial Head Protection, IBR approved for § 142.30.

(c) International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, +44 (0)20 7735 7611, *http://www.imo.org.* (1) IMO Assembly Resolution A.414 (XI) Code for Construction and Equipment of Mobile Offshore Drilling Units, IBR approved for §§ 143.207 and 146.205.

(2) IMO MSC/Circ.645—Guidelines for Vessels with Dynamic Positioning Systems, 1994 (''IMO MSC/Circ.645''), IBR approved for § 140.325.

(3) The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (the STCW Convention or the STCW), IBR approved for § 140.320.

(4) The Seafarers' Training, Certification and Watchkeeping Code, as amended (the STCW Code), IBR approved for § 140.320.

(d) Marine Technology Society (MTS), 1100 H Street NW., Suite LL–100, Washington, DC 20005, 202–717–8705, *http://www.mtsociety.org.*

(1) MTS DP Operations Guidance for MODUs (March 2012), Project Construction Vessels (July 2012), Logistics Vessels (July 2012), IBR approved for § 140.335.

(2) Reserved.

■ 3. Add new subpart D, consisting of §§ 140.300 through 140.350, to read as follows:

**Subpart D—Dynamic Positioning Systems**

Sec.
140.300 Applicability.
140.305 Definitions.
140.310 DP system personnel requirements.
140.315 DP system training requirements.
140.320 DP system manning requirements.
140.325 Operations.
140.330 Minimum DP system requirements.
140.335 Intermediate DP system requirements.
140.340 Standard DP system requirements.
140.345 Enhanced DP system requirements.
140.350 Operational Control.

## Subpart D—Dynamic Positioning Systems

### § 140.300 Applicability.

This subpart applies to all MODUs and vessels other than MODUs that use a dynamic positioning (DP) system to engage in Outer Continental Shelf (OCS) activities on the U.S. OCS.

### § 140.305 Definitions.

The following definitions apply throughout this subpart:

*Activity Specific Operating Criteria (ASOC)* means criteria that set out the operational, environmental, and equipment performance limits considered necessary for safe dynamic positioning (DP) system operations while carrying out a specific activity. The ASOC sets out various levels of operator action as these limits are approached or exceeded and varies depending on the activity. The ASOC defines whether the DP system must be configured in its Critical Activity Mode of Operation (CAMO) during that specific activity. If the CAMO is required for that specific activity, the ASOC will require the vessel to cease operations when an equipment failure makes operation in CAMO impossible.

*Critical Activity Mode of Operation (CAMO)* means a tabulated presentation of how to configure the vessel's DP system, including power generation and distribution, and propulsion and position reference systems, so that the DP system as a whole is fault-tolerant and fault-resistant. The CAMO is validated by a Failure Modes and Effects Analysis (FMEA) proving test at the initial survey described in § 61.50–5 of this subchapter.

*Critical OCS Activities* means OCS activities where maintaining station is critical because a loss of position could cause a personal injury, environmental pollution, or catastrophic damage. See § 140.10 of this subchapter for the definition of *OCS activity.*

*Critical OCS Activities on a MODU* means OCS activities where a loss of position could cause a major process safety incident, such as a loss of well control where flow reaches the MODU, or water. These OCS activities include but are not limited to: Well test and completion operations; running non-sheareables such as drill collars through the Blowout Preventer (BOP); and an OCS activity on a well where hydrostatic balance is lost and BOP rams are used to maintain well control. The Coast Guard may identify other activities that fall within this definition.[83] Each MODU that engages in Critical OCS Activities must include those activities in the MODU's WSOC.

*Critical OCS Activities on Vessels Other than MODUs* means OCS activities where a loss of position could cause a serious marine incident as defined by 46 CFR 4.03–2. These OCS activities include but are not limited to: OCS activities where loss of position risks a collision with a production riser; transfer of oil or other hazardous material while underway; personnel transfer between vessels or structures while underway; and engaging in diving support or remotely operated vehicle operations when maintaining station is critical. The Coast Guard may identify other activities that fall within this definition.[84] Each vessel that engages in Critical OCS Activities must include those activities in the vessel's ASOC.

*Dynamic Positioning Operator* or *DPO* means a mariner who holds a credential as a rating forming part of the navigational watch, able seafarer-deck, operational-level deck officer, chief mate, master, a rating forming part of the engineering watch, able seafarer-engine, operational-level engineer officer, second engineer, or chief engineer; and has completed the applicable training requirements of 33 CFR 140.310 and, if applicable, 33 CFR 140.315.

*Dynamic Positioning Operator, Qualified* or *DPOQ* means a mariner who holds a credential as a rating forming part of the navigational watch, able seafarer-deck, operational-level deck officer, chief mate, master, rating forming part of the engineering watch, able seafarer-engine, operational-level engineer officer, second engineer, or chief engineer; has completed the applicable training requirements of 33 CFR 140.310 and, if applicable, § 33 CFR 140.315 for that specific vessel; and has obtained the written endorsement of the vessel's DPO and master for that specific DP system.

*Dynamic Positioning System* or *DP System* is defined in 46 CFR 62.10–1.

*Direct communication,* for purposes of 33 CFR 140.310 only, means being in the direct line of sight of the officer in charge of the navigational watch, or maintaining direct two-way communications by a convenient, reliable means, such as a predetermined

[83] The Coast Guard would provide industry with advance notice and an opportunity to provide input before determining that additional activities meet the definition of critical OCS activities on a MODU.

[84] The Coast Guard would provide industry with advance notice and an opportunity to provide input before determining that additional activities meet the definition of critical OCS activities on vessels other than MODUs.

working frequency over a handheld radio.

*Dynamic Positioning System Assurance Organization or DPSAO* means an organization approved by the Coast Guard under 46 CFR 61.50–3 to conduct independent verification that a MODU or other vessel's DP system is in compliance with applicable requirements contained in this subchapter.

*Vessels* include, but are not limited to, Mobile Offshore Drilling Units (MODUs). Vessels other than MODUs that conduct certain activities or possess certain design characteristics means vessels that conduct such activities or possess such characteristics and are not MODUs.

*Well Specific Operating Criteria (WSOC)* means criteria that set out the operational, environmental, and equipment performance limits considered necessary for safe DP system operations while operating on a well. The WSOC sets out various levels of operator action as these limits are approached or exceeded, and varies depending on the well or location. The WSOC defines when the DP system must be configured in its CAMO during drilling or production. If the CAMO is required for that specific activity, the WSOC will require the MODU to cease operations when an equipment failure makes operation in CAMO impossible.

**§ 140.310 DP system personnel requirements.**

(a) When using a dynamic positioning (DP) system to engage in Outer Continental Shelf (OCS) activities on the U.S. OCS, each mobile offshore drilling unit (MODU) or other vessel to which this subpart applies must have on board a sufficient number of Dynamic Positioning Operators (DPOs) and Dynamic Positioning Operators, Qualified (DPOQs) to meet the following operational requirements:

(1) DPO and DPOQs must meet the rest hour requirements in 46 CFR 15.1111.

(2) DPOQs operating the DP system must be under the direct supervision of a DPO.

(3) A DPO or DPOQ must be available at the DP operating station.

(b) Determination of the number of DPOs and DPOQs must take into account the nature of the DP operations and the operational requirements of the DP system.

(c) On a MODU or other vessel using a DP system to engage in OCS activities on the U.S. OCS, navigational watches must be maintained at all times as required in § 140.320 of this subpart. The DPO or DPOQ must be in direct communication with the officer in charge of the navigational watch during DP system operations. Nothing in this section is to be interpreted as relinquishing or lessening the responsibility of the master and watchstanding officer(s) to ensure the safe navigation and/or operation of the vessel.

(d) When using a DP system to engage in OCS activities on the U.S. OCS, each MODU or other vessel must have a properly trained DPO operating the DP system or directly supervising a DPOQ operating the DP system.

(e) A DPOQ on each MODU or other vessel using a DP system to engage in OCS activities on the U.S. OCS may operate the DP system on that specific MODU or other vessel only after meeting the training and practical experience requirements for that vessel and being endorsed in writing by the DPO and master of that MODU or other vessel.

(f) While operating the DP system pursuant to paragraph (d) of this section, the mate or officer of the watch may also serve as the DPO provided the mate or officer holds the appropriate credential and the DP system control systems are collocated with the navigational equipment.

**§ 140.315 DP system training requirements.**

(a) The Dynamic Positioning Operator (DPO) must receive training and practical experience in the operation of the dynamic positioning (DP) system and its components. The content of training and experience must include all provisions of paragraph (b) of this section, and the following:

(1) The DP system components, including the control station, power generation and management, propulsion units, position reference systems, heading reference systems, environmental reference systems, and external force reference systems, such as hawser tension gauges.

(2) The range of routine DP operations, as well as the handling of DP faults, failures, incidents, and emergencies, to ensure that operations are continued or terminated safely.

(3) The type and purpose of documentation associated with DP operations, such as operational manuals, Failure Modes and Effects Analysis (FMEAs), and capability plots.

(b) To be qualified to operate a DP system, the Dynamic Positioning Operator, Qualified (DPOQ) must have—

(1) Completed training that provides an introduction to the functions and use of a DP system;

(2) Completed 30 days of DP system training on board a vessel equipped with a DP system, including training on the design, components, related and integrated shipboard systems, system redundancy alarms, and warnings for that specific vessel's DP system;

(3) Demonstrated thorough knowledge of the DP system operating manual for the specific vessel on which the DPOQ will serve, including procedures for shifting the DP system between all normal operational modes and emergency procedures. A DPOQ who will serve on a vessel engaging in Critical Outer Continental Shelf (OCS) Activities must also demonstrate thorough knowledge of the industrial mission, including the Critical Activity Mode of Operations, and either the Activity Specific Operating Criteria or Well Specific Operating Criteria as defined in 46 CFR 62.10–1.

(4) Demonstrated a fundamental understanding of the specific DP system's FMEA and its implications; and

(5) Demonstrated familiarity with the vessel's specific DP system, including participating in a walkthrough of the design and mechanical features with the DPO, to include at a minimum—

(i) Power generation;

(ii) Power distribution;

(iii) Thruster units and associated equipment;

(iv) Power management/logic; and

(v) DP system control interfaces and related electronics and computer functions.

(c) DPOs and DPOQs must carry the original copy of their DP system record of training or be able to provide such a copy to a requesting authority within 48 hours of the request.

(d) The Coast Guard will accept company letters, course completion certificates from a training institution, letters or course completion certificates from the DP system manufacturer, or certification from an industry-accepted organization as proof of DP system training.

(e) The owner or operator of a U.S.-documented seagoing vessel using a DP system to maintain station must maintain a copy of each DPO and DPOQ training record in accordance with 46 CFR 15.1107.

(f) All onboard DP system training must be documented in each mariner's record of training in accordance with 46 CFR 15.1107.

(g) The master, officers in charge of a navigational watch, and DPOs must be familiar with the characteristics of the vessel and the specific equipment fitted on it prior to operating the equipment as required in 46 CFR 15.405. This

familiarization must include reading the DP system equipment and operations manual, DP system incident reports, FMEAs, and any documented history of the DP system. The familiarization must be documented.

**§ 140.320 DP system manning requirements.**

(a) All Mobile Offshore Drilling Units (MODUs) and other vessels to which this subpart applies must—

(1) Be under the command of an individual holding an appropriate certificate of competency as a master issued by the Flag State authority; and

(2) Maintain navigational watches with an adequate number of mates or officers in charge of a navigational watch holding an appropriate certificate of competency issued by the Flag State authority.

(b) Each person assigned duties as master, mate, or officer in charge of a navigational watch must meet the hours of rest requirements in Regulation VIII/1 of the STCW Convention and Section A–VIII/1 of the STCW Code (both incorporated by reference, see § 140.7 of this part) .

(c) All MODUs using a dynamic positioning (DP) system to engage in Outer Continental Shelf (OCS) activities on the U.S. OCS must hold a manning certificate specifying the minimum complement necessary to maintain the navigational watches. The manning complement must meet the requirements in paragraph (a) of this section and § 140.310 of this part. The manning complement may be determined after considering the specialized nature of each MODU, including the limitations and capabilities of the DP system.

**§ 140.325 Operations.**

(a) Owners or operators of Mobile Offshore Drilling Units (MODUs) and other vessels to which this subpart applies must maintain a Dynamic Positioning (DP) System Operations Manual that complies with paragraph 4.4 of IMO MSC/Circ.645 (incorporated by reference, see § 140.7).

(b) The owner, operator, or master of each MODU or other vessel to which this subpart applies must ensure that all DP System Operations Manuals, including manufacturers' manuals, are available to the Dynamic Positioning Operator (DPO) at or near the DP system console when using a DP system to engage in OCS activities.

(c) When conducting vessel-to-vessel transfer operations using a DP system—

(1) Operational procedures for conducting oil or hazardous material transfers in DP mode must follow the transfer procedures in 33 CFR 155.750 and must include emergency procedures for securing operations and executing emergency breakaway;

(2) Vessel masters and, as appropriate, chief engineers must—

(i) Determine which vessel will be designated to maintain a geographic position;

(ii) Ensure that all watchstanders of all vessels other than MODUs understand their responsibility to maintain a designated relative position to or remain clear of the vessel maintaining the geographic position;

(iii) Complete a Declaration of Inspection before beginning transfer operations; and

(iv) Reconcile any differences between the emergency procedures in each vessel's DP System Operations Manual;

(3) Vessel personnel must establish voice communications between participants to determine—

(i) The vessel designated as the controlling station;

(ii) The controlling station DPO coordination responsibility;

(iii) Primary and alternate communication channels;

(iv) An emergency-only channel that can be monitored uninterrupted for the duration of the procedure;

(v) The acquisition and assessment of regular weather forecast information for the area of operations; and

(vi) The sharing with other active vessels of weather information, assessment of prevailing conditions, and use of onboard weather forecasting instruments;

(4) When a MODU or other vessel to which this subpart applies uses a DP system to conduct vessel-to-vessel transfers with a vessel that is using a different DP system equipment class, the criteria for action in any emergency situation will be based on the least redundant DP system;

(5) Any crew member on a MODU or other vessel conducting a vessel-to-vessel transfer operation using a DP system for station keeping must execute a ''stop operations'' command if they identify a situation that warrants such action;

(6) Each unit's DPO must keep the bridge personnel of the other units, as defined in 33 CFR 140.10, involved in the vessel-to-vessel transfer fully advised of all alarm or emergency situations, including, but not limited to, DP system operations that could affect the operation in progress; and

(7) During an emergency or the sounding of a general alarm, pumping operations must cease until the problem has been resolved.

**§ 140.330 Minimum DP system requirements.**

Vessels to which this subpart applies must, at a minimum, satisfy the provisions of 33 CFR 140.310, 140.315, 140.320, 140.325 and 46 CFR 62.40–3. Vessels that must comply with the intermediate, standard, or enhanced DP system requirements in §§ 140.335, 140.340, and 140.345 must also comply with the provisions of this section.

**§ 140.335 Intermediate DP system requirements.**

(a) Vessels other than MODUs of more than 500 GT ITC (500 GRT if GT ITC not assigned) that use a dynamic positioning (DP) system installed before [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] to engage in Critical Outer Continental Shelf (OCS) Activities on the U.S. OCS must comply with the provisions of this section no later than the applicable date in table 140.335 of this section.

(b) Vessels that must comply with the standard or enhanced DP system requirements in §§ 140.340 and 140.345 must also comply with the provisions of this section.

TABLE 140.335—PHASE IN SCHEDULE FOR VESSELS (EXCEPT MODUS) WITH EXISTING DP SYSTEMS

| Tonnage of vessels other than MODUs | Date requirements effective |
|---|---|
| At least 1,900 GT ITC | Date of Final Rule + 3 years. |
| At least 900 GT ITC ... | Date of Final Rule + 6 years. |
| Greater than 500 GT ITC (500 GRT if GT ITC not assigned). | Date of Final Rule + 9 years. |

(c) Vessels to which this section applies must meet the requirements of—

(1) 46 CFR 61.50 (Survey);

(2) 46 CFR 62.40–15 (FMEA);

(3) 46 CFR 62.40–20 (FMEA Proving Test Document); and

(4) 46 CFR 62.40–25 (CAMO).

(d) The DP System Operations Manual for a vessel other than a MODU to which this section applies must also meet section 4.8 of the MTS DP Operations Guide (incorporated by reference, see § 140.7) for either project/construction vessels or logistics vessels, as appropriate. The DP System Operations Manual for a vessel other than a MODU must contain Activity Specific Operational Criteria (ASOC) applicable to the operations performed by the vessel.

(e) The DP System Operations Manual for a MODU to which this section applies must also meet section 4.7 of the MTS DP Operations Guide for MODUs

(incorporated by reference, see § 140.7). The DP System Operations Manual on a MODU must contain Well Specific Operational Criteria (WSOC) applicable to the operations performed by the MODU.

(f) Vessels to which this section applies must define a Critical Activity Mode of Operation (CAMO) for use during Critical OCS Activities. The CAMO must be included in the DP System Operations Manual required by this section.

(g) Vessels other than MODUs to which this section applies must operate in accordance with the ASOC applicable to its operation every time the DP system is used, regardless of whether or not the particular operation is a Critical OCS Activity. A MODU must use a WSOC when operating on a well.

(h) Vessels to which this section applies must configure the DP system in its CAMO when engaging in Critical OCS Activities as defined in 33 CFR 140.305.

(i) In the event that a vessel to which this section applies experiences a reactive change of DP status from green to yellow or red as described in the applicable MTS DP Operations Guidance and defined by the vessel's ASOC or WSOC, the owner or operator of the vessel must report this DP incident to the DPSAO that conducted the DP surveys required under 46 CFR 61.50. For each such DP incident, the owner or operator of the vessel must conduct an investigation as described in section 4.11 of the MTS DP Operations Guide for MODUs or section 4.12 for either project/construction vessels or logistics vessels, as appropriate (incorporated by reference, see § 140.7) and send an investigation summary to the DPSAO that issued the DPVAD to the vessel. Each DP incident investigation summary must include—

(1) The cause of the DP incident and whether it was addressed by the vessel's FMEA, Well Specific Operating Criteria (WSOC) or Activity Specific Operating Criteria (ASOC), and Critical Activity Mode of Operation (CAMO), and lessons learned for incorporation into revised documents; and

(2) If the cause of the DP incident was not addressed by the vessel's FMEA, ASOC, WSOC, or CAMO, the changes that were made to those documents to address the cause(s) of the incident. This requirement is applicable whether or not the operation or activity at the time of the incident was a Critical OCS Activity.

(j) Immediately after addressing safety concerns resulting from a DP incident, the owner or operator of the vessel must notify the cognizant OCMI verbally and by email of any DP incident reported under paragraph (i) of this section if the incident—

(1) Involved a reactive change of DP status from green to red; and

(2) Required an emergency disconnect from a well; or

(3) Was a serious marine incident as defined by 46 CFR 4.03–2.

(k) A vessel to which this section applies must be issued a Dynamic Positioning Verification Acceptance Document (DPVAD) by a DPSAO. The DPVAD describes the vessel's DP system particulars, the certificate's period of validity, the identification of the DPSAO, the requirements of this subpart that are being certified, the dates of the completed surveys required by paragraph (c) of this section, and the subsequent surveys required to maintain the certificate's validity.

(l) A DPVAD issued under paragraph (k) of this section is valid for 5 years.

(m) Alternative guidance may be used in lieu of the MTS DP Operations Guide to meet the requirements of paragraphs (d), (e) and (i) of this section if permitted by the Commandant (CG–ENG) to the extent and under conditions that will ensure a degree of safety comparable to or greater than that provided by use of the MTS DP Operations Guide.

**§ 140.340 Standard DP system requirements.**

(a) Vessels other than MODUs of 6000 GT ITC or less that use a DP system installed on or after [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] to engage in Critical OCS Activities must comply with the provisions of this section and 33 CFR 140.335 and 140.330.

(b) Vessels that must comply with the enhanced DP system requirements in § 140.345 must also comply with the provisions of this section.

(c) Vessels to which this section applies must meet—

(1) 46 CFR 62.40–5 (Design);

(2) 46 CFR 62.40–10 (Classification); and

(3) 46 CFR 62.25–40 (Environmental Design).

(d) Compliance with paragraphs (a) through (c) of this section must be verified by the DPSAO during the surveys required by 46 CFR 61.50 and documented on the DPVAD.

**§ 140.345 Enhanced DP system requirements.**

(a) The following vessels must comply with the provisions of this section:

(1) Mobile Offshore Drilling Units (MODUs) that use a dynamic positioning (DP) system to engage in Critical Outer Continental Shelf (OCS) Activities on the U.S. OCS; and

(2) Vessels other than MODUs of more than 6,000 GT ITC that use a DP system installed on or after [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] to conduct Critical OCS Activities on the U.S. OCS.

(b) Vessels to which this section applies must meet the requirements of this section, 33 CFR 140.330, 140.335, 140.340, and 46 CFR 62.20–2 (Required plans for DP systems).

(c) Vessels to which this section applies must have the surveys required by 46 CFR 61.50 completed and have the plans required by 46 CFR 62.20–2 approved by a DPSAO prior to receiving a Dynamic Positioning Verification Acceptance Document (DPVAD) under 33 CFR 140.335(j).

**§ 140.350 Operational Control.**

If the Cognizant OCMI determines that a vessel is not in compliance with this part, the OCMI may require the owner or operator of a vessel to suspend use of DP to conduct an OCS activity until the OCMI determines that the vessel complies with this part.

## PART 143—DESIGN AND EQUIPMENT

■ 4. The authority citation for part 143 continues to read as follows:

**Authority:** 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46; section 143.210 is also issued under 14 U.S.C. 664 and 31 U.S.C. 9701.

■ 5. Revise § 143.15 to read as follows:

**§ 143.15 Lights and warning devices.**

(a) OCS facilities, except when using DP systems defined by § 140.305, must meet the lights and warning devices requirements under part 67 of this chapter concerning aids to navigation on artificial islands and fixed structures.

(b) * * *

(c) Vessels, including MODUs and attending vessels, using a DP system defined by § 140.305 to maintain station, even when in contact of the seabed of the OCS, are considered underway and should display the lights and shapes for ''vessel restricted in her ability to maneuver'' as defined under Rule 3 of the International Regulations for Preventing Collisions at Sea 1972.

## PART 146— OPERATIONS

■ 6. The authority citation for part 146 continues to read as follows:

**Authority:** 33 U.S.C. 1223, 1226; 43 U.S.C. 1333, 1348, 1350, 1356; Sec. 109, Pub. L. 109–347, 120 Stat. 1884; Department of Homeland Security Delegation No. 0170.1.

■ 7. In § 146.405 add paragraph (b)(4) to read as follows:

**§ 146.405 Safety and Security notice of arrival for vessels arriving at a place on the OCS.**

* * * * *

(b) * * *

(4) Vessels to which 140.335 applies that use a dynamic positioning (DP) system, as defined by 140.305, must provide the following information from the Dynamic Positioning Verification Acceptance Document (DPVAD):

(i) DPVAD period of validity; and

(ii) Identification of the dynamic positioning system assurance organization, as defined in 140.305, that conducted surveys;

## Title 46—Shipping

## PART 61—PERIODIC TESTS AND INSPECTIONS

■ 8. The authority citation for part 61 is revised to read as follows:

**Authority:** 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3307, 3703; sec. 617, Pub. L. 111–281, 124 Stat. 2905; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 9. Revise § 61.03–1 to read as follows:

**§ 61.03–1 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Ave SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

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

(1) ASTM D 665–98, Standard Test Method for Rust-Preventing Characteristics of Inhibited Mineral Oil in the Presence of Water, IBR approved for § 61.20–17.

(2) [Reserved]

(c) International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, +44 (0)20 7735 7611, *http://www.imo.org*. (1) IMO MSC/Circ.645—Guidelines for Vessels with Dynamic Positioning Systems, 1994 (''IMO MSC/Circ.645''), IBR approved for §§ 61.50–3, 61.50–5, 61.50–10, and 61.50–15.

(2) [Reserved]

(d) Marine Technology Society, 1100 H Street NW., Suite LL–100, Washington, DC 20005, 202–717–8705, *http://www.mtsociety.org*.

(1) MTS DP Operations Guidance (''MTS DP Operations Guide''), Part 2, for MODUs (March 2012), Project Construction Vessels (July 2012), Logistics Vessels (July 2012), IBR approved for §§ 61.50–5(a) and 61.50–10.

(2) [Reserved]

■ 10. Add new subpart 61.50, consisting of §§ 61.50–1 through 61.50–20, to read as follows:

**Subpart 61.50—Dynamic Positioning System (DP System) Surveys and Dynamic Positioning System Assurance Organizations (DPSAO) for Vessels Operating on the Outer Continental Shelf.**

Sec.
61.50–1 Applicability.
61.50–2 Surveys of MODUs and vessels, other than MODUs.
61.50–3 Acceptance of dynamic positioning system assurance organizations.
61.50–4 Oversight of dynamic positioning system assurance organizations.
61.50–5 Initial survey.
61.50–10 Periodic survey.
61.50–15 Annual survey.
61.50–20 Appeals

## Subpart 61.50—Dynamic Positioning System (DP System) Surveys and Dynamic Positioning System Assurance Organizations (DPSAO) for Vessels Operating on the Outer Continental Shelf.

**§ 61.50–1 Applicability.**

(a) The following vessels must comply with the provisions of this subpart:

(1) Vessels other than MODUs of more than 500 GT ITC (500 GRT if GT ITC not assigned) that use a dynamic positioning (DP) system installed before [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] to conduct Critical Outer Continental Shelf (OCS) Activities, as defined in 33 CFR 140.305, on the U.S. OCS must comply with the provisions of this section no later than the applicable date in 33 CFR table 140.335;

(2) Vessels other than MODUS that use a DP system installed on or after (30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE) to engage in Critical OCS Activities, as defined in 33 CFR 140.305, on the U.S. OCS; and

(3) MODUs that use a DP system to conduct Critical OCS Activities, as defined in 33 CFR 140.305, on the U.S. OCS.

(4) For purposes of this subpart, ''vessels'' includes, but is not limited to, MODUs. Vessels other than MODUs that conduct certain activities or possess certain design characteristics means vessels that conduct such activities or possess such characteristics and are not MODUs.

**§ 61.50–2 Surveys of MODUs and vessels, other than MODUs.**

(a) The owner or operator of a vessel to which this subpart applies must ensure that the dynamic positioning system surveys required by §§ 61.50–5, 61.50–10, and 61.50–15 of this subpart are completed by a DPSAO and provide the cognizant Officer in Charge, Marine Inspection an opportunity to attend upon request. The DPSAO that conducts the surveys required by this subpart must notify the cognizant Officer in Charge, Marine Inspection at least 30 days in advance of the survey.

(b) Alternative guidance may be used in lieu of the MTS DP Operations Guide to meet the survey requirements of § 61.50–5(a) and § 61.50–10(a) of this subpart if permitted by the Coast Guard Office of Design and Engineering Standards (Commandant (CG–ENG)) to the extent and under conditions that will ensure a degree of safety comparable to or greater than that provided by use of the MTS DP Operations Guide.

**§ 61.50–3 Acceptance of dynamic positioning system assurance organizations.**

(a) Each DPSAO, as described in § 61.50–2 of this subpart, must be accepted by the Coast Guard Outer Continental Shelf National Center of Expertise (OCS NCOE). To be accepted, such an organization must apply to the OCS NCOE in writing for acceptance. The application must contain information demonstrating that the organization or society—

(1) Has functioned as a recognized source to the industry of guidance on recommended practice through participation in industry groups (*e.g.,* International Marine Contractors Association, Marine Technology Society, National Offshore Safety Advisory Committee);

(2) Has functioned as a DP assurance provider to vessel owner, operators, charterers, etc., for at least 5 years in the role of DP Assurance with a documented, auditable history of providing Failure Modes and Effects Analysis (FMEA) and survey services on a wide variety of Mobile Offshore Drilling Units (MODUs) and vessels with different industrial missions;

(3) Has a history of advising vessel owners, operators, and charterers and

providing guidance on appropriate corrective actions to address nonconformities and observations raised during DP trials and otherwise, to include incidents, casualties, and cases of nonconformity with DP class rules;

(4) Has adequate resources, including research, technical, and managerial staff, to ensure appropriate updates and maintenance of internal DP guidelines, trials procedures, and survey requirements;

(5) Has adequate resources and processes in place to ensure regular and adequate communications to the Coast Guard concerning recurring DP-related issues for purposes of trend analysis, reporting, and continuing development of rules and guidelines;

(6) Uses personnel with a minimum of 5 years of experience for both FMEA and survey services;

(7) Directly employs a number of surveyors adequate to meet Coast Guard survey requirements;

(8) Has adequate criteria for hiring and qualifying surveyors and technical staff;

(9) Has an adequate program for continued training and development of surveyors and technical staff. Training and development must be structured, measured, monitored, and auditable;

(10) Maintains an internal quality system based on current industry quality standards (*e.g.,* ANSI/ASQC Q9001, or equivalent);

(11) Can determine whether MODUs and vessels, other than MODUs, comply with the DP requirements of the Coast Guard during appropriate surveys and DP trials;

(12) Can monitor all activities related to surveys and plan reviews performed pursuant to 46 CFR parts 61 and 62 for consistency and required end-results;

(13) Is not under the financial control of owners or builders of MODUs or vessels, other than MODUs, or of others engaged commercially in the manufacture, equipping, repair, or operation of MODUs or vessels, other than MODUs; and

(14) Does not have any business interest in, or share of ownership of, any MODU or other vessel to which it provides DP assurance services.

**§ 61.50–4 Oversight of dynamic positioning system assurance organizations.**

(a) The OCS NCOE may periodically audit the records of DPSAOs with reasonable advance notice to determine whether such organizations continue to comply with the provisions of paragraph § 61.50–3(a) of this subpart. The OCS NCOE may revoke acceptance after determining that such an organization no longer complies with the provisions of paragraph § 61.50–3(a) of this subpart. Acceptance remains in effect until revoked by the OCS NCOE.

(b) DPSAOs must submit an annual report to the OCS NCOE that contains each DP investigation summary reported to it under 33 CFR 140.335(i). The DPSAO must confirm in the report that each DP investigation summary complies with 33 CFR 140.335(i).

(c) Where the OCS NCOE is not satisfied with the resolution of any DP incident contained in the report required by paragraph (b) of this section, the OCS NCOE:

(i) will advise the cognizant OCMI who may exercise operational control under 33 CFR 140.350 and require the DPSAO and the owner or operator of a MODU or vessel other than MODU to satisfactorily resolve the cause of the DP incident; and,

(ii) may initiate an audit of the DPSAO under paragraph (a) of this section.

**§ 61.50–5 Initial survey.**

(a) An initial survey, specified in paragraph 5.1.1.1 of IMO MSC/Circ.645 (incorporated by reference, see § 61.03–1) and section 4.6 of the MTS DP Operations Guide for MODUs or section 4.7 for either project/construction vessels or logistics vessels, as appropriate (incorporated by reference, see § 61.03–1), must be conducted on a Mobile Offshore Drilling Unit (MODU) or vessel other than a MODU to which this subpart applies. The initial survey must include a Failure Modes and Effects Analysis (FMEA) proving test using the dynamic positioning (DP) system FMEA proving test document described in § 62.40–20 of this subchapter. The initial survey must identify the Critical Activity Mode of Operation (CAMO) defined in § 62.10–1 of this subchapter.

(b) DP system software, programmable controls, and alarm system logic must not be altered after satisfactory completion of the initial survey without the approval of the DPSAO described in § 61.50–2 of this subpart. The DPSAO must notify the cognizant Officer in Charge, Marine Inspection of any approved alternation of software after an initial survey. The notification must include any changes to the vessel's FMEA or CAMO that resulted from the software change, if applicable.

(c) The initial survey must be completed in accordance with §§ 61.50–2 of this subpart.

**§ 61.50–10 Periodic survey.**

(a) A periodic survey, specified in paragraph 5.1.1.2 of IMO MSC/Circ.645 (incorporated by reference, see § 61.03–1) and section 4.6 of the MTS DP Operations Guide for MODUs or section 4.7 for either project/construction vessels or logistics vessels, as appropriate (incorporated by reference, see § 61.03–1), must be conducted on a vessel to which this subpart applies at intervals not exceeding 5 years. This survey is intended to verify compliance with IMO MSC/Circ.645 and the applicable requirements of this subchapter.

(b) The periodic survey must be completed in accordance with §§ 61.50–2.

**§ 61.50–15 Annual survey.**

(a) An annual survey, described in paragraph 5.1.1.3 of IMO MSC/Circ.645 (incorporated by reference, see § 61.03–1), must be conducted on a vessel to which this subpart applies within the 3 months before or after each anniversary date of the initial survey. The annual survey must ensure that the dynamic positioning system has been maintained in accordance with applicable parts of IMO MSC/Circ.645 and is in good working order.

(b) The annual survey must be completed in accordance with §§ 61.50–2 this subpart.

**§ 61.50–20 Appeals**

(a) Any person directly affected by an action or decision of the Coast Guard Outer Continental Shelf Center of Excellence (OCS NCOE) taken under the regulations in this subchapter may request reconsideration of that action or decision. If still dissatisfied, that person may appeal the action or decision of the OCS NCOE within 30 days to the U.S. Coast Guard Deputy Commandant for Prevention (CG–5P). The Deputy Commandant for Prevention will issue a decision after reviewing the appeal submitted under this paragraph. Rulings of the Deputy Commandant for Prevention constitute final agency action.

(b) An appeal to the Deputy Commandant for Prevention:

(1) Must be made in writing, except in an emergency when a verbal appeal may be accepted;

(2) Must describe the decision or action being appealed;

(3) Must state the reasons why the action or decision should be set aside or modified; and

(4) May contain any supporting documents and evidence that the appellant wishes to have considered.

(c) Pending determination of any appeal, the action or decision appealed remains in effect, unless suspended by the Deputy Commandant for Prevention.

## PART 62—VITAL SYSTEM AUTOMATION

■ 11. The authority citation for part 62 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 3703, 8105; sec. 617, Pub. L. 111–281, 124 Stat. 2905; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 12. In § 62.01–5 revise paragraph (a) to read as follows:

### § 62.01–5 Applicability.

(a) *Vessels.* Except as described in § 62.40–1 of this part, this part applies to self-propelled vessels of 500 gross tons or more that are certificated under 46 CFR subchapters D, I, or U and to self-propelled vessels of 100 gross tons or more that are certificated under 46 CFR subchapter H.

* * * * *

■ 13. Revise § 62.05–1 to read as follows:

### § 62.05–1 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Ave SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) American Bureau of Shipping (ABS), ABS Plaza, 16855 Northchase Drive, Houston, TX 77060, *http://www.eagle.org.*

(1) Rules for Building and Classing Steel Vessels, Part 4 Vessel Systems and Machinery (2003) (''ABS Steel Vessel Rules''), IBR approved for §§ 62.25–30, 62.35–5, 62.35–35, 62.35–40, 62.35–50, and 62.50–30.

(2) [Reserved]

(c) International Electrotechnical Commission (IEC), 3, rue de Varembe, Geneva, Switzerland, +41 22 919 02 11, *http://www.iec.ch.*

(1) IEC 60092–504 Electrical Installation in Ships—Part 504: Special Features—Control and Instrumentation (Third Edition, 2001–03)(''IEC 60092–504''), IBR approved for § 62.25–40(b).

(2) [Reserved]

(d) International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, +44 (0)20 7735 7611, *http://www.imo.org.*

(1) Resolution MSC/Circ.645—Guidelines for Vessels with Dynamic Positioning Systems, 1994 (''IMO MSC/Circ.645''), IBR approved for §§ 62.40–3, 62.40–5(b), and 62.40–15.

(2) [Reserved]

(e) Marine Technology Society (MTS), 1100 H Street NW., Suite LL–100, Washington, DC 20005, 202–717–8705, *http://www.mtsociety.org.*

(1) MTS DP Operations Guidance (''MTS DP Operations Guide''), Part 2, for MODUs (March 2012), Project Construction Vessels (July 2012), Logistics Vessels (July 2012), IBR approved for §§ 62.40–5(a), and 62.40–15.

(2) [Reserved]

■ 14. Amend § 62.10–1 by adding, in alphabetical order, the definitions of the terms ''Activity Specific Operating Criteria (ASOC)''; ''Capability Plot''; ''Consequence analyzer''; ''Critical Activity Mode of Operation (CAMO)''; ''Dynamic positioning system (DP system)''; ''Redundancy''; ''Vessels''; and ''Well Specific Operating Criteria (WSOC)'', to read as follows:

### § 62.10–1 Definitions.

(a) * * *

*Activity Specific Operating Criteria (ASOC)* means criteria that set out the operational, environmental, and equipment performance limits considered necessary for safe dynamic positioning (DP) system operations while carrying out a specific activity. The ASOC sets out various levels of operator action as these limits are approached or exceeded and varies depending on the activity. The ASOC defines whether the DP system must be configured in its Critical Activity Mode of Operation (CAMO) during that specific activity. If the CAMO is required for that specific activity, the ASOC will require the vessel to cease operations when an equipment failure makes operation in CAMO impossible.

* * * * *

*Capability Plot* means a document that provides an indication of a vessel's DP station-keeping ability, expressed in a common format.

*Consequence analyzer* means a software function that continuously performs an analysis of the vessel's ability to maintain its position and heading after a predefined, worst-case failure during operation. Possible consequences are based on the actual weather conditions, enabled thrusters, and power plant status.

*Critical Activity Mode of Operation (CAMO)* means a tabulated presentation of how to configure the vessel's DP system, including power generation and distribution, and propulsion and position reference systems, so that the DP system as a whole is fault-tolerant and fault-resistant. The CAMO is validated by a Failure Modes and Effects Analysis (FMEA) proving test at the initial survey described in § 61.50–5 of this subchapter.

*Dynamic positioning system (DP system)* means a complete installation of components and systems that act together and is sufficiently reliable to provide vessel position-keeping capability. Any vessel using a DP system is considered a vessel underway, even if maintaining a fixed position. A DP system is comprised of the following sub-systems:

(1) Power system, consisting of prime movers with necessary auxiliary systems and associated piping, generators, switchboards, and distribution system.

(2) Thruster system, consisting of thrusters with drive units and associated auxiliary systems and piping, main propellers, and rudders (if all such thruster system parts are under the control of the DP system), thruster control electronics, manual thruster controls, and associated cabling and cable routing.

(3) Control system, consisting of computer system, joystick system, sensor system, display system (operator panels), position reference system, and associated cabling and cable routing.

* * * * *

*Redundancy* means the ability of a component or system to maintain or restore its function when a single failure has occurred. For example, redundancy may be achieved by the installation of multiple components, systems, or alternate means that perform the same function.

* * * * *

*Vessels* include, but are not limited to, Mobile Offshore Drilling Units. Vessels other than MODUs that conduct certain activities or possess certain design characteristics means vessels that conduct such activities or possess such characteristics and are not MODUs.

* * * * *

*Well Specific Operating Criteria (WSOC)* means criteria that set out the operational, environmental, and equipment performance limits considered necessary for safe DP system operations while operating on a well. The WSOC sets out various levels of

operator action as these limits are approached or exceeded, and varies depending on the well or location. The WSOC defines when the DP system must be configured in its CAMO during drilling or production. If the CAMO is required for that specific activity, the WSOC will require the MODU to cease operations when an equipment failure makes operation in CAMO impossible.

■ 15. Add new § 62.20–2 to read as follows:

**§ 62.20–2 Required plans for DP systems.**

(a) The following vessels must comply with the provisions of this section:

(1) MODUs that use a dynamic positioning (DP) system to conduct Critical Outer Continental Shelf (OCS) Activities, as defined in 33 CFR 140.305, on the U.S. OCS; and

(2) Vessels of more than 6,000 GT ITC other than MODUs that use a DP system installed on or after [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] to conduct Critical OCS Activities, as defined in 33 CFR 140.305, on the U.S. OCS.

(b) The owner or operator of each vessel to which this section applies must submit the following DP system plans and information for approval to the dynamic positioning system assurance organization (DPSAO) that performs the surveys under subpart 61.50 of this subchapter and is accepted under § 61.50–3 of this subchapter by the Coast Guard Outer Continental Shelf National Center of Expertise (OCS NCOE):

(1) A DP system description, including a block diagram and functional relationships of various components.

(2) Specifications of position reference and environmental monitoring sensors or systems.

(3) The location of thrusters and control system components.

(4) Details of the DP system monitoring and alarm system and interconnection with the main centralized monitoring and alarm system.

(5) DP system Failure Modes and Effects Analysis (FMEA) and FMEA proving test documents as described in § 62.40–15 and § 62.40–20 of this part, respectively.

(6) The Critical Activity Mode of Operation determined from the initial survey required by § 61.50–5 of this subchapter.

(7) Designer or manufacturer self-certification of the DP system control equipment to the environmental design standards in § 62.25–40 of this part. See § 62.20–5 of this part.

(c) The DPSAO that performs the surveys under subpart 61.50 of this subchapter must submit a copy of the approved plans under paragraph (b) of this section and the results of the initial survey, including the FMEA proving test required by subpart 61.50 of this subchapter to the Commanding Officer, Marine Safety Center, U.S. Coast Guard Stop 7410, 4200 Wilson Blvd., Suite 400, Arlington, VA 20598–7410. The Commanding Officer, Marine Safety Center may elect to review the plans to validate compliance with the requirements of this subpart and advise the DPSAO, the Coast Guard OSCNCOE and the cognizant Officer in Charge, Marine Inspection.

■ 16. Add new § 62.25–40 to read as follows:

**§ 62.25–40 Environmental design standards.**

(a) The following Mobile Offshore Drilling Units (MODUs) and vessels, other than MODUs, must comply with the provisions of this section:

(1) MODUs that use a dynamic positioning (DP) system to conduct Critical Outer Continental Shelf (OCS) Activities, as defined in 33 CFR 140.305, on the U.S. OCS; and

(2) Vessels other than MODUs that use a DP system installed on or after [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] to conduct Critical OCS Activities, as defined in 33 CFR 140.305, on the U.S. OCS.

(b) Computer-based systems, microprocessors, storage devices, power supply units, signal conditioners, analog/digital converters, computer monitors (visual display units), keyboards, reference sensors, and related systems (excluding printers), and data recording or logging devices must be designed to the environmental standards in Clause 5 of IEC 60092–504 (incorporated by reference, see § 62.05–1).

■ 17. Add new subpart 62.40, consisting of §§ 62.40–1 through 62.40–25, to read as follows:

**Subpart 62.40—Dynamic Positioning Systems**

Sec.

62.40–1 Applicability.
62.40–3 Minimum dynamic positioning system requirements.
62.40–5 Design for Critical OCS Activities.
62.40–10 Classification for Critical OCS Activities.
62.40–15 Failure Modes and Effects Analysis (FMEA).
62.40–20 Failure Modes and Effects Analysis (FMEA) proving test document.
62.40–25 Critical Activity Mode of Operation (CAMO).

**Subpart 62.40—Dynamic Positioning Systems**

**§ 62.40–1 Applicability.**

This subpart applies to all vessels, including Mobile Offshore Drilling Units (MODUs), that use a dynamic positioning (DP) system to conduct Outer Continental Shelf (OCS) activities, as defined in 33 CFR 140.10, on the U.S. OCS. ''Vessels,'' for purposes of this subpart, include but are not limited to MODUs.

**§ 62.40–3 Minimum dynamic positioning system requirements.**

Vessels to which this subpart applies must meet the applicable requirements of this part and 46 CFR 62.35–5 and 46 CFR 62.50–30 for remote propulsion control systems with periodically unattended machinery plants, as well as paragraph 3.4.1 of IMO MSC/Circ.645 (incorporated by reference, see § 62.05–1), except subparagraph 3.4.1.4.

**§ 62.40–5 Design for Critical OCS Activities.**

(a) The following vessels must comply with the provisions of this section:

(1) MODUs that use a dynamic positioning (DP) system to conduct Critical Outer Continental Shelf (OCS) Activities, as defined in 33 CFR 140.305, on the U.S. OCS; and

(2) Vessels other than MODUs that use a DP system installed on or after (30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE) to conduct Critical OCS Activities, as defined in 33 CFR 140.305, on the U.S. OCS.

(b) Vessels to which this section applies must meet the provisions of IMO MSC/Circ.645 (incorporated by reference, see § 62.05–1) and the provisions of the applicable MTS DP Operations Guide (incorporated by reference, see § 62.05–1) relevant to equipment class 2 (DP–2) or higher for MODUs, project construction vessels, or logistics vessels, as appropriate.

**§ 62.40–10 Classification for Critical OCS Activities.**

(a) The following vessels must comply with the provisions of this section:

(1) MODUs that use a dynamic positioning (DP) system to conduct Critical Outer Continental Shelf (OCS) Activities, as defined in 33 CFR 140.305, on the U.S. OCS; and

(2) Vessels other than MODUs that use a DP system installed on or after (30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE) to conduct Critical OCS Activities, as defined in 33 CFR 140.305, on the U.S. OCS.

(b) Vessels to which this section applies must obtain an IMO MSC/Circ.645 equipment class 2 (DP–2) or

higher notation from a classification society that meets the requirements of paragraph (c) of this section.

(c) The classification society that issues an equipment class 2 (DP–2) or higher notation to vessels under this section applies must—

(1) Comply with the provisions of 46 CFR, part 8, subpart B;

(2) Possess DP system rules aligned with IMO MSC/Circ.645 and the MTS DP Operations Guide (incorporated by reference, see § 62.05–1) applicable to the vessel being classed; and,

(3) Submit evidence that it complies with paragraphs c(1) and c(2) of this section to the Coast Guard Outer Continental Shelf National Center of Expertise (OCS NCOE), which will authorize the classification society to issue notations as described in this section.

**§ 62.40–15 Failure Modes and Effects Analysis (FMEA).**

(a) The following vessels must comply with the provisions of this section:

(1) Vessels other than MODUs of more than 500 GT ITC (500 GRT if GT ITC not assigned) that use a dynamic positioning (DP) system installed before (30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE) to conduct Critical Outer Continental Shelf (OCS) Activities, as defined in 33 CFR 140.305, on the U.S. OCS;

(2) Vessels other than MODUs that use a DP system installed on or after (30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE) to conduct Critical OCS Activities; and

(3) MODUs that use a DP system to conduct Critical OCS Activities, as defined in 33 CFR 140.305, on the U.S. OCS.

(b) The owner or operator of each vessel to which this section applies must complete and maintain an FMEA with the details necessary to demonstrate compliance with the applicable provisions of IMO MSC/Circ.645 and must demonstrate compliance with the MTS DP Operations Guide (both incorporated by reference, see § 62.05–1) for equipment class 2 (DP–2) or equipment class 3 (DP–3) requirements and this subpart, as applicable.

(c) Vessels described in paragraph (a)(1) of this section must comply with the provisions of this section no later than the applicable date in 33 CFR table 140.335.

(d) Alternative guidance may be used in lieu of the MTS DP Operations Guide to meet the requirements of this section if permitted by the Office of Design and Engineering Standards (Commandant (CG–ENG)) to the extent and under conditions that will ensure a degree of safety comparable to or greater than that provided by use of the MTS DP Operations Guide.

**§ 62.40–20 Failure Modes and Effects Analysis (FMEA) proving test document.**

(a) The owner or operator of each vessel to which § 62.40–15 of this subpart applies must complete and maintain a dynamic positioning system FMEA proving test document that—

(1) Provides the necessary test instructions, based on the FMEA required by this subpart, to demonstrate design and operation in accordance with the equipment class of the DP system and this subpart; and

(2) Is approved by the Marine Safety Center under § 62.20–2 of this part and retained on board.

**§ 62.40–25 Critical Activity Mode of Operation (CAMO).**

(a) The owner or operator of each vessel to which § 62.40–15 of this subpart applies must complete and maintain a CAMO as defined in § 62.10–1 of this part.

Dated: November 13, 2014.

**J.G. Lantz,**

*Director of Commercial Regulations and Standards, U.S. Coast Guard.*

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