AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

# FEDERAL REGISTER

Vol. 80 Friday,
No. 142 July 24, 2015

Pages 43909–44250

OFFICE OF THE FEDERAL REGISTER

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

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

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

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

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

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

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

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

**How To Cite This Publication:** Use the volume number and the page number. Example: 80 FR 12345.

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

## SUBSCRIPTIONS AND COPIES

**PUBLIC**

**Subscriptions:**

| | |
|---|---|
| Paper or fiche | **202–512–1800** |
| Assistance with public subscriptions | **202–512–1806** |
| **General online information** | **202–512–1530; 1–888–293–6498** |

**Single copies/back copies:**

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

**FEDERAL AGENCIES**

**Subscriptions:**

Assistance with Federal agency subscriptions:

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

Printed on recycled paper.

# Contents

**Federal Register**

Vol. 80, No. 142

Friday, July 24, 2015

**Agricultural Research Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44019

**Agriculture Department**
*See* Agricultural Research Service
*See* Animal and Plant Health Inspection Service
*See* Forest Service
*See* National Institute of Food and Agriculture
*See* Rural Utilities Service

**Animal and Plant Health Inspection Service**
PROPOSED RULES
Petition to Develop Specific Ethologically Appropriate Standards for Nonhuman Primates in Research, 43969

**Bureau of Consumer Financial Protection**
RULES
Integrated Mortgage Disclosures Rule under the Real Estate Settlement Procedures Act and Truth in Lending Act and Amendments; Delay of Effective Date, 43911–43921

**Centers for Disease Control and Prevention**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44128–44131

**Centers for Medicare & Medicaid Services**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44131–44133

**Children and Families Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44134–44135
Privacy Act; Computer Matching Program, 44133–44134

**Coast Guard**
RULES
Safety Zones:
Annual Firework Displays within the Captain of the Port, Puget Sound Zone, 43954
Cleveland Triathlon, Lake Erie, North Coast Harbor, Cleveland, OH, 43954–43956
Red Bull GRC Air Show, Detroit River, Detroit, MI, 43952–43954
PROPOSED RULES
Safety Zones:
Titan SPAR, Mississippi Canyon 941, Outer Continental Shelf on the Gulf of Mexico, 43998–44000

**Commerce Department**
*See* International Trade Administration
*See* National Oceanic and Atmospheric Administration

**Committee for Purchase From People Who Are Blind or Severely Disabled**
NOTICES
Procurement List; Additions and Deletions, 44077–44078

**Committee for the Implementation of Textile Agreements**
NOTICES
Commercial Availability Request under the U.S. – Chile Free Trade Agreement, 44076–44077

**Commodity Futures Trading Commission**
NOTICES
Orders:
Extending the Designation of the Provider of Legal Entity Identifiers to be Used in Recordkeeping and Swap Data Reporting, 44078–44080

**Consumer Product Safety Commission**
NOTICES
Settlement Agreements and Orders:
LG Electronics Tianjin Appliance Co., Ltd. and LG Electronics USA Inc., 44081–44083

**Copyright Office, Library of Congress**
NOTICES
Copyright Protection for Certain Visual Works, 44156

**Defense Department**
NOTICES
Revised Non-Foreign Overseas Per Diem Rates, 44083–44088

**Disability Employment Policy Office**
NOTICES
Meetings:
Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, 44154

**Education Department**
NOTICES
Waivers and Extensions of Project Period:
Literacy Information and Communication System Regional Professional Development Centers, 44088–44090
Literacy Information and Communication System Regional Professional Development Centers; Corrections, 44090–44091

**Energy Department**
*See* Federal Energy Regulatory Commission
*See* Western Area Power Administration
NOTICES
Authority to Import and Export Natural Gas, etc.:
G2 LNG LLC, 44091–44092

**Environmental Protection Agency**
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Belding, MI; 2008 Lead Clean Data Determination, 43956–43960
Connecticut; Prevention of Significant Deterioration and Nonattainment New Source Review, 43960–43964
New Mexico; Electronic Reporting Consistent with the Cross Media Electronic Reporting Rule, 43964–43966

PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Belding, MI; 2008 Lead Clean Data Determination, 44017–44018
California; Multiple Districts; Prevention of Significant Deterioration, 44001–44005
Connecticut; Prevention of Significant Deterioration and Nonattainment New Source Review, 44013–44014
Georgia; Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards, 44005–44013
Georgia; Removal of Clean Fuel Fleet Program, 44014–44017
New Mexico; Electronic Reporting Consistent with the Cross Media Electronic Reporting Rule, 44000–44001
NOTICES
Charter Renewals:
Environmental Laboratory Advisory Board, 44104
Environmental Impact Statements; Availability, etc.; Weekly Receipts, 44103
Guidance:
Draft Series 810 — Product Performance Test Guidelines; Proposed Antimicrobial Pesticide Use Site Index; Extensions, 44102–44103
Report on the Environment, 44104
Toxic Substances Control Act Test Data, 44103–44104

**Federal Aviation Administration**
RULES
Airworthiness Directives:
Airbus Airplanes, 43925–43936
BAE Systems (Operations) Limited Airplanes, 43936–43938
Bombardier, Inc. Airplanes, 43938–43940
The Boeing Company Airplanes, 43921–43925, 43940–43944
PROPOSED RULES
Airworthiness Directives:
Airbus Helicopters Deutschland GmbH (formerly Eurocopter Deutschland GmbH) Helicopters, 43970–43972
The Boeing Company Airplanes, 43972–43979
Proposed Primary Category Airworthiness Design Standards:
AutoGyro USA, LLC (AutoGyro) Model Calidus Gyroplanes, 43969–43970
NOTICES
Final Order Environmental Impact — Policies and Procedures, 44208–44246
Meetings:
System Wide Information Management Interactive Developer Workshop, 44182

**Federal Communications Commission**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44104–44106
Status of Competition in the Market for the Delivery of Video Programming; Annual Assessment, 44106–44111

**Federal Energy Regulatory Commission**
RULES
Auxiliary Installations, Replacement Facilities, and Siting and Maintenance, 43944–43949
PROPOSED RULES
Standards for Business Practices of Interstate Natural Gas Pipelines, 43979–43987
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44094–44095
Applications:
FirstLight Hydro Generating Co., 44097–44098
Combined Filings, 44095–44097
Environmental Impact Statements; Availability, etc.:
Magnolia LNG, LLC, and Kinder Morgan Louisiana Pipeline LLC; Magnolia LNG and Lake Charles Expansion Projects, 44093–44094
Requests under Blanket Authorization:
National Fuel Gas Supply Corp., 44092–44093

**Federal Highway Administration**
NOTICES
Environmental Impact Statements; Availability, etc.:
Lexington and Richland Counties, SC, 44184–44185
Uniform Relocation and Real Property Acquisition for Federal and Federally-Assisted Programs:
Fixed Payment for Moving Expenses; Residential Moves, 44182–44184

**Federal Motor Carrier Safety Administration**
NOTICES
Parts and Accessories Necessary for Safe Operation; Exemption Applications:
Volvo Trucks of North America, 44186–44188
Qualification of Drivers; Exemption Applications:
Vision, 44185–44186, 44188–44193

**Federal Reserve System**
NOTICES
Application of Enhanced Prudential Standards and Reporting Requirements to General Electric Capital Corp., 44111–44128

**Fiscal Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Claims against the United States for Amounts Due in the Case of a Deceased Creditor, 44195–44196
Reclamation — Electronic Funds Transfer, Federal Recurring Payments, 44195

**Fish and Wildlife Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Survey of U.S. Fish and Wildlife Service Habitat Conservation Bank Sponsors and Managers, 44147–44148
Meetings:
Trinity River Adaptive Management Working Group, 44148–44149

**Food and Drug Administration**
PROPOSED RULES
User Fee Program to Provide for Accreditation of Third-Party Auditors/Certification Bodies to Conduct Food Safety Audits and to Issue Certifications, 43987–43998
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Petition to Request an Exemption from 100 Percent Identity Testing of Dietary Ingredients — CGMP in Manufacturing, Packaging, Labeling or Holding Operations for Dietary Supplements, 44135

Guidance:
Third-Party Auditor and Certification Body Accreditation for Food Safety Audits — Model Accreditation Standards, 44137–44138
Meetings:
Risk Evaluation and Mitigation Strategies – Understanding and Evaluating Their Impact on the Health Care Delivery System and Patient Access, 44135–44137

**Forest Service**
**NOTICES**
Newspapers of Record for the Pacific Southwest Region:
California, 44023–44025
Proposed Directives:
American Indian and Alaska Native Relations Forest Service Manual 1500, Chapter 1560 and Forest Service Handbook 1509.13, Chapter 10, 44019–44023

**Health and Human Services Department**
*See* Centers for Disease Control and Prevention
*See* Centers for Medicare & Medicaid Services
*See* Children and Families Administration
*See* Food and Drug Administration
*See* Health Resources and Services Administration
*See* National Institutes of Health

**Health Resources and Services Administration**
**NOTICES**
Meetings:
Advisory Committee on Infant Mortality, Date Changes, 44138

**Homeland Security Department**
*See* Coast Guard

**Housing and Urban Development Department**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Certification and Funding of State and Local Fair Housing Enforcement Agencies, 44146–44147
Federal Properties Suitable as Facilities to Assist the Homeless, 44141–44145
Meetings:
Manufactured Housing Consensus Committee, 44145–44146

**Interior Department**
*See* Fish and Wildlife Service
*See* National Park Service

**Internal Revenue Service**
**RULES**
Claims for Credit or Refund, 43949–43952
**NOTICES**
Meetings:
Art Advisory Panel; Report of 2014 Closed Meetings, 44196–44198
Taxpayer Advocacy Panel; Cancellation, 44196

**International Trade Administration**
**NOTICES**
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Frontseating Service Valves from the People's Republic of China, 44031–44033
Multilayered Wood Flooring from the People's Republic of China, 44029–44031
Applications for Duty-Free Entry of Electron Microscopes:
Idaho National Laboratory, et al., 44031

**International Trade Commission**
**NOTICES**
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Melamine from China and Trinidad and Tobago, 44150–44151
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Corrosion–Resistant Steel Products from China, India, Italy, Korea, and Taiwan, 44151
Certain Marine Sonar Imaging Systems, Products Containing the Same, and Components Thereof, 44152

**Justice Department**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44152–44154

**Labor Department**
*See* Disability Employment Policy Office
*See* Labor Statistics Bureau

**Labor Statistics Bureau**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44154–44155

**Legal Services Corporation**
**RULES**
Recipient Fund Balances, 43966–43968

**Library of Congress**
*See* Copyright Office, Library of Congress

**National Aeronautics and Space Administration**
**NOTICES**
Exclusive Licenses, 44156

**National Institute of Food and Agriculture**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44028–44029
Agriculture and Food Research Initiative Competitive Grants Program:
Requests for Commodity Board Topics and Funding Contributions, 44026–44027

**National Institutes of Health**
**NOTICES**
Committee Establishment:
National Asthma Education Prevention Program Coordinating Committee, 44141
Government-Owned Inventions; Availability for Licensing, 44139–44140
Meetings:
Center for Scientific Review, 44140
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 44139
National Institute on Aging, 44139
National Institute on Deafness and Other Communication Disorders, 44141
National Library of Medicine, 44140

**National Oceanic and Atmospheric Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44060
Environmental Impact Statements; Availability, etc.:
Management Measures for the Subsistence Taking of Northern Fur Seals on St. Paul Island, AK; Revision, 44057–44060
Takes of Marine Mammals Incidental to Specified Activities:
San Francisco–Oakland Bay Bridge Pier E3 Demolition via Controlled Implosion, 44060–44076
Two Pier Maintenance Projects, 44033–44057

**National Park Service**
NOTICES
National Register of Historic Places:
Pending Nominations and Related Actions, 44149

**Nuclear Regulatory Commission**
NOTICES
Clarification of Reporting Requirements, 44160–44161
Environmental Impact Statements; Availability, etc.:
Exelon Generating Company, LLC; Byron Station, Units 1 and 2, 44158
Exemptions:
Lost Creek ISR, LLC, 44158–44160
Guidance:
ITAAC Closure, 44157–44158
Meetings; Sunshine Act, 44156–44157

**Presidential Documents**
PROCLAMATIONS
Special Observances:
Chattanooga, Tennessee; Honoring the Victims of the Tragedy (Proc. 9301), 44247–44249
ADMINISTRATIVE ORDERS
Atomic Energy Act of 1954; Delegation of Functions and Authorities (Memorandum of July 17, 2015), 43909–43910

**Reagan–Udall Foundation For The Food And Drug Administration**

NOTICES
Requests for Nominations:
Steering Committee, 44161–44162

**Rural Utilities Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44029

**Securities and Exchange Commission**
NOTICES
Exemption Requests; Approvals:
Cash Trust Series, Inc.; Federated Adjustable Rate Securities Fund; Federated Core Trust, et al., 44177–44178
Self-Regulatory Organizations; Proposed Rule Changes:
BOX Options Exchange, LLC, 44172–44174
C2 Options Exchange, Inc., 44176–44177
Chicago Board Options Exchange, Inc., 44162–44164
Miami International Securities Exchange, LLC, 44174–44176
NASDAQ OMX BX, Inc., 44166–44168
NASDAQ OMX PHLX, LLC, 44164–44166
NYSE Arca, Inc., 44170–44172
NYSEArca, Inc.; NYSEMKT, LLC, 44168–44170
The Depository Trust Co., 44178–44179

**Small Business Administration**
NOTICES
Disaster Declarations:
Kentucky; Amendment 1, 44180
Louisiana, 44179
Oklahoma; Amendment 5, 44179–44180
Texas: Amendment 6, 44181
Texas; Amendment 7, 44180
Wyoming, 44180–44181
Military Reservist Economic Injury Disaster Loans:
Interest Rate for Fourth Quarter FY 2015, 44180
Small Business Investment Company License Revocations, 44180

**State Department**
NOTICES
Presidential Permits:
Upland Pipeline, LLC to Construct, Connect, Operate, and Maintain Pipeline Facilities on the Border of the United States and Canada, 44181–44182

**Surface Transportation Board**
NOTICES
Controls:
Prisoner Transportation Services, LLC; Pts of America, LLC d/b/a Pts and Brevard Extraditions, Inc. d/b/a U.S. Prisoner Transport, 44193–44194

**Transportation Department**
*See* Federal Aviation Administration
*See* Federal Highway Administration
*See* Federal Motor Carrier Safety Administration
*See* Surface Transportation Board
NOTICES
Meetings:
Intelligent Transportation Systems Program Advisory Committee, 44194–44195

**Treasury Department**
*See* Fiscal Service
*See* Internal Revenue Service

**U.S.–China Economic and Security Review Commission**
NOTICES
Meetings:
Preparation of the 2015 Annual Report to Congress; Correction, 44198

**Veterans Affairs Department**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Accreditation as Service Organization Representative, 44203–44204
Applications and Appraisals for Employment for Title 38 Positions and Trainees, 44204–44205
Architect–Engineer Fee Proposal; Daily Log (Contract Progress Report – Formal Contract); Supplement Contract Progress Report, 44200
Award Attachment for Certain Children with Disabilities Born of Vietnam and Certain Korea Service Veterans, 44198
Deployment Risk and Resilience Inventory, 44200–44201

From War to Home – Improving Patient-Centered Care and Promoting Empathy for Operation Enduring Freedom and Operation Iraqi Freedom Veterans in the Veterans Health Administration Patient Aligned Care Team Demo Lab VISN 4, 44202
Patient Aligned Care Team Evaluating Peer Notifications to Improve Statin Medication Adherence Among Patients with Coronary Artery Disease, 44198–44199
Patient Aligned Care Team Telehealth in the Parkinson's Disease Research, Education and Clinical Center, Healthcare Experiences of Patients with Congestive Heart Failure, 44202–44203
Report of General Information; Report of Death of Veteran/Beneficiary; Report of Nursing Home Information; et al., 44201–44202
VA MATIC Enrollment/Change, 44199–44200

**Western Area Power Administration**
**NOTICES**
Rate Orders:
Boulder Canyon Project, 44098–44100
Central Arizona Project, 44100–44102

**Separate Parts In This Issue**

**Part II**
Transportation Department, Federal Aviation Administration, 44208–44246

**Part III**
Presidential Documents, 44247–44249

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

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

## CFR PARTS AFFECTED IN THIS ISSUE

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


**3 CFR**

**Proclamations:**

9301 ..... 44249

**Administrative Orders:**

Memorandums:

Memorandum of July 17, 2015 ..... 43909

**9 CFR**

**Proposed Rules:**

3 ..... 43969

**12 CFR**

1024 ..... 43911

1026 ..... 43911

**14 CFR**

39 (7 documents) ..... 43921, 43925, 43928, 43931, 43936, 43938, 43940

**Proposed Rules:**

21 ..... 43969

39 (3 documents) ..... 43970, 43972, 43974

**18 CFR**

2 ..... 43944

157 ..... 43944

**Proposed Rules:**

157 ..... 43979

260 ..... 43979

284 ..... 43979

**21 CFR**

**Proposed Rules:**

1 ..... 43987

**26 CFR**

301 ..... 43949

**33 CFR**

165 (3 documents) ..... 43952, 43954

**Proposed Rules:**

147 ..... 43998

**40 CFR**

52 (3 documents) ..... 43956, 43960, 43964

**Proposed Rules:**

52 (6 documents) ..... 44000, 44001, 44005, 44013, 44014, 44017

**45 CFR**

1628 ..... 43966

Federal Register
Vol. 80, No. 142
Friday, July 24, 2015

# Presidential Documents

**Title 3—**

## The President

**Memorandum of July 17, 2015**

## Delegation of Certain Functions and Authorities Under Section 135 of the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*), as amended by the Iran Nuclear Agreement Review Act of 2015

**Memorandum for the Secretary of State [and] the Secretary of the Treasury**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby order as follows:

I hereby delegate the functions and authorities vested in the President by the following provisions of section 135 of the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*), as amended by the Iran Nuclear Agreement Review Act of 2015, as follows:

- Section 135(a)(1) to the Secretary of State, in consultation with the Secretary of the Treasury as appropriate;

- Sections 135(d)(1)–(d)(3), (d)(5)(B), and (d)(6) to the Secretary of State, in consultation with other relevant agencies as appropriate;

- Section 135(d)(4) to the Secretary of State, in consultation with the Secretary of the Treasury as appropriate, with respect to the requirement to submit the report described in that provision and to prepare each of the required elements of the report, with the exception of the required assessment related to money laundering or terrorist finance activities in section 135(d)(4)(H);

- Section 135(d)(4)(H) to the Secretary of the Treasury, in consultation with the Secretary of State, with respect to preparation of the assessment described in that provision for inclusion in the report required by section 135(d)(4).

Any reference in this memorandum to provisions of any act related to the subject of this memorandum shall be deemed to include references to any hereafter enacted provisions of law that are the same or substantially the same as such provisions.

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

THE WHITE HOUSE,
*Washington, July 17, 2015*

[FR Doc. 2015–18344
Filed 7–23–15; 8:45 am]
Billing code 4710–10

# Rules and Regulations

Federal Register

Vol. 80, No. 142

Friday, July 24, 2015

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

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

## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Parts 1024 and 1026

**[Docket No. CFPB–2015–0029]**

**RIN 3170–AA48**

## 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) and Amendments; Delay of Effective Date

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Final rule; official interpretations; delay of effective date.

**SUMMARY:** The Consumer Financial Protection Bureau is delaying until October 3, 2015, the effective date of the TILA–RESPA Final Rule and the related TILA–RESPA Amendments. In light of certain procedural requirements under the Congressional Review Act (CRA), the TILA–RESPA Final Rule and the TILA–RESPA Amendments cannot take effect on August 1, 2015, as originally provided by those rules. To comply with the CRA and to help ensure the smooth implementation of the TILA–RESPA Final Rule, the Bureau is extending the effective date of both the TILA–RESPA Final Rule and the TILA–RESPA Amendments beyond the additional minimum period required by the CRA to October 3, 2015, as proposed. The Bureau is also making certain technical amendments to the Official Interpretations of Regulation Z to reflect the new effective date and technical corrections to two provisions of Regulation Z adopted by the TILA–RESPA Final Rule.

**DATES:** The amendments in this final rule are effective on October 3, 2015. Effective July 24, 2015, this final rule delays the effective date from August 1, 2015, until October 3, 2015, for the final rules amending 12 CFR parts 1024 and 1026 published December 31, 2013, at 78 FR 79730, and February 19, 2015, at 80 FR 8767; and for amendatory instruction 5 amending Supplement I to 12 CFR part 1026, appearing on page 65325 in the **Federal Register** on November 3, 2014.

**FOR FURTHER INFORMATION CONTACT:** Pedro De Oliveira, David Friend, or Joel Singerman, Counsels; or Laura Johnson or Amanda Quester, Senior Counsels, Office of Regulations, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552, at (202) 435–7700.

**SUPPLEMENTARY INFORMATION:**

### I. Summary of the Final Rule

In November 2013, pursuant to sections 1098 and 1100A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[1] the Consumer Financial Protection Bureau (Bureau or CFPB) issued the Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) (TILA–RESPA Final Rule), combining certain disclosures that consumers receive in connection with applying for and closing on a mortgage loan.[2] On January 20, 2015, the Bureau issued the Amendments to the 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) and the 2013 Loan Originator Rule Under the Truth in Lending Act (Regulation Z) (TILA–RESPA Amendments or Amendments).[3] As published in the **Federal Register**, the TILA–RESPA Final Rule and the TILA–RESPA Amendments (together, the TILA–RESPA Final Rule and Amendments) are effective on August 1, 2015. Because of an administrative error on the Bureau's part in complying with the Congressional Review Act (CRA) with respect to the TILA–RESPA Final Rule, the TILA–RESPA Final Rule and Amendments cannot take effect until, at the earliest, August 15, 2015 (CRA Effective Date).

On June 24, 2015, the Bureau issued a proposed rule to delay the effective date of the TILA–RESPA Final Rule and Amendments to October 3, 2015 (Proposed Rule). The Proposed Rule also included certain technical amendments to the Official Interpretations to Regulation Z to reflect the proposed new effective date.[4]

The Bureau is now issuing this final rule to delay the effective date of the TILA–RESPA Final Rule and Amendments to October 3, 2015, and to finalize the related technical amendments in the Proposed Rule. As discussed in more detail in parts VI and VII below, this final rule also makes certain technical corrections to the TILA–RESPA Final Rule. Specifically, the Bureau is: (1) Amending § 1026.38(i)(8)(ii) and (iii)(A) to include, in the amount disclosed as ''Final'' for Adjustments and Other Credits, the amount disclosed under § 1026.38(j)(1)(iii) for certain personal property sales, thus conforming the calculation of Adjustments and Other Credits on the Closing Disclosure and Loan Estimate; and (2) amending § 1026.38(j)(1)(iv) to include, in the amount disclosed as Closing Costs Paid at Closing, lender credits disclosed under § 1026.38(h)(3), thus conforming the disclosure of the borrower's cash to close in the Calculating Cash to Close and the Summaries of Transactions tables on the Closing Disclosure. These technical corrections are in line with existing industry expectations and informal Bureau guidance.

### II. Background

#### *A. The TILA–RESPA Integrated Disclosures Rulemaking*

Dodd-Frank Act sections 1032(f), 1098, and 1100A mandated that the Bureau establish a single disclosure scheme for use by lenders and creditors

[1] Public Law 111–203, 124 Stat. 1376, 2007, 2103–04, 2107–09 (2010).

[2] 78 FR 79730 (Dec. 31, 2013). The TILA–RESPA Final Rule finalized a proposal the Bureau had issued on July 9, 2012, 77 FR 51116 (Aug. 23, 2012) (2012 TILA–RESPA Proposal).

[3] 80 FR 8767 (Feb. 19, 2015). The TILA–RESPA Amendments finalized a proposal the Bureau had issued on October 10, 2014, 79 FR 64336 (Oct. 29, 2014).

[4] For purposes of this final rule, these technical amendments include a change to amendatory instruction 5, appearing at 79 FR 65325 (Nov. 3, 2014), which will change the effective date of comment 43(e)(3)(iv)–2. The Amendments to the 2013 Mortgage Rules Under the Truth in Lending Act (Regulation Z) revised that comment to coordinate the points and fees cure with the tolerance cure available under the TILA–RESPA Final Rule. The Bureau proposed to change amendatory instruction 5 to conform with the new effective date for the TILA–RESPA Final Rule and Amendments and is finalizing that proposal in this final rule.

in complying with the disclosure requirements of both the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA).[5] Section 1098(2) of the Dodd-Frank Act amended RESPA section 4(a) to require that the Bureau publish a single, integrated disclosure for mortgage loan transactions, including ''the disclosure requirements of this section and section 5, in conjunction with the disclosure requirements of [TILA].'' [6] Similarly, section 1100A(5) of the Dodd-Frank Act amended TILA section 105(b) to require that the Bureau publish a single, integrated disclosure for mortgage loan transactions, including ''the disclosure requirements of this title in conjunction with the disclosure requirements of [RESPA].'' [7] The Bureau issued proposed integrated disclosure forms and rules for public comment on July 9, 2012, and issued the TILA–RESPA Final Rule on November 20, 2013.[8]

Upon issuing the TILA–RESPA Final Rule, the Bureau initiated extensive efforts to support industry implementation.[9] Information regarding the Bureau's TILA–RESPA implementation initiative and available resources can be found on the Bureau's regulatory implementation Web site at *www.consumerfinance.gov/regulatory-implementation/tila-respa.*

*B. Proposed Effective Date*

As adopted, the TILA–RESPA Final Rule and Amendments are effective on August 1, 2015. Section 801 of the CRA precludes a rule from taking effect until the Federal agency promulgating the rule submits a rule report, including a copy of the rule, to each House of Congress and to the Comptroller General of the Government Accountability Office (GAO).[10] The TILA–RESPA Final Rule is a major rule under the CRA. Major rules, as defined under the CRA, have several additional procedural requirements, including that they cannot take effect until 60 days after (1) publication in the **Federal Register** or (2) receipt by Congress, whichever is later.[11] Although the TILA–RESPA Final Rule was published in the **Federal Register** on December 31, 2013, and received widespread public and Congressional attention, the Bureau discovered on June 16, 2015, that it inadvertently had not submitted the rule report to Congress. Later that day, the Bureau submitted the report to both Houses of Congress and the GAO. Under the CRA, the TILA–RESPA Final Rule cannot take effect until, at the earliest, August 15, 2015, two weeks after the originally scheduled effective date. The TILA–RESPA Amendments cannot take effect before the TILA–RESPA Final Rule, as they amend the TILA–RESPA Final Rule.

Given that the TILA–RESPA Final Rule would not take effect until the CRA Effective Date, the Bureau proposed a brief additional delay to October 3, 2015. In doing so, the Bureau discussed whether this additional delay could potentially benefit both consumers and industry more than having the new rules take effect on the CRA Effective Date. The Bureau recognized that adjusting operational systems from a target readiness date of August 1 to a target readiness date of August 15 would likely pose implementation challenges for many organizations. The Bureau also recognized that a mid-month effective date could create additional challenges. Moreover, the Bureau noted that delays in the delivery of system updates had left some creditors with limited time to fully test all of their systems and system components to ensure that each system works with the others in an effective manner. These delays pose risks to smooth implementation of the TILA–RESPA Final Rule when combined with the challenges for institutions of adjusting operational systems to a new effective date.

The Bureau also explained in the Proposed Rule that a Saturday effective date could allow for smoother implementation by affording industry time over a weekend to launch new systems configurations and to test systems. The Bureau noted that a Saturday launch would be consistent with existing industry plans tied to the original Saturday August 1 effective date. The Bureau explained its concern that a longer delay in implementation would impose unnecessary costs both on consumers and on those segments of industry that have worked diligently for a timely implementation. A longer delay would also be inconsistent with the Bureau's goal of implementing the new disclosures on the earliest practically feasible date to support consumer understanding of mortgage loan transactions.

## III. Summary of the Rulemaking Process

On June 24, 2015, the Bureau issued the Proposed Rule with a request for public comment. The Proposed Rule was published in the **Federal Register** on June 26, 2015.[12]

The Bureau solicited comment on all aspects of the Proposed Rule. In particular, the Bureau asked commenters to provide specific detail and any available data regarding current and planned practices, as well as relevant knowledge and specific facts about any benefits, costs, or other impacts on both industry and consumers of the Proposed Rule. The Bureau solicited comment regarding the proposed extension of the effective date to October 3, 2015, as well as alternative dates for extension, including the prospect of allowing the new rules to take effect on the CRA Effective Date.

The comment period closed on July 7, 2015. In response to the Proposed Rule, the Bureau received more than 1,300

[5] 12 U.S.C. 5532(f), 2603; 15 U.S.C. 1604(b).

[6] 12 U.S.C. 2603(a).

[7] 15 U.S.C. 1604(b). The amendments to RESPA and TILA mandating a single, integrated disclosure are among numerous conforming amendments to existing Federal laws found in subtitle H of the Consumer Financial Protection Act of 2010 (the Consumer Financial Protection Act of 2010 is title X of the Dodd-Frank Act). Subtitle C of the Consumer Financial Protection Act, ''Specific Bureau Authorities,'' codified at 12 U.S.C. chapter 53, subchapter V, part C, contains a similar provision. Specifically, section 1032(f) of the Dodd-Frank Act provides that, by July 21, 2012, the Bureau ''shall propose for public comment rules and model disclosures that combine the disclosures required under [TILA] and sections 4 and 5 of [RESPA] into a single, integrated disclosure for mortgage loan transactions covered by those laws.'' 12 U.S.C. 5532(f). The Bureau issued the 2012 TILA–RESPA Proposal pursuant to that mandate and the parallel mandates established by the conforming amendments to RESPA and TILA, discussed above.

[8] 77 FR 51116 (Aug. 23, 2012) (2012 TILA–RESPA Proposal); 78 FR 79730 (Dec. 31, 2013) (TILA–RESPA Final Rule); *see also* CFPB, *CFPB Proposes ''Know Before You Owe'' Mortgage Forms* (July 9, 2012), *http://www.consumerfinance.gov/pressreleases/consumer-financial-protection-bureau-proposes-know-before-you-owe-mortgage-forms/; Know Before You Owe: Introducing Our Proposed Mortgage Disclosure Forms,* CFPB Blog (July 9, 2012), *http://www.consumerfinance.gov/blog/know-before-you-owe-introducing-our-proposed-mortgage-disclosure-forms/.*

[9] These ongoing efforts include: (1) The publication of a small entity compliance guide and a guide to forms to help industry understand the new rules, including updates to the guides, as needed; (2) the publication of a readiness guide for institutions to evaluate their readiness and facilitate compliance with the new rules; (3) the publication of a disclosure timeline that illustrates the process and timing requirements of the new disclosure rules; (4) an ongoing series of webinars to address common interpretive questions, including an index of questions answered during those webinars; (5) roundtable meetings with industry, including creditors, settlement service providers, and technology vendors, to discuss and support their implementation efforts; (6) participation in dozens of conferences and forums; and (7) close collaboration with State and Federal regulators on implementation of the TILA–RESPA Final Rule and Amendments, including coordination on consistent examination procedures. There were over 30,000 downloads of the Bureau's small entity compliance guide and other regulatory implementation support materials during June 2015 alone. Additionally, the Bureau has provided extensive informal guidance to support implementation of the TILA–RESPA Final Rule and Amendments.

[10] 5 U.S.C. 801(a)(1)(A).

[11] 5 U.S.C. 801(a)(3), 804(2).

[12] 80 FR 36727 (June 26, 2015).

comments from industry trade associations, creditors, technology vendors, and other industry representatives, as well as consumer advocacy groups and others. In adopting this final rule, the Bureau has considered and discussed relevant comments in parts V and VI below. Many of the comments urged the Bureau to take actions beyond the scope of the Proposed Rule.

## IV. Legal Authority

The Bureau is issuing this final rule pursuant to its authority under TILA, RESPA, and the Dodd-Frank Act. Specifically, the Bureau is exercising its rulemaking authority pursuant to TILA section 105(a), RESPA section 19(a), and Dodd-Frank Act section 1022(b)(1) to delay the effective date of the TILA–RESPA Final Rule and Amendments, including related technical amendments in the Proposed Rule.

The legal authority for the TILA–RESPA Final Rule and the TILA–RESPA Amendments is described in detail in the Legal Authority parts of the TILA–RESPA Final Rule and the TILA–RESPA Amendments, respectively.[13] As amended by the Dodd-Frank Act, TILA section 105(a) directs the Bureau to prescribe regulations to carry out the purposes of TILA and provides that such regulations may contain additional requirements, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for all or any class of transactions, that the Bureau judges are necessary or proper to effectuate the purposes of TILA, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.[14] Section 19(a) of RESPA authorizes the Bureau to prescribe such rules and regulations and to make such interpretations and grant such reasonable exemptions for classes of transactions as may be necessary to achieve the purposes of RESPA.[15] Additionally, under Dodd-Frank Act section 1022(b)(1), the Bureau has general authority to prescribe rules ''as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.'' [16] TILA and RESPA are Federal consumer financial laws.[17] Accordingly, in issuing this final rule, the Bureau is exercising its authority under Dodd-Frank Act section 1022(b)(1) to prescribe rules under TILA, RESPA, and title X of the Dodd-Frank Act that carry out the purposes and objectives and prevent evasion of those laws. The Bureau believes that delaying the effective date to October 3, 2015, will facilitate compliance with—and help ensure the smooth implementation of—the TILA–RESPA Final Rule and Amendments. Section 1022(b)(2) of the Dodd-Frank Act prescribes certain standards for rulemaking that the Bureau must follow in exercising its authority under section 1022(b)(1).[18]

The Bureau is also making technical corrections to § 1026.38(i)(8)(ii) and (iii)(A) and § 1026.38(j)(1)(iv), relying on the same authority used to implement § 1026.38(i) and (j) in the TILA–RESPA Final Rule: TILA section 105(a); RESPA section 19(a); and Dodd-Frank Act sections 1032(a) and 1405(b).[19]

## V. Effective Date

In the Proposed Rule, the Bureau requested comment specifically regarding the proposed extension of the effective date to October 3, 2015, as well as alternative dates for extension, including allowing the new rules to take effect on the CRA Effective Date.

### *A. Comments Received*

Extending the Effective Date Beyond the CRA Effective Date

The vast majority of commenters who opined on the effective date—including banks, credit unions, mortgage companies, industry service providers, trade associations, and individual commenters—supported extending the effective date beyond the CRA Effective Date. Consumer advocacy groups did not oppose the extension beyond the CRA Effective Date. Many commenters supported the proposed October 3, 2015, effective date without requesting any additional delay in the effective date. Other commenters recommended extending the effective date to various other dates, including September 3, 2015; November 1, 2015; December 31, 2015; January 1, 2016; January 2, 2016; January 4, 2016; January 14, 2016; or February 1, 2016.

However, some commenters expressed concern about any delay of the effective date. For example, a few industry commenters suggested that their institutions or creditors more generally would be prepared for an August 1 effective date and that they consequently would not need or want any further delays. Several commenters were concerned about costs associated with any delay, including costs related to staffing, communications, scheduling, programming, and training, but they did not provide sufficient information about those costs from which to develop a reliable estimate of the costs on industry.

Several commenters opposed any further delay beyond an early October effective date. For example, consumer advocacy groups urged that the effective date should not be delayed any further, in order to maximize the benefits of the new disclosures. Consumer advocacy groups commented that the new integrated disclosures will improve the format, content, and timing of information provided to many consumers in connection with the biggest purchase of their lives. Several industry commenters, including various trade associations, a technology vendor, and two banks, stated that adjusting operational systems from an effective date of August 1, 2015, to a later date poses extensive implementation challenges. As a result, industry has begun the process of making operational systems adjustments, even before finalization of the Proposed Rule, based on the proposed October 3, 2015, effective date.

Support for extending the effective date was most often justified by commenters on the basis that industry needs more time to prepare. In particular, many commenters from industry, both individuals and institutions, cited delays in updating software and systems that industry relies on for compliance and also cited related delays in testing and training on such systems. Several industry commenters noted that extending the effective date would provide more time for creditors and service providers to clarify their understanding of the rule's extensive provisions, including through additional guidance issued by the Bureau. Some commenters, including trade organizations and a technology vendor, supported extending the effective date because implementation of the TILA–RESPA Final Rule and Amendments has been occurring while industry is implementing or adjusting to various other legal and regulatory changes, and at least one commenter noted that their resources are stretched thin as a result. Some industry commenters expressed the opinion that a delay in implementation would benefit consumers because industry would be better prepared to implement

[13] 78 FR 79730, 79753–56 (Dec. 31, 2013); 80 FR 8767, 8768–70 (Feb. 19, 2015).

[14] 15 U.S.C. 1604(a).

[15] 12 U.S.C. 2617(a).

[16] 12 U.S.C. 5512(b)(1).

[17] 12 U.S.C. 5481(12), (14).

[18] 12 U.S.C. 5512(b)(2).

[19] *See* 78 FR 79730, 80016, 80020 (Dec. 31, 2013). Sections 1032(a) and 1405(b) of the Dodd-Frank Act are codified, respectively, at 15 U.S.C. 5532 and 15 U.S.C. 1601 note.

the TILA–RESPA Final Rule and Amendments with more time.

Industry commenters who sought a further delay in the effective date beyond October 3, 2015, generally relied on the same arguments raised by other commenters for any extension of the effective date. Among commenters who requested an additional delay in the effective date beyond October 3, 2015, the most common alternative date fell sometime near the beginning of 2016 (*e.g.,* January 1, 2016; January 2, 2016; or January 4, 2016). Industry commenters argued that they expect mortgage origination activity to slow during the end of the calendar year and the beginning of the new year, based on historical patterns, and a delay until early 2016 would thus permit a smoother transition. Some commenters, including a community bank and a credit union, requested a February 1, 2016, effective date instead of a date in January because implementation could be difficult around the end-of-the-year holidays.

Specific Day of the Week or Time During the Month for the Effective Date

Some industry commenters, including a national trade association, specifically supported a Saturday effective date (for example, October 3, 2015) because it would allow companies to migrate their systems over a weekend. At least one commenter, a state trade association, supported a Friday effective date for similar reasons. Other commenters favored different days of the week for the effective date, such as a Monday or Thursday. For example, a credit union commenter favored a Thursday effective date because the TILA–RESPA Final Rule allows a three-business-day window for delivering or placing the Loan Estimate in the mail, and thus a Thursday effective date would provide additional time to work through potential systems issues before the start of the following workweek. A credit union association commenter stated that a weekend effective date would require additional staff overtime costs and would therefore be undesirable.

Several commenters, including a credit union and an individual commenter, stated that an effective date on the first day of the month would simplify implementation. However, a bank commenter stated that there would be additional staff challenges if the effective date is within the first few days after the end of a quarterly reporting period.

Technical Comments on the Effective Date

The Bureau also received a number of technical comments about the effective date. One commenter suggested that the Bureau should amend an additional amendatory instruction, as discussed further below. Some commenters, including consumer advocacy groups, requested clarification as to whether all or only parts of the TILA–RESPA Final Rule and Amendments will have a new effective date. Additionally, other commenters requested clarification that the proposal for the final rule to take effect immediately upon publication referred to the delay of the effective date, not to the TILA–RESPA Final Rule and Amendments.

Other Comments

The Bureau also received a number of comments that did not relate directly to the date when the TILA–RESPA Final Rule should become effective. Many banks, credit unions, mortgage companies, industry service providers, trade associations, and individual commenters from industry—including many who did not request an additional delay in the effective date beyond October 3, 2015—requested a safe harbor period, hold-harmless period, or other formal grace period after the effective date to insulate creditors from private liability or public enforcement. Many suggested that a grace period could apply to creditors that demonstrate good faith efforts to comply with the TILA–RESPA Final Rule and Amendments. Some commenters arguing for an effective date later than October 3, 2015, asked for a grace period if the Bureau maintained the October 3, 2015, effective date. Some commenters supporting a grace period stated that it should last for a specific duration.

Consumer advocacy groups opposed a formal grace period, expressing concerns about consumer protection, precedential value, and the Bureau's legal authority to implement a formal grace period. The consumer advocacy groups noted that regulators already have the discretion not to sanction creditors and that various existing provisions of TILA protect creditors acting in good faith.

Some industry commenters, including various credit unions and their trade associations, requested an optional ''dual compliance'' period before the effective date. During such a dual compliance period, the commenters stated that creditors should have the option to test their systems by using the new integrated disclosures in real-life transactions or continue using the current disclosures. A law firm commenter that supported an optional dual compliance period stated that creditors that are already prepared for an August 2015 effective date should not be penalized by being forced to wait until October or later.

Other industry commenters, including a technology vendor and a title underwriter, opposed a dual compliance period and stated that it would increase the risk of errors, create a competitive disadvantage for some (likely smaller) industry members not using the new disclosures, complicate the flow of information for secondary market investors, and increase the risk of consumer confusion.

The Bureau also received a number of other comments that did not relate, even indirectly, to the effective date and therefore are not discussed in this preamble.[20]

*B. Final Rule*

Effective Date of October 3, 2015

The Bureau is adopting an October 3, 2015, effective date for the TILA–RESPA Final Rule and Amendments, as proposed.

The Bureau concludes that implementation of the TILA–RESPA Final Rule and Amendments will provide significant benefits to consumers and that the earliest practically feasible implementation date remains essential to aid consumer understanding of mortgage loan transactions. The TILA–RESPA Final Rule and Amendments significantly strengthen and streamline the mortgage loan disclosures provided to consumers. The Bureau believes the TILA–RESPA Final Rule and Amendments will deliver significant value to consumers, among other ways, by helping: (1) To ensure that consumers understand the costs, risks, and benefits of their loans at a time when they can still negotiate the terms of, or walk away from, the transaction; and (2) to minimize changes at the closing table and make it easier for consumers to understand how and why any costs may have changed.[21]

[20] For example, the Bureau received a large number of comments asking it to revisit the requirement to identify owner's title insurance as ''optional'' and the method of disclosure of owner's and lender's title insurance when there is a discount for simultaneous issuance of both policies. A large number of commenters also suggested that the Bureau should require creditors' disclosures to separately itemize an appraiser's charge versus related charges for an appraisal management company. The Bureau considered the same arguments presented by these commenters in the TILA–RESPA Final Rule and did not open its decisions to notice-and-comment rulemaking in the Proposed Rule. Therefore, these comments are outside the scope of this rulemaking.

[21] 78 FR 79730, 80071 (Dec. 31, 2013).

However, given the CRA requirements discussed above, the TILA–RESPA Final Rule and Amendments cannot take effect on August 1, 2015, and therefore the effective date must be moved to the CRA Effective Date or later. Having reviewed and considered the comments, the Bureau continues to believe that a brief delay beyond the CRA Effective Date may minimize costs to consumers and those segments of industry that have worked diligently to implement on time, while allowing all industry participants time to adjust their operations to a new effective date. The Bureau recognizes that the unusual circumstances of this rulemaking place extensive implementation challenges on industry in stopping and restarting progress toward implementation.

The Bureau has considered comments supporting both earlier and later effective dates than October 3, 2015. The Bureau continues to believe that a date before the beginning of October would pose large implementation challenges for much of industry, given the time required to adjust to a new effective date. Further delaying implementation to the beginning of 2016, as many commenters suggested, would impose large costs on consumers denied the benefits of the TILA–RESPA Final Rule. Moreover, multiple commenters indicated that industry would incur additional costs should the Bureau finalize a different effective date than October 3, 2015, because many industry participants of necessity have relied on the Bureau's proposed October 3, 2015, date in taking steps towards adjusting their implementation schedules and operations. Absent compelling evidence demonstrating the objective superiority of a different effective date, the Bureau is reluctant to impose further costs on industry.

The Bureau has also considered the comments regarding the day of the week and time during the month. While industry commenters did not express a uniform preference for Saturday, many expressed a preference for a weekend day. Additionally, the Bureau notes that, since November 2013, industry has been preparing for implementation of the TILA–RESPA Final Rule with the understanding that implementation would occur on a Saturday, at the beginning of the month. Again, absent compelling arguments to the contrary, the Bureau believes it is preferable to minimize disruptions to settled industry expectations.

The Bureau acknowledges that at least one commenter expressed concern about an implementation date near the start of a quarter. However, this view was not widely expressed. Many commenters who expressed a preference for another effective date, *e.g.,* January 1, 2016, also recommended one near the start of a quarter. Taking into account the various opinions expressed in the comments, the Bureau believes that an effective date near the start of a quarter will not pose unreasonable implementation challenges to industry. Moreover, the Bureau must balance the costs of additional delay to consumers and those segments of industry that have worked diligently to prepare, the general concern about mid-month implementation, and the need for some additional time for industry to adjust to the new effective date. Balancing those concerns, the Bureau believes that an effective date of October 3, 2015, is the earliest practically feasible date.

The Bureau recognizes, as it always has, that the TILA–RESPA Final Rule and Amendments require major operational changes for industry and close coordination among many different parties. At the same time, the Bureau concludes that the original nearly 21-month implementation period together with two additional months, coupled with the Bureau's extensive regulatory implementation support efforts, should afford all participants a reasonable opportunity to come into compliance with the TILA–RESPA Final Rule and Amendments by October 3, 2015.

Technical Issues Regarding Effective Date

In response to some commenters' requests for clarification, this final rule changes the effective date to October 3, 2015, for all provisions of the TILA–RESPA Final Rule and Amendments.[22] The technical amendments also take effect on October 3, 2015, the same effective date as the TILA–RESPA Final Rule and Amendments.[23] Some commenters specifically asked whether the change in effective date to October 3, 2015, applies to the post-consummation notice requirements including §§ 1026.20(e) and 1026.39(d)(5). As discussed in the TILA–RESPA Final Rule, implementation of the Dodd-Frank Act disclosures in §§ 1026.20(e) and 1026.39(d)(5) becomes mandatory on the effective date, now October 3, 2015.[24] As discussed further in part VII below, the portions of this final rule related to the delay in the effective date to October 3, 2015, are effective immediately upon publication in order to move the effective date for the TILA–RESPA Final Rule and Amendments and the amendatory instruction discussed in note 4 from August 1, 2015 to October 3, 2015. As a result of this final rule, the provisions of the TILA–RESPA Final Rule and Amendments, as well as the technical amendments and corrections made in this final rule, are not effective immediately upon publication, but on October 3, 2015.

In response to one law firm commenter's assertion that the Proposed Rule fails to amend the amendatory instruction to § 1026.36(g)(2)(ii) in the TILA–RESPA Amendments by revising the effective date from August 1, 2015, to October 3, 2015, the Bureau disagrees. The Bureau proposed to change the effective date of both the TILA–RESPA Final Rule and the TILA–RESPA Amendments to October 3, 2015. The proposed change to the effective date would apply to all amendatory instructions for both rules, including the TILA–RESPA Amendments' amendatory instruction to § 1026.36(g)(2)(ii).

Requests for a Formal Grace Period or a Dual Compliance Period

With regard to some commenters' requests for a formal grace period or a dual compliance period, the Bureau considered and rejected similar arguments when it finalized the TILA–RESPA Final Rule.[25] The Bureau did not seek comments on these issues in this rulemaking and, for the reasons expressed in the TILA–RESPA Final Rule and herein, is not instituting either a formal grace period or a dual compliance period.

Although many commenters requested a formal grace period, the Bureau continues to believe that the original implementation period from November 2013 to August 2015, coupled with the Bureau's extensive regulatory implementation support initiative, afforded creditors adequate time to implement the TILA–RESPA Final Rule under the original effective date. The Bureau also believes that the additional time afforded by the October 3 effective date adequately accounts for the challenges of adjusting to a new date.

At the same time, the Bureau recognizes, as it always has, that the TILA–RESPA Final Rule poses

[22] As explained in the section-by-section analysis of § 1026.43 below, this final rule also delays from August 1, 2015, until October 3, 2015, an amendatory instruction issued in conjunction with the Amendments to the 2013 Mortgage Rules Under the Truth in Lending Act (Regulation Z).

[23] This final rule also makes technical corrections to two provisions in § 1026.38, which are effective on October 3, 2015, the same effective date as the TILA–RESPA Final Rule and Amendments.

[24] 78 FR 79730, 79753 (Dec. 31, 2013).

[25] *See, e.g.,* 78 FR 79730, 80066–68, 80072–73 (2013).

significant implementation challenges for industry. The Bureau continues to believe that the approach expressed in Director Cordray's letter to members of Congress on June 3, 2015, remains appropriate:

> [O]ur oversight of the implementation of the Rule will be sensitive to the progress made by those entities that have squarely focused on making good-faith efforts to come into compliance with the Rule on time. My statement . . . is consistent with the approach we took to implementation of the Title XIV mortgage rules in the early months after the effective dates in January 2014, which has worked out well.[26]

The Bureau considered arguments regarding dual compliance when it issued the TILA–RESPA Final Rule in November 2013 in the context of evaluating whether different creditors should be subject to different effective dates.[27] While the Bureau recognizes that the delay in the effective date imposes costs on the many creditors who have worked diligently to be ready for the original August 1 effective date, the Bureau continues to share the concerns of commenters both to the 2012 TILA–RESPA Proposal and to the Proposed Rule finalized here that dual compliance could be confusing to consumers and complicated for industry, including vendors, the secondary market, and institutions who act both as correspondent lenders and originators. The Bureau is not persuaded that a dual compliance period would be beneficial. For these reasons, the Bureau declines to institute a dual compliance period.

## VI. Section-by-Section Analysis

*Section 1026.1 Authority, Purpose, Coverage, Organization, Enforcement, and Liability*

1(d) Organization

1(d)(5)

Comment 1(d)(5)–1 provides clarity regarding the application of the effective date to transactions covered by the TILA–RESPA Final Rule and Amendments. The Bureau proposed conforming amendments to comment 1(d)(5)–1 to reflect the proposed change in effective date to October 3, 2015. The Bureau received no comments specifically relating to comment 1(d)(5)–1, other than the general comments relating to the effective date that are discussed in part V above. The Bureau is finalizing comment 1(d)(5)–1 as proposed.

*Section 1026.19 Certain Mortgage and Variable-Rate Transactions*

19(g) Special Information Booklet at Time of Application

19(g)(2) Permissible Changes

Comment 19(g)(2)–3 refers to the general restriction on changing the settlement cost booklet's title under § 1026.19(g)(2)(iv). The Bureau proposed conforming amendments to comment 19(g)(2)–3 to reflect the proposed change in effective date to October 3, 2015. The Bureau received no comments specific to the amendments to comment 19(g)(2)–3, other than the general comments relating to the effective date that are discussed in part V above. The Bureau is finalizing the amendments to comment 19(g)(2)–3 as proposed.

*Section 1026.38 Content of Disclosures for Certain Mortgage Transactions (Closing Disclosure)*

38(i) Calculating Cash to Close

38(i)(8) Adjustments and Other Credits

The Calculating Cash to Close table in the Closing Disclosure under § 1026.38(i) generally mirrors the format of, and updates the amounts shown on, the Calculating Cash to Close table in the Loan Estimate under § 1026.37(h). To determine the amount of cash or other funds the consumer is to provide at consummation, the tables must account for the sales price of any tangible personal property being sold in a purchase real estate transaction that is excluded from the contract sales price, as disclosed under § 1026.38(j)(1)(iii). The TILA–RESPA Final Rule does not specify a place within the Calculating Cash to Close table on the Closing Disclosure for this amount. However, comment 37(h)(1)(vii)–6, relating to the Calculating Cash to Close table on the Loan Estimate, indicates that the sales price of additional personal property can be included in the Adjustments and Other Credits amount. To conform this aspect of the Closing Disclosure to the Loan Estimate, the Bureau is amending § 1026.38(i)(8)(ii) to include the amount disclosed under § 1026.38(j)(1)(iii) in the amount disclosed as ''Final'' for Adjustments and Other Credits. This change will ensure that the Calculating Cash to Close table on the Closing Disclosure accurately reflects the total amount of cash or other funds that the consumer must provide at consummation and will complete the alignment of the disclosure of Adjustments and Other Credits between the Closing Disclosure and the Loan Estimate. The Bureau believes this is consistent with industry expectations of the proper disclosure of the Adjustments and Other Credits on both the Loan Estimate and Closing Disclosure and will reduce uncertainty in implementation by confirming that the calculation of Adjustments and Other Credits is the same on both the Closing Disclosure and the Loan Estimate.

The Bureau is also making a conforming change to § 1026.38(i)(8)(iii)(A). That paragraph requires creditors to disclose the basis for any difference between the Adjustments and Other Credits disclosed on the Loan Estimate and the Adjustments and Other Credits disclosed as ''Final'' on the Closing Disclosure (unless the difference is due to rounding). As explained in comment 38(i)–3, creditors may disclose the basis for the difference by providing a general or specific line cross-reference to the Summaries of Transactions table. This conforming change will permit creditors to cross-reference to the personal property sales price disclosed under § 1026.38(j)(1)(iii) as a basis for the calculation of the amount disclosed under § 1026.38(i)(8)(ii). This modification is unlikely to change creditors' practice because creditors may provide consumers with a more general cross-reference to the Summaries of Transactions table and need not provide a specific line cross-reference.

These changes to § 1026.38(i)(8) will also ensure that the amount disclosed as due to or from the consumer in the Calculating Cash to Close table on the Closing Disclosure matches the amount disclosed as due to or from the consumer in the Summaries of Transactions table on the Closing Disclosure. As alignment between these two disclosures is required by existing comment 38(i)(9)(ii)–1, this change should facilitate implementation and is consistent with existing industry preparations and informal guidance provided by the Bureau.

38(j) Summary of Borrower's Transaction

38(j)(1) Itemization of Amounts Due From Borrower

38(j)(1)(iv)

In the TILA–RESPA Final Rule, § 1026.38(j) provides for a summary of

[26] Letter from Director Richard Cordray, CFPB, to Representatives Andy Barr and Carolyn B. Maloney, U.S. House of Representatives (June 3, 2015). *See also Know Before You Owe: You'll Get 3 Days to Review Your Mortgage Closing Documents,* CFPB Blog (June 3, 2015), *http://www.consumerfinance.gov/blog/know-before-you-owe-youll-get-3-days-to-review-your-mortgage-closing-documents/.*

[27] *See, e.g.,* 78 FR 79730, 80066, 80068, 80073 (2013) (discussing comments requesting a bifurcated implementation period depending on the size of the institution).

the borrower's transaction on the Closing Disclosure. The total amount due from or to the consumer at the real estate closing in this Summaries of Transactions table should match the disclosure of the ''Final'' cash to close on the Calculating Cash to Close table pursuant to § 1026.38(i)(9)(ii) (as explained in comment 38(i)(9)(ii)–1).

For the Summaries of Transactions table, the disclosure of the total amount of closing costs that are designated borrower-paid at closing is specified in § 1026.38(j)(1)(iv). In the TILA–RESPA Final Rule, § 1026.38(j)(1)(iv) provides that the total amount of closing costs disclosed that are designated borrower-paid at closing is calculated pursuant to § 1026.38(h)(2). As originally proposed in the 2012 TILA–RESPA Proposal, § 1026.38(h)(2) included the lender credits described in § 1026.38(h)(3).[28] In the TILA–RESPA Final Rule, however, the Bureau removed the lender credits set forth in § 1026.38(h)(3) from the calculation in § 1026.38(h)(2) in order to reconcile the Calculating Cash to Close table in § 1026.38(i). In doing so, the Bureau inadvertently failed to adjust § 1026.38(j)(1)(iv) to include the lender credits disclosed pursuant to § 1026.38(h)(3).

As a result, under the TILA–RESPA Final Rule, the total amount due from or to the consumer at the real estate closing in the Summaries of Transactions table may not match the ''Final'' amount of cash to close disclosed in the Calculating Cash to Close table under § 1026.38(i)(9)(ii). To correct this, the Bureau is modifying § 1026.38(j)(1)(iv) to require disclosure of the sum of the amount disclosed under § 1026.38(h)(2) and the amount of any lender credits disclosed as a negative number under § 1026.38(h)(3). The lender credits described in § 1026.38(h)(3) are appropriately and necessarily included in the summary of the borrower's transaction as an offsetting credit to the amount due from the borrower at closing. This change makes the Summaries of Transactions table accurately reflect the total amount due from or to the consumer at the real estate closing; comports the disclosure of the ''Final'' amount of cash to close in the Calculating Cash to Close table with the amount disclosed in the Summaries of Transactions table as required by existing comment 38(i)(9)(ii)–1; and is consistent with informal guidance provided by the Bureau.

*Section 1026.43 Minimum Standards for Transactions Secured by a Dwelling*

43(e) Qualified Mortgages

43(e)(3) Limits on Points and Fees for Qualified Mortgages

43(e)(3)(iv)

In addition to proposing the amendments discussed above, the Bureau proposed one amendment to an amendatory instruction that relates to the Amendments to the 2013 Mortgage Rules Under the Truth in Lending Act (Regulation Z).[29] Specifically, the Bureau proposed to amend instruction 5, which is drafted so the comment referenced would take effect on August 1, 2015, to coordinate with the original effective date of the TILA–RESPA Final Rule. The amendatory instruction relating to comment 43(e)(3)(iv)–2, Relationship to *RESPA tolerance cure*, will replace an existing comment clarifying the relationship between tolerance cures under RESPA and Regulation Z points and fees cures with a comment that incorporates the tolerance cure provisions of § 1026.19(f)(2)(v) under the TILA–RESPA Final Rule. The Bureau proposed to have the instruction take effect on October 3, 2015, instead of August 1, 2015, to preserve this coordination. The Bureau received no comments specifically relating to this proposed amendment. The Bureau is finalizing this change to the amendatory instruction as proposed.

## VII. Administrative Procedure Act

*5 U.S.C. 553(b)*

In the Proposed Rule, the Bureau provided notice and an opportunity for public comment with respect to its proposal to delay the effective date of the TILA–RESPA Final Rule and Amendments and to make certain technical amendments to the Official Interpretations of Regulation Z related to the proposed new effective date. In this final rule, the Bureau is also finalizing technical corrections to § 1026.38(i)(8)(ii) and (iii)(A) and § 1026.38(j)(1)(iv). The Bureau did not seek public comment on these technical corrections but finds that there is good cause to publish them without notice and comment. Under the Administrative Procedure Act (APA), notice and opportunity for public comment are not required if the Bureau finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.[30] The Bureau has determined that notice and comment are unnecessary because the technical corrections to § 1026.38(i)(8)(ii) and (iii)(A) and § 1026.38(j)(1)(iv) in this final rule correct inadvertent, technical errors and merely align and harmonize those provisions with other provisions of the TILA–RESPA Final Rule. Furthermore, the technical corrections clarify the operation of the TILA–RESPA Final Rule in a way that is consistent with informal guidance provided by the Bureau and with industry preparations. The Bureau believes that there is minimal, if any, basis for substantive disagreement with these technical corrections. Therefore, the technical corrections to § 1026.38(i)(8)(ii) and (iii)(A) and § 1026.38(j)(1)(iv) are adopted in final form.

*5 U.S.C. 553(d)*

Section 553(d) of the APA generally requires that the effective date of a final rule be at least 30 days after publication of that final rule, except for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules or statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.[31] The Bureau finds that there is good cause for making the portions of this final rule related to delaying the effective date effective immediately upon publication in the **Federal Register.** These portions do not establish any requirements; instead, they delay the effective date of the TILA–RESPA Final Rule and Amendments and the amendatory instruction referenced in note 4 until October 3, 2015. Therefore, under section 553(d)(1) of the APA, the Bureau is publishing these portions less than 30 days before the effective date of this final rule because they are substantive rules which grant or recognize an exemption or relieve a restriction. Further, delaying the effective date of the TILA–RESPA Final Rule and Amendments will ensure an orderly change to the new integrated disclosures and will synchronize the effective date of the Amendments with that of the TILA–RESPA Final Rule. Thus, this final rule will facilitate compliance and help reduce industry and consumer confusion and market disruption. Therefore, the Bureau also finds it has good cause pursuant to section 553(d)(3) of the APA to dispense with the 30-day delayed effective date requirement for this final rule because, on balance, the need to implement immediately the delay of the August 1, 2015, effective

[28] 77 FR 51116, 51324 (Aug. 23, 2012).

[29] 79 FR 65300, 65325 (Nov. 3, 2014).

[30] 5 U.S.C. 553(b)(B).

[31] 5 U.S.C. 553(d).

date to October 3, 2015, outweighs the need for affected parties to prepare for this delay.

## VIII. Section 1022(b)(2) of the Dodd-Frank Act

### *A. Overview*

In developing this final rule, the Bureau has considered potential benefits, costs, and impacts.[32] The Bureau has consulted, or offered to consult, with the prudential regulators; the Federal Housing Finance Agency; the Federal Trade Commission; the U.S. Department of Agriculture; the U.S. Department of Housing and Urban Development; the U.S. Department of Housing and Urban Development, Office of the Inspector General; the U.S. Department of the Treasury; the U.S. Department of Veterans Affairs; and the U.S. Securities and Exchange Commission. The Bureau's consultation and offer of consultation included assessing consistency with any prudential, market, or systemic objectives administered by such agencies.

The Bureau requested comment on the preliminary analysis presented in the Proposed Rule, as well as submissions of additional data that could inform the Bureau's analysis of the benefits, costs, and impacts of the Proposed Rule. Because the TILA–RESPA Final Rule and Amendments cannot take effect before the CRA Effective Date, the Bureau has evaluated the benefits, costs, and impacts of this final rule, assuming that the TILA–RESPA Final Rule and Amendments would become effective on August 15 absent this final rule. The Bureau has relied on a variety of data sources to consider the potential benefits, costs, and impacts of this final rule. In some instances, the requisite data are not available or are quite limited. Data with which to quantify the benefits of this final rule are particularly limited. As a result, portions of this analysis rely in part on general economic principles to provide a qualitative discussion of the benefits, costs, and impacts of this final rule.

As a result of this final rule, affected covered persons will incur costs associated with delaying implementation from the CRA Effective Date until October 3, 2015. These costs include communication with and training of staff, software programming, vendor and outside supplier coordination, advertising and product development costs, and broker and settlement agent coordination. The Bureau believes that these costs are likely higher for larger creditors and creditors that rely primarily on proprietary systems rather than on third-party software vendors.[33] While many of these costs are largely incurred with the initial delay to the CRA Effective Date, affected entities may incur additional costs for subsequent delay beyond the CRA Effective Date, including ongoing training, testing, and opportunity costs.

Similarly, consumers will incur costs associated with delaying the effective date. These costs will consist mostly of delayed benefits described in the section 1022(b)(2) analysis of the TILA–RESPA Final Rule, primarily improved consumer understanding of mortgage loan transactions and an increased ability to shop for a mortgage loan. The longer the delay in the implementation of the TILA–RESPA Final Rule and Amendments, the greater will be the cost to consumers from not receiving the benefits of the new integrated disclosures.

This final rule amends the effective date of the TILA–RESPA Final Rule and Amendments. In the section 1022(b)(2) analyses of the TILA–RESPA Final Rule and Amendments, the Bureau previously considered the costs, benefits, and impact of the rules. This final rule also contains technical corrections to two provisions of the TILA–RESPA Final Rule. These technical corrections are necessary to resolve minor inconsistencies in the TILA–RESPA Final Rule and are consistent with informal guidance provided by the Bureau. Thus, the Bureau believes that creditors will not be adversely affected by these technical corrections and will enjoy additional certainty when originating loans. Given that the Bureau believes that the vast majority of creditors would have implemented their systems in a manner consistent with these technical corrections regardless of this final rule, the Bureau does not believe that these technical corrections will have a discernible impact on consumers.

### *B. Potential Benefits and Costs to Consumers and Covered Persons*

The primary consumers who will be affected by this final rule are consumers that engage in mortgage shopping between the CRA Effective Date and October 3, 2015. Those consumers will be harmed by not receiving the benefits of the TILA–RESPA Final Rule and Amendments. Consumers shopping for a mortgage during the period of delay in the effective date will not receive those benefits, even if they close on their loans after the delayed effective date. The benefits of the TILA–RESPA Final Rule and Amendments include easier-to-understand disclosures and the requirement that the creditor deliver the Closing Disclosure containing the settlement information as well as the TILA disclosures at least three days before closing.[34] Some consumers may benefit if the delay results in the industry using the time before October 3 for more system testing or other preparation, leading to a smoother transition to the new integrated disclosures. As in the TILA–RESPA Final Rule, the Bureau cannot quantify either the benefit or the cost of this final rule to consumers.

As in the TILA–RESPA Final Rule, for purposes of this section 1022(b)(2) analysis, the Bureau has considered three categories of affected covered persons that will benefit or incur adjustment costs: Creditors that engage in mortgage lending, mortgage brokers, and settlement agents.[35] The Bureau estimates that, in 2014, there were about 11,150 creditors engaged in mortgage lending, about 7,000 mortgage brokers, and about 7,700 settlement agent firms.[36] As noted in part V above, due

[32] Specifically, section 1022(b)(2)(A) of the Dodd-Frank Act calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas.

[33] As in the section 1022(b)(2) analysis of the TILA–RESPA Final Rule, the Bureau believes that approximately 5 percent of creditors do not rely on third-party vendors. *See* 78 FR 79730, 80081, 80101 (Dec. 31, 2013).

[34] These and other benefits are described in detail in the section 1022(b)(2) analysis of the TILA–RESPA Final Rule. 78 FR 79730, 80073–89 (Dec. 31, 2013).

[35] Some service providers, such as software vendors, will incur costs, as well, as they update their products to comply with this final rule, but these are not covered persons for the purposes of this analysis.

[36] The primary source of data used in this analysis is 2013 data collected under the Home Mortgage Disclosure Act (HMDA). The empirical analysis also uses data from the 4th quarter 2013 bank and thrift Call Reports, and the 4th quarter 2013 credit union Call Reports from the National Credit Union Administration, to identify financial institutions and their characteristics. Unless otherwise specified, the numbers provided include appropriate projections made to account for any missing information, for example, any institutions that do not report under HMDA. The Bureau also utilizes data from the Bureau of Labor Statistics of the U.S. Department of Labor.

The Bureau analyzes data from all creditors, both the ones that report under HMDA and the ones that do not, with the exception of non-depository institutions that do not report under HMDA. For HMDA reporters, the Bureau uses the data reported.

to industry's implementation challenges, the Bureau believes that the delay of the effective date beyond the CRA Effective Date could benefit many of these creditors, mortgage brokers, and settlement agents, by allowing them more time to transition to the new integrated disclosures required by the TILA–RESPA Final Rule and Amendments and by diminishing the magnitude of any potential disruptions associated with the transition. The delay in the effective date could also benefit them to the extent that it allows them to delay incurring any of the costs described in the TILA–RESPA Final Rule section 1022(b)(2) analysis.[37]

Creditors and other affected persons might also incur costs due to the delay of the effective date of the TILA–RESPA Final Rule and Amendments. The Bureau estimated in its section 1022(b)(2) analysis of the TILA–RESPA Final Rule that 95 percent of creditors (about 10,600) rely on third-party vendors for their software, and the Bureau estimates that these creditors will not incur significant software programming costs.[38] However, for the 5 percent of creditors (approximately 560) that do not rely on third-party vendors, the change of the effective date will require additional programming expense. While a portion of this cost is already imposed by the delay in the effective date to the CRA Effective Date and therefore is not imposed by this final rule, the Bureau believes that some of this cost might be greater with the delay of the effective date to October 3. The Bureau specifically requested comment on the extent of programming expense but received no specific comments thereon.

Moreover, the delay might also require rearranging already established operational schedules and business processes. This potential disruption might be costly and require additional effort from employees and additional expenses due to, for example, overtime pay. This potential disruption might especially affect creditors not relying primarily on third-party vendors. The Bureau believes that mortgage brokers and settlement agents will incur similar coordination and implementation costs.

Finally, affected covered persons will incur costs in internal communications, training, and software re-programming, among other costs. The Bureau believes that the change in the effective date might require communicating with any external suppliers of forms and booklets and potentially ordering additional forms in the current format. Any pre-ordered Loan Estimates or Closing Disclosures that comply with the TILA–RESPA Final Rule and Amendments will still be usable after October 3, and the Bureau does not believe that the current forms are significantly more expensive than the ones that are required by the TILA–RESPA Final Rule and Amendments; thus, there should be no net increase in expense of procuring forms and booklets. While many of these costs are already imposed as a result of the delay in the effective date to the CRA Effective Date (and therefore are not costs imposed by this final rule), the Bureau believes that some of the costs may be greater because this final rule further delays the effective date until October 3.

The Bureau is uncertain as to the extent of the foregoing costs. The Bureau requested comments on the magnitude of such costs, but there were no comments submitted that provided a representative basis for quantification. The Bureau is therefore unable to quantify the costs for industry participants associated with delaying the effective date from the CRA Effective Date to October 3, 2015.

*C. Impact on Depository Institutions With No More Than $10 Billion in Assets*

The vast majority of the creditors described above have no more than $10 billion in assets. The Bureau believes that depository institutions with no more than $10 billion in assets will not be differentially affected by the extension of the effective date.

*D. Impact on Access to Credit*

The Bureau does not believe that there will be an adverse impact on credit availability resulting from this final rule.

*E. Impact on Rural Areas*

The Bureau does not believe that this final rule will have a unique impact on consumers in rural areas.

**IX. Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA),[39] as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[40] requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small nonprofit organizations. The RFA defines a ''small business'' as a business that meets the size standard developed by the Small Business Administration (SBA) pursuant to the Small Business Act.[41]

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis and a final regulatory flexibility analysis of any proposed rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an initial regulatory flexibility analysis is required.

In the Proposed Rule, the Bureau concluded that the proposed extension of the effective date, if adopted, would not have a significant economic impact on a substantial number of small entities and that an initial regulatory flexibility analysis was therefore not required. This final rule adopts the Proposed Rule substantially as proposed.[42] Therefore, a final regulatory flexibility analysis is not required.

As discussed above, this final rule extends the effective date of the TILA–RESPA Final Rule and Amendments and technical amendments to October 3, 2015.

*A. Number and Classes of Affected Entities*

The following table summarizes the estimated number and type of entities that will be affected by this final rule.[43]

For HMDA non-reporters, the Bureau uses projections based on the match of the Call Report data with HMDA.

[37] *See* 78 FR 79730, 80073–89 (Dec. 31, 2013).

[38] *Id.* at 80081, 80101.

[39] Public Law 96–354, 94 Stat. 1164 (1980).

[40] Public Law 104–121, section 241, 110 Stat. 847, 864–65 (1996).

[41] 5 U.S.C. 601(3). The Bureau may establish an alternative definition after consultation with SBA and an opportunity for public comment.

[42] In addition to adopting the Proposed Rule substantially as proposed, this final rule also includes technical corrections to two provisions of the TILA–RESPA Final Rule to resolve potential inconsistencies in the TILA–RESPA Final Rule requirements that could have resulted in creditors being inadvertently out of compliance. Under section 601(2) of the RFA, ''rule'' means ''any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law[.]'' As discussed in Part VII above, the Bureau has found that notice and comment are unnecessary for the issuance of these technical corrections. Therefore, these technical corrections are not considered in the Bureau's RFA certification analysis.

[43] The Bureau assumes that all mortgage creditor non-depository institutions are below the Small Business Administration's threshold for small entities (annual receipts of $38.5 million). *See* 13 CFR 121.201 (listing applicable size standard for NAICS code 522292). Consistent with the TILA–RESPA Final Rule, the Bureau has not reviewed the impact on software vendors for the purposes of this analysis. 78 FR 79730, 80089–100 (Dec. 31, 2013).

| Category | NAICS codes | Affected entities | Small affected entities |
|---|---|---|---|
| Mortgage Creditors | 522110, 522120, 522130, 522292 | 11,150 | 10,403 |
| Mortgage Brokers | 522310 | 7,007 | 6,895 |
| Settlement Agents | 541191 | 7,719 | 7,580 |

The Bureau believes that, as in the section 1022(b)(2) analysis of the TILA–RESPA Final Rule, 5 percent of all creditors, including small creditors, do not utilize software vendors.[44] Small creditors who do not use software vendors could incur greater costs, but the fraction of small creditors incurring these costs (at most 5 percent) is not substantial.

*B. Certification*

Accordingly, the undersigned hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

**X. Paperwork Reduction Act Analysis**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies are generally required to seek Office of Management and Budget (OMB) approval for information collection requirements prior to implementation. Under the PRA, the Bureau may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays a currently valid control number assigned by OMB. The collections of information related to the TILA–RESPA Final Rule, *Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z)* (78 FR 79730), have been previously reviewed and approved by OMB in accordance with the PRA and assigned OMB Control Numbers 3170–0015 (Regulation Z) and 3170–0016 (Regulation X). These OMB approvals will become active on October 3, 2015, the effective date of the TILA–RESPA Final Rule as established herein.

The Bureau has determined that this final rule would not have any new or revised information collection requirements (recordkeeping, reporting, or disclosure requirements) on covered entities or members of the public that would constitute collections of information requiring OMB approval under the PRA.

**List of Subjects in 12 CFR Part 1026**

Advertising, Consumer protection, Credit, Credit unions, Mortgages, National banks, Recordkeeping and recordkeeping requirements, Reporting, Savings associations, Truth in lending.

**Authority and Issuance**

For the reasons set forth in the preamble, the Bureau amends Regulation Z, 12 CFR part 1026, as set forth below:

## PART 1026—TRUTH IN LENDING (REGULATION Z)

■ 1. The authority citation for part 1026 continues to read as follows:

**Authority:** 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

■ 2. In amendatory instruction 5 appearing on page 65325 in the **Federal Register** on November 3, 2014, change ''Effective August 1, 2015'' to read ''Effective October 3, 2015.''

## Subpart E—Special Rules for Certain Home Mortgage Transactions

■ 3. Section 1026.38 is amended by revising paragraphs (i)(8)(ii), (i)(8)(iii)(A), and (j)(1)(iv) to read as follows:

**§ 1026.38 Content of disclosures for certain mortgage transactions (Closing Disclosure).**

* * * * *

(i) * * *

(8) * * *

(ii) Under the subheading ''Final,'' the amount equal to the total of the amounts disclosed under paragraphs (j)(1)(iii) and (v) through (x) of this section reduced by the total of the amounts disclosed under paragraphs (j)(2)(vi) through (xi) of this section.

(iii) * * *

(A) If the amount disclosed under paragraph (i)(8)(ii) of this section is different than the amount disclosed under paragraph (i)(8)(i) of this section (unless the difference is due to rounding), a statement of that fact, along with a statement that the consumer should see the details disclosed under paragraphs (j)(1)(iii) and (v) through (x) and (j)(2)(vi) through (xi) of this section; or

* * * * *

(j) * * *

(1) * * *

(iv) The total amount of closing costs disclosed that are designated borrower-paid at closing, as the sum of the amounts calculated pursuant to paragraphs (h)(2) and (3) of this section, labeled ''Closing Costs Paid at Closing''; * * * * *

■ 4. In Supplement I to Part 1026—Official Interpretations, as amended by 78 FR 79730 (Dec. 31, 2013):

■ A. Under *Section 1026.1—Authority, Purpose, Coverage, Organization, Enforcement and Liability,* under *Paragraph 1(d)(5),* paragraph 1 is revised.

■ B. Under *Section 1026.19—Certain Mortgage and Variable-Rate Transactions,* under *19(g)(2) Permissible changes,* paragraph 3 is revised.

The revisions read as follows:

**Supplement I to Part 1026—Official Interpretations**

* * * * *

## Subpart A—General

Section 1026.1—Authority, Purpose, Coverage, Organization, Enforcement and Liability

* * * * *

1(d) Organization

Paragraph 1(d)(5)

1. *Effective date.* The Bureau's revisions to Regulation X and Regulation Z published on December 31, 2013 (the TILA–RESPA Final Rule), apply to covered loans (closed-end credit transactions secured by real property) for which the creditor or mortgage broker receives an application on or after October 3, 2015 (the ''effective date''), except that new § 1026.19(e)(2), the amendments to § 1026.28(a)(1), and the amendments to the commentary to § 1026.29, become effective on October 3, 2015, without respect to whether an application has been received. The provisions of § 1026.19(e)(2) apply prior to a consumer's receipt of the disclosures required by § 1026.19(e)(1)(i), and therefore, restrict activity that may occur prior to receipt of an application by a creditor or mortgage broker under § 1026.19(e). These provisions include § 1026.19(e)(2)(i), which restricts the fees that may be imposed on a consumer, § 1026.19(e)(2)(ii), which requires a statement to be included on written estimates of terms or costs

[44] 78 FR 79730, 80081 (Dec. 31, 2013).

specific to a consumer, and § 1026.19(e)(2)(iii), which prohibits creditors from requiring the submission of documents verifying information related to the consumer's application. Accordingly, the provisions under § 1026.19(e)(2) are effective on October 3, 2015, without respect to whether an application has been received on that date. In addition, the amendments to § 1026.28 and the commentary to § 1026.29 govern the preemption of State laws and thus, the amendments to those provisions and associated commentary made by the TILA–RESPA Final Rule are effective on October 3, 2015, without respect to whether an application has been received on that date. The following examples illustrate the application of the effective date for the TILA–RESPA Final Rule.

i. *General.* Assume a creditor receives an application, as defined under § 1026.2(a)(3) of the TILA–RESPA Final Rule, for a transaction subject to § 1026.19(e) and (f) on October 3, 2015, and that consummation of the transaction occurs on October 31, 2015. The amendments of the TILA–RESPA Final Rule, including the requirements to provide the Loan Estimate and Closing Disclosure under § 1026.19(e) and (f), apply to the transaction. The creditor would also be required to provide the special information booklet under § 1026.19(g) of the TILA–RESPA Final Rule, as applicable. Assume a creditor receives an application, as defined under § 1026.2(a)(3) of the TILA–RESPA Final Rule, for a transaction subject to § 1026.19(e) and (f) on September 30, 2015, and that consummation of the transaction occurs on October 30, 2015. The amendments of the TILA–RESPA Final Rule, including the requirements to provide the Loan Estimate and Closing Disclosure under § 1026.19(e) and (f), do not apply to the transaction, except that the provisions of § 1026.19(e)(2), specifically § 1026.19(e)(2)(i), (e)(2)(ii), and (e)(2)(iii), do apply to the transaction beginning on October 3, 2015, because they become effective on October 3, 2015, without respect to whether an application, as defined under § 1026.2(a)(3) of the TILA–RESPA Final Rule, has been received by the creditor or mortgage broker on that date. The creditor does not provide the Closing Disclosure so that it is received by the consumer at least three business days before consummation; instead, the creditor and the settlement agent provide the disclosures under § 1026.19(a)(2)(ii) and § 1024.8, as applicable, under the Truth in Lending Act and the Real Estate Settlement Procedures Act, respectively. The requirement to provide the special information booklet under § 1026.19(g) of the TILA–RESPA Final Rule would also not apply to the transaction. But the creditor would provide the special information booklet under § 1024.6, as applicable.

ii. *Predisclosure written estimates.* Assume a creditor receives a request from a consumer for a written estimate of terms or costs specific to the consumer on October 3, 2015, before the consumer submits an application to the creditor, and thus before the consumer has received the disclosures required under § 1026.19(e)(1)(i). The creditor, if it provides such written estimate to the consumer, must comply with the requirements of § 1026.19(e)(2)(ii) and provide the required statement on the written estimate, even though the creditor has not received an application for a transaction subject to § 1026.19(e) and (f) on that date.

iii. *Request for preemption determination.* Assume a creditor submits a request to the Bureau under § 1026.28(a)(1) for a determination of whether a State law is inconsistent with the disclosure requirements of the TILA–RESPA Final Rule on October 3, 2015. Because the amendments to § 1026.28(a)(1) are effective on that date and do not depend on whether the creditor has received an application as defined under § 1026.2(a)(3) of the TILA–RESPA Final Rule, § 1026.28(a)(1), as amended by the TILA–RESPA Final Rule, is applicable to the request on that date and the Bureau would make a determination based on the amendments of the TILA–RESPA Final Rule, including, for example, the requirements of § 1026.37.

## Subpart C—Closed End Credit

* * * * *

Section 1026.19—Certain Mortgage and Variable-Rate Transactions

* * * * *

*19(g)(2) Permissible changes.*

* * * * *

3. *Permissible changes to title of booklets in use before October 3, 2015.* Section 1026.19(g)(2)(iv) provides that the title appearing on the cover of the booklet shall not be changed. Comment 19(g)(1)–1 states that the Bureau may, from time to time, issue revised or alternative versions of the special information booklet that address transactions subject to § 1026.19(g) by publishing a notice in the **Federal Register**. Until the Bureau issues a version of the special information booklet relating to the Loan Estimate and Closing Disclosure under §§ 1026.37 and 1026.38, for applications that are received on or after October 3, 2015, a creditor may change the title appearing on the cover of the version of the special information booklet in use before October 3, 2015, provided the words ''settlement costs'' are used in the title. See comment 1(d)(5)–1 for guidance regarding compliance with § 1026.19(g) for applications received on or after October 3, 2015.

* * * * *

Dated: July 20, 2015.

**Richard Cordray,**

*Director, Bureau of Consumer Financial Protection.*

[FR Doc. 2015–18239 Filed 7–22–15; 11:15 am]

BILLING CODE 4810–AM–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0572; Directorate Identifier 2014–NM–027–AD; Amendment 39–18214; AD 2015–15–05]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 98–22–10 for certain The Boeing Company Model 737–100, –200, –200C, and –300 series airplanes. AD 98–22–10 required repetitive inspections for cracking of the aft frame and frame support structure of the forward service doorway, and repair if necessary. AD 98–22–10 also provided an optional terminating action for the repetitive inspection requirements of that AD. This new AD requires new inspections and adds airplanes to the applicability; for certain airplanes, this new AD provides an optional preventive modification, which terminates the repetitive inspections. This AD was prompted by reports of fatigue cracking of the aft frame and frame support structure of the forward service doorway around the six doorstop fittings, and a determination that inspections are needed in additional locations and that additional airplanes might be subject to the identified unsafe condition. We are issuing this AD to detect and correct fatigue cracking of the aft frame and frame support structure of the forward service doorway around the six

doorstop fittings, which could result in door deflection and loss of pressurization.

**DATES:** This AD is effective August 28, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 28, 2015.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; phone: 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. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0572.

**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–2014–0572; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Nenita Odesa, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5234; fax: 562–627–5210; email: *nenita.odesa@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 98–22–10, Amendment 39–10858 (63 FR 57240, October 27, 1998). AD 98–22–10 applied to certain The Boeing Company Model 737–100, –200, –200C, and –300 series airplanes. The NPRM was published in the **Federal Register** on August 26, 2014 (79 FR 50867). The NPRM was prompted by reports of cracking in the surround structure of the forward galley service doorway between body station (STA) 332.1 and STA 344, which are outside the inspection area of AD 98–22–10, and by reports that cracking has been discovered on airplanes outside the applicability of AD 98–22–10. We have determined that inspections are needed in additional locations, and that additional airplanes are subject to the identified unsafe condition.

The NPRM (79 FR 50867, August 26, 2014) proposed to continue to require repetitive inspections for cracking of the aft frame and frame support structure of the forward service doorway, and repair if necessary. The NPRM also proposed to add inspections, add airplanes to the applicability, and for certain airplanes, provide an optional preventive modification, which would terminate the repetitive inspections. We are issuing this AD to detect and correct fatigue cracking of the aft frame and frame support structure of the forward service doorway around the six doorstop fittings, which could result in door deflection and loss of pressurization.

**Comments**

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (79 FR 50867, August 26, 2014) and the FAA's response to each comment.

**Request To Clarify Wording in NPRM (79 FR 50867, August 6, 2014)**

Boeing stated paragraph 1.E, ''Compliance,'' of Boeing Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, provides actions for airplanes repaired or modified previously where the preventive modifications have been accomplished. Boeing stated that paragraph (l)(4) of the proposed AD reads: ''AMOCs approved for AD 98–22–10, Amendment 39–10858 (63 FR 57240, October 27, 1998), are approved as AMOCs for the corresponding provisions of this AD.'' Boeing interpreted the latter statement to mean that AMOCs approved for AD 98–22–10 do not supersede (or negate) the additional inspection requirements provided in Boeing Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, and requested concurrence with its interpretation of this language.

We agree with Boeing's interpretation. Paragraph (m)(4) of this AD (paragraph (l)(4) of the proposed AD) establishes that an AMOC issued for actions performed in accordance with AD 98–22–10, Amendment 39–10858 (63 FR 57240, October 27, 1998), satisfies the corresponding provisions, and only those corresponding provisions, of the this AD. All requirements of this AD must be satisfied, whether by previous AMOC, accomplishment of the specified AD actions, or a new AMOC. We have not changed this AD in this regard.

**Request To Clarify Actions That Are Not Required**

Southwest Airlines (Southwest) noted that paragraph (h) of the proposed AD (79 FR 50867, August 26, 2014) would provide terminating action for the repetitive inspections required by paragraph (g) of this AD. Southwest requested that we revise the NPRM to state that the post preventive modification inspections specified in tables 9, 10, 11, and 12 in paragraph 1.E, ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, would not be required. Southwest also requested that this provision apply to paragraph (k) of the proposed AD (paragraph (l) of this AD), which specifies credit for actions done previously using Boeing Alert Service Bulletin 737–53A1108, Revision 6, dated January 9, 2014.

We agree with the requests. While the post-preventive modification inspections specified by tables 9 through 12 in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, may be used in support of compliance with section 121.1109(c)(2) or 129.109(b)(2) of the Federal Aviation Regulations (14 CFR 121.1109(c)(2) or 14 CFR 129.109(b)(2)), those actions are not required by this AD. We have revised paragraph (g) of this AD by specifying the required parts of the service information: Parts 2 and 4. We have also added new paragraph (j) in this final rule to specify that post-preventive modification inspections (Part 6) are not required by this AD. We have redesignated subsequent paragraphs of this AD accordingly.

**Effect of Winglets on This AD**

Aviation Partners Boeing stated that accomplishing the supplemental type certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) does not affect accomplishment of the actions specified in the NPRM (79 FR 50867, August 26, 2014).

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD (79 FR 50867, August 26, 2014) as (c)(1) and added new paragraph (c)(2) to this AD to state that installation of STC ST01219SE (*http://rgl.faa.gov/*

*Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this final rule. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product''' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

**Explanation of Additional Changes Made to This AD**

We have updated the Costs of Compliance section to add existing inspection and repair costs from AD 98–22–10, Amendment 39–10858 (63 FR 57240, October 27, 1998).

We have changed paragraph (b) of this AD to add AD 90–06–02, Amendment 39–6489, (55 FR 8372, March 7, 1990), as an affected AD since accomplishment of the preventative modification required by paragraph (h) of this AD is an alternative method of compliance for paragraph A. of AD 90–06–02.

In various locations, Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, cites Boeing Alert Service Bulletin 737–53A1108, Revision 6, dated January 9, 2014, instead of Revision 7 of the service information. We have added a new paragraph (k)(3) in this AD to clarify that, where Revision 7 of the service information specifies accomplishment of a preventative modification be done using Revision 6 of the service information, this AD requires accomplishment of that preventative modification with Revision 7 of this service information.

We also noted a discrepancy in table 4 of paragraph 1.E., ''Compliance,'' in Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014. Although the fourth action is an inspection of the intercostals ''and attaching stringers,'' the corresponding corrective action specified in table 4 is for only a crack in ''an intercostal.'' We have confirmed with Boeing that the ''attaching stringers'' were inadvertently omitted from this condition in table 4. Repair of a cracked attaching stringer, however, is described in PART 4, paragraph 7, of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014. We have added a new paragraph (k)(4) in this AD to specify that cracking in the attaching stringers also requires repair.

**Conclusion**

We reviewed the relevant data, considered the comments 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 50867, August 26, 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 50867, August 26, 2014).

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

**Related Service Information Under 1 CFR Part 51**

We reviewed Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014. The service information describes procedures for inspections for cracking of the aft frame and frame support structure of the forward service doorway, and repair if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

**Costs of Compliance**

We estimate that this AD affects 419 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 |
|---|---|---|---|---|
| Inspection [retained actions from AD 98–22–10, Amendment 39–10858 (63 FR 57240, October 27, 1998)]. | 7 work-hours × $85 per hour = $595 per inspection cycle. | $0 ..... | $595 per inspection cycle. | $249,305 per inspection cycle. |
| Inspection [new AD action] ..... | 28 work-hours × $85 per hour = $2,380 per inspection cycle. | None ..... | $2,380 per inspection cycle. | $997,220 per inspection cycle. |

ESTIMATED COSTS FOR ON-CONDITION ACTIONS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Repair [retained actions from AD 98–22–10, Amendment 39–10858 (63 FR 57240, October 27, 1998)]. | 42 work-hours × $85 per hour = $3,570 ..... | $913 | $4,483 |

ESTIMATED COSTS FOR OPTIONAL MODIFICATION

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Repair/preventive modification [new AD action]. | Between 12 and 17 work-hours × $85 per hour = between $1,020 and $1,445. | Between $90 and $913 .. | Between $1,110 and $2,358. |

**Authority for This Rulemaking**

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

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

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

## Regulatory Findings

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

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 98–22–10, Amendment 39–10858 (63 FR 57240, October 27, 1998), and adding the following new AD:

**2015–15–05 The Boeing Company:** Amendment 39–18214; Docket No. FAA–2014–0572; Directorate Identifier 2014–NM–027–AD.

**(a) Effective Date**

This AD is effective August 28, 2015.

**(b) Affected ADs**

(1) This AD replaces AD 98–22–10, Amendment 39–10858 (63 FR 57240, October 27, 1998).

(2) This AD affects AD 90–06–02, Amendment 39–6489 (55 FR 8372, March 7, 1990).

**(c) Applicability**

(1) This AD applies to The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by reports of fatigue cracking of the aft frame and frame support structure of the forward service doorway around the six doorstop fittings, and a determination that inspections are needed in additional locations and that additional airplanes might be subject to the identified unsafe condition. We are issuing this AD to detect and correct fatigue cracking of the aft frame and frame support structure of the forward service doorway around the six doorstop fittings, which could result in door deflection and loss of pressurization.

**(f) Compliance**

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

**(g) Inspections and Corrective Actions**

At the applicable times specified in tables 1 through 6 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, except as required by paragraph (k)(1) of this AD: Do detailed inspections of the frame web between body station (STA) 332.1 and STA 344, intercostal T-brackets, intercostal T-chords, intercostals, and stringers, as applicable; do high frequency eddy current (HFEC) inspections for cracking of door stop intercostal T-brackets, intercostal web, door stop intercostal T-chords, intercostals, and stringers, as applicable; and do all applicable related investigative and corrective actions; in accordance with Parts 2 and 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, except as required by paragraphs (k)(2) through (k)(4) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the inspections at the applicable times specified in tables 1 through 6 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, until the terminating action specified in paragraph (h) of this AD is done.

**(h) Optional Terminating Action**

For Group 1, Configuration 1; Group 1, Configuration 2; Group 2; Group 3; Group 4, Configuration 1; and Group 4, Configuration 2 airplanes identified in Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014: Accomplishment of a preventive modification in accordance with Part 5 of Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, terminates the repetitive inspections required by paragraph (g) of this AD.

**(i) Inspections and Corrective Actions for Group 5 Airplanes**

For Group 5 airplanes identified in Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014: Within 120 days after the effective date of this AD, inspect and repair any cracking using a method approved in accordance with the procedures specified in paragraph (m) of this AD. Repair any cracking, before further flight.

**(j) Post Preventive Modification Inspections Not Required**

The post preventive modification inspections specified in tables 9 through 12 in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1108, Revision 6, dated January 9, 2014; and Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014; are not required by this AD.

**Note 1 to paragraph (j) of this AD:** Tables 9 through 12 in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1108, Revision 6, dated January 9, 2014; and Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014; specify that post preventive modification inspections may be used in support of compliance with section 121.1109(c)(2) or 129.109(b)(2) of the Federal Aviation Regulations (14 CFR 121.1109(c)(2) or 14 CFR 129.109(b)(2)). The corresponding actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1108, Revision 6, dated January 9, 2014; and Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014; are not required by this AD.

**(k) Exceptions to the Service Information**

(1) Where Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, specifies a compliance time ''after the issue date of Revision 6 of this service bulletin,'' this AD requires compliance within the specified time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, specifies to contact Boeing for repair instructions: Before further flight, repair the cracking using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

(3) Where Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, specifies accomplishment of a preventative modification in accordance with ''Revision 6 of this service bulletin,'' this AD requires accomplishment of those actions to be done in accordance with Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014.

(4) Where table 4 in paragraph 1.E, ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, specifies repairing a condition identified as any crack found in ''an intercostal,'' this AD requires repairing a condition identified as any crack found in ''an intercostal or attaching stringers.''

**(l) Credit for Previous Actions**

This paragraph provides credit for the 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 737–53A1108, Revision 6, dated January 9, 2014. This service information is not incorporated by reference in this AD.

**(m) 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 (n)(1) of this AD. Information may be emailed to: *9-ANM-LAACO-ACO-AMOC-Requests@faa.gov.*

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

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

(4) AMOCs approved previously for AD 98–22–10, Amendment 39–10858 (63 FR 57240, October 27, 1998), are approved as AMOCs for the corresponding provisions of this AD.

(5) Accomplishment of the preventive modification in accordance with Boeing Alert Service Bulletin 737–53A1108, Revision 7, dated July 7, 2014, as required by paragraph (h) of this AD, is an AMOC for the structural modification specified in Boeing Alert Service Bulletin 737–53A1108 that is required by paragraph A. of AD 90–06–02, Amendment 39–6489, (55 FR 8372, March 7, 1990), for the airplanes identified in paragraph (h) of this AD.

**(n) Related Information**

(1) For more information about this AD, contact Nenita Odesa, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5234; fax: 562–627–5210; email: *nenita.odesa@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraph (o)(3) of this AD.

**(o) 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 737–53A1108, Revision 7, dated July 7, 2014. (ii) Reserved.

(3) For Boeing 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; phone: 206–544–5000, extension 1; fax: 206–766–5680; Internet *https://www.myboeingfleet.com.*

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

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

Issued in Renton, Washington, on July 10, 2015.

**Jeffrey E. Duven,**

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

[FR Doc. 2015–17977 Filed 7–23–15; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–0679; Directorate Identifier 2013–NM–182–AD; Amendment 39–18211; AD 2015–15–02]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2012–13–06, for all Airbus Model A300 series airplanes and all Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). AD 2012–13–06 required a one-time detailed inspection to determine the length of the fire shut-off valve (FSOV) bonding leads and for contact or chafing of the wires, and corrective actions if necessary. This new AD requires a new one-time detailed inspection of the FSOV bonding leads to ensure that the correct bonding leads are inspected, and corrective action if necessary. This AD was prompted by a determination that the description of the inspection area specified in the service information was misleading; therefore, some operators might have inspected incorrect bonding leads. We are issuing this AD to detect and correct contact or chafing of wires and the bonding leads, which, if not detected, could be a source of sparks in the wing trailing edge, and could lead to an uncontrolled engine fire.

**DATES:** This AD becomes effective August 28, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 28, 2015.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-0679;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.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. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0679.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA

98057–3356; telephone 425–227–2125; fax 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

## Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2012–13–06, Amendment 39–17108 (77 FR 40485, July 10, 2012). AD 2012–13–06 applied to all Airbus Model A300 series airplanes and all Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). The NPRM published in the **Federal Register** on March 31, 2015 (80 FR 17003). The NPRM was prompted by a determination that the description of the inspection area specified in the service information was misleading; therefore, some operators might have inspected incorrect bonding leads. The NPRM proposed to require a new one-time detailed inspection of the FSOV bonding leads to ensure that the correct bonding leads are inspected, and corrective action if necessary. We are issuing this AD to detect and correct contact or chafing of wires and the bonding leads, which, if not detected, could be a source of sparks in the wing trailing edge, and could lead to an uncontrolled engine fire.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0204, dated September 6, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition. The MCAI states:

> During a scheduled maintenance check, one operator reported inoperative Fire Shut Off Valve (FSOV). Investigations showed damage at wire located between engine 2 hydraulic FSOV and wing rear spar, in the zones 575/675, and at bonding lead, located between wing rib 7A and rib 8 below hydraulic pressure lines.
>
> Similar inspections on different aeroplanes have shown that one of the causes of damage is the contact between bonding lead and the harness, due to over length of the bonding lead.
>
> This condition, if not detected and corrected, could lead to either:
>
> —A potential explosive condition on-ground if the FSOV, that is installed in fuel vapor zone is commanded to close position, or
>
> —a temporary uncontrolled engine fire, if combined with a fire event in the nacelle fed by an hydraulic leakage and not controlled by the fire extinguishing system.
>
> As the affected wire is not powered during normal operation, no defect can be detected unless a test is performed on the FSOV during maintenance check.
>
> EASA issued AD 2011–0084 [*http://ad.easa.europa.eu/blob/easa_ad_2011_0084.pdf/AD_2011-0084_Superseded*] which required a one-time [detailed] inspection of the wires [for contact or chafing] located between [LH/RH] engines hydraulic FSOV and wing rear spar in the zones 575/675, and the bonding lead [for length] that is located between rib 7A and rib 8 below hydraulic pressure lines, and corrective actions [repair of wires or replacement of bonding leads] depending on findings.
>
> It appeared that the original issue of the Airbus inspection Service Bulletins (SB's) as well as EASA AD 2011–0084 might have caused possible misunderstandings on the exact bonding leads and wires that are required to be inspected.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2011–0084, which is superseded, and requires additional work on aeroplanes that have already been inspected in accordance with the instructions of the original issue of the SB's.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0679-0002.*

## Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 17003, March 31, 2015) or on the determination of the cost to the public.

## Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (80 FR 17003, March 31, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 17003, March 31, 2015).

## Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A300–24–0106, Revision 01, dated March 26, 2013 (for Model A300 series airplanes); and Service Bulletin A300–24–6108, Revision 01, dated March 26, 2013 (for Model A300–600 series airplanes). The service information describes procedures for inspecting the FSOV bonding leads, corrective actions, and repair of the associated wires. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

## Costs of Compliance

We estimate that this AD affects 123 airplanes of U.S. registry.

We estimate that it takes about 8 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts cost about $500 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $145,140, or $1,180 per product.

In addition, we estimate that any necessary follow-on actions take about 1 work-hour and require parts costing $50, for a cost of $135 per product. We have no way of determining the number of products that may need these actions.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-0679;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

## 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) 2012–13–06, Amendment 39–17108 (77 FR 40485, July 10, 2012), and adding the following new AD:

**2015–15–02 Airbus:** Amendment 39–18211. Docket No. FAA–2015–0679; Directorate Identifier 2013–NM–182–AD.

**(a) Effective Date**

This AD becomes effective August 28, 2015.

**(b) Affected ADs**

This AD replaces AD 2012–13–06, Amendment 39–17108 (77 FR 40485, July 10, 2012).

**(c) Applicability**

This AD applies to the airplanes specified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

(2) Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, and F4–622R airplanes.

(3) Airbus Model A300 C4–605R Variant F airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 24, Electrical Power.

**(e) Reason**

This AD was prompted by a determination that the description of the inspection area specified in the service information was misleading; therefore, some operators might have inspected incorrect bonding leads. We are issuing this AD to detect and correct contact or chafing of wires and the bonding leads, which, if not detected, could be a source of sparks in the wing trailing edge, and could lead to an uncontrolled engine fire.

**(f) Compliance**

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

**(g) Inspection of the Fire Shut-Off Valve (FSOV) Bonding Leads**

At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD: Do a one-time detailed inspection to determine the length of the FSOV bonding leads, and to detect contact or chafing of the wires located on the left-hand (LH) and right-hand (RH) sides of the wing rear spar, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–24–0106, Revision 01, dated March 26, 2013 (for Model A300 series airplanes); or Airbus Service Bulletin A300–24–6108, Revision 01, dated March 26, 2013 (for Model A300–600 series airplanes); as applicable.

(1) For airplanes on which the inspection required by paragraph (g) of AD 2012–13–06, Amendment 39–17108 (77 FR 40485, July 10, 2012), has not been done as of the effective date of this AD: Inspect within 4,500 flight hours or 30 months after August 14, 2012 (the effective date of AD 2012–13–06), whichever occurs first.

(2) For airplanes on which the inspection required by paragraph (g) of AD 2012–13–06, Amendment 39–17108 (77 FR 40485, July 10, 2012), has been done as of the effective date of this AD: Inspect within 4,500 flight hours or 30 months after the effective date of this AD, whichever occurs first.

**(h) Corrective Action for FSOV Bonding Leads**

If, during the inspection required by paragraph (g) of this AD, the length of the bonding lead(s) is more than 80 millimeters (mm) (3.15 inches): Before further flight, replace the bonding lead(s) with a new bonding lead having a length equal to 80 mm ± 2 mm (3.15 inches) ± 0.08 inch, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraph (g) of this AD.

**(i) Repair of the Wires of the LH and RH Sides**

If, during the inspection required by paragraph (g) of this AD, any contact or chafing of the wires is found, repair the wires before further flight, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraph (g) of this AD.

**(j) Parts Installation Prohibition**

As of August 14, 2012 (the effective date of AD 2012–13–06, Amendment 39–17108 (77 FR 40485, July 10, 2012), no person may install any bonding lead longer than 80 mm ± 2 mm (3.15 inches) ± 0.08 inch, located between the LH/RH engine hydraulic FSOV and wing rear spar in zones 575/675 on any airplane.

**(k) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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 International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Contacting the Manufacturer: As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(l) Related Information**

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0204, dated September 6, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0679.

**(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 this AD specifies otherwise.

(3) The following service information was approved for IBR on August 28, 2015.

(i) Airbus Service Bulletin A300–24–0106, Revision 01, dated March 26, 2013.

(ii) Airbus Service Bulletin A300–24–6108, Revision 01, dated March 26, 2013.

(4) For service information identified in this AD, contact Airbus SAS, Airworthiness

Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(5) 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.

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

Issued in Renton, Washington, on July 10, 2015.

**Michael Kaszycki,**

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

[FR Doc. 2015–17935 Filed 7–23–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2014–0748; Directorate Identifier 2014–NM–013–AD; Amendment 39–18219; AD 2015–15–10]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all Airbus Model A318, A319, A320, and A321 series airplanes. This AD was prompted by reports of wear of the trimmable horizontal stabilizer actuator (THSA). This AD requires repetitive inspections of the THSA for damage, and replacement if necessary; and replacement of the THSA after reaching a certain life limit. We are issuing this AD to detect and correct wear on the THSA, which would reduce the remaining life of the THSA, possibly resulting in premature failure and consequent reduced control of the airplane.

**DATES:** This AD becomes effective August 28, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 28, 2015.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0748* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.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. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA 2014–0748.

**FOR FURTHER INFORMATION CONTACT:** Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

**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 all Airbus Model A318, A319, A320, and A321 series airplanes. The NPRM published in the **Federal Register** on October 16, 2014 (79 FR 62072).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0011R1, dated January 17, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition. The MCAI states:

> In the frame of the A320 Extended Service Goal (ESG) project and the study on the Trimmable Horizontal Stabilizer Actuator (THSA), a sampling programme of in-service units has been performed and several cases of wear at different THSA levels were reported.
>
> This condition, if not detected and corrected, would reduce the remaining life of the THSA, possibly resulting in premature failure and consequent reduced control of the aeroplane.
>
> Prompted by these findings, Airbus issued Service Bulletin (SB) A320–27–1227 to provide THSA inspection instructions.
>
> For the reasons described above, this [EASA] AD requires repetitive inspections of the THSA and introduces a life limit for the THSA.
>
> This AD also requires a detailed inspection of the magnetic chip detector for metal particles, a spectrometric analysis of the oil drained from the THSA gearbox, a detailed inspection of the ballscrew and nut, and a detailed inspection of the upper and the lower attachments for damage. The corrective action is replacement of the THSA with a serviceable THSA. The compliance time for the THSA replacement ranges from before further flight to within 4 months from drainage of the oil sample.
>
> You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0748-0002.*

### Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received. The following presents the comments received on the NPRM (79 FR 62072, October 16, 2014) and the FAA's response to each comment.

### Requests To Extend Compliance Time

Airlines for America (A4A), on behalf of American Airlines (AAL), Delta Airlines (DAL), and United Airlines (UAL), requested that we extend the initial inspection compliance time in paragraph (g)(2) of the NPRM (79 FR 62072, October 16, 2014) from 4 months to 12 months after the effective date of the AD. A4A stated that the fleet age of multiple U.S. carriers means that a large number of airplanes will require inspection in a short period of time, likely resulting in schedule disruptions and/or cancellations.

We disagree with the commenters' request. We base AD compliance times primarily on our assessment of safety risk. Some safety issues are more time sensitive than others. We consider the overall risk to the fleet, including the severity of the failure and the likelihood of the failure's occurrence in development of the compliance time for the ADs. The FAA and EASA work closely with the respective manufacturers to ensure that all appropriate instructions and parts are available at the appropriate time to meet our collective safety goals, and that those goals are based on safety of the fleet. We have not changed this AD in this regard.

### Requests To Clarify Wording in Paragraphs (h) and (j) of the NPRM (79 FR 62072, October 16, 2014)

A4A, on behalf of UAL and JetBlue, requested that we clarify the wording of

the flight time/cycle guidance in paragraphs (h) and (j) of the NPRM (79 FR 62072, October 16, 2014). JetBlue asked whether an operator can continue a THSA in service in perpetuity if the inspection is performed every 4 months, or whether the THSA must be removed at 12 months after the effective date of the AD.

We agree that clarification is necessary. If a THSA exceeds 67,500 flight hours on the effective date of the AD, then repetitive inspections are to be accomplished every 4 months until replacement is performed within 12 months after the effective date of the AD. Paragraph (m) of this AD is an exception or an alternative to paragraph (j) of this AD and is intended to match the requirements of the MCAI. We have not changed this AD in this regard.

**Requests To Extend or Remove Life Limit of the THSA**

JetBlue objected to the THSA 67,500-flight-hour life limit specified by paragraph (j) of the NPRM (79 FR 62072, October 16, 2014). JetBlue stated that establishing a life limit for a component that previously had no such life limit, with no overhaul or inspection criteria for continued airworthiness, is an enormous burden for operators. JetBlue commented that both Airbus and UTAS/Goodrich are developing either an overhaul procedure to zero-time the units, or a method to permit continued airworthy operation of the units beyond the 67,500-flight-hour life limit.

A4A stated that an operator that prefers to bear the overhaul costs to restore an older THSA to service beyond 67,500 flight hours should not be precluded from doing so because repair and/or overhaul would return the unit to a new condition, which should address any safety concerns.

We disagree with the commenters' request to change the THSA life limit. JetBlue did not provide substantiation that overhaul or repair methods would provide an acceptable level of safety in lieu of the life limits. The FAA takes into consideration the system safety analysis and quantitative and qualitative risk assessment for establishing a life limit for a component, failure of which may cause a catastrophic failure and consequently affect the safe flight of the airplane. This assessment resulted in establishing the THSA life limit required by paragraph (j) of this AD. Once we issue this AD, a request for approval of an alternative method of compliance (AMOC) to extend the THSA life limit under the provisions of paragraph (o)(1) of this AD may be submitted. Sufficient data must be submitted to substantiate that the THSA has been modified or inspected in a manner that would provide an acceptable level of safety. We have not changed this AD in this regard.

**Requests To Remove Oil Sampling Inspection**

A4A, on behalf of AAL and JetBlue, requested that we remove the proposed oil sampling inspection requirement in paragraph (g) of the NPRM (79 FR 62072, October 16, 2014). A4A stated that there is no data on the correlation between sample findings and associated component wear. JetBlue commented that the sampling test results may be skewed high or low depending on either a low oil level in the THSA at the time of testing or any recent introduction of clean oil.

We disagree with the commenters' request. The oil sampling inspection includes examination for metal particles in the magnetic chip detector. The spectrometric analysis checks for the presence of aluminum particles. Findings may include unusually large quantities of metal particles larger than 2 millimeters by 1 millimeter, which could indicate wear or damage of the THSA. We and our colleagues in the foreign certification authorities (in this case, EASA) work closely with manufacturers to determine appropriate service information for addressing the identified unsafe condition. We have not changed this AD in this regard.

**Request To Clarify Reporting Requirement**

JetBlue requested that we permit the reporting described in Airbus Service Bulletin A320–27–1227, Revision 01, dated October 7, 2013, to be done at the operator's discretion. JetBlue stated that there is no value in the reporting, which does not require quantitative disclosure of the oil sampling result—only pass/fail. JetBlue stated that mandating this reporting requirement adds an undue burden to the operator as there is no information to be gained by having operators report whether or not the THSA was changed.

We agree with the commenter's request. This AD and the EASA MCAI do not include a reporting requirement. However, when the service information includes a reporting request, then operators are encouraged to provide the report. Reports provide data that can be valuable for the airframe original equipment manufacturers to develop product improvements and/or enhance safety. We have not changed this AD in this regard.

**Requests To Revise Cost Estimates**

A4A, on behalf of AAL, JetBlue, and UAL, requested that we revise the cost analysis to accurately reflect the accomplishment burden. A4A stated that the inspections in paragraph (g) of the NPRM (79 FR 62072, October 16, 2014) would require 7 to 9 work-hours rather than 6 work-hours, while removal, replacement, and checkout typically consume 15 to 20 work-hours, not the NPRM estimate of 7 work-hours.

We partially agree with the commenter's request to revise the cost estimate. We recognize that costs may vary from operator to operator. Our cost estimates are based on the manufacturer's service information. The service information for this AD specifies 6 work-hours for the inspection and 11 work-hours for the replacement. Therefore, we have changed the work-hours for the replacement accordingly.

**Clarification of Requirements**

In order to clarify the repetitive compliance times, we have added a reference to ''paragraph (h) of this AD'' within paragraphs (h)(1) and (h)(2) of this AD.

We have also have added a reference to ''paragraph (h) of this AD'' in paragraphs (k) and (l) of this AD to clarify that repetitive inspections are required.

**Conclusion**

We reviewed the relevant data, considered the comments 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 62072, October 16, 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 62072, October 16, 2014).

**Related Service Information Under 1 CFR Part 51**

We reviewed Airbus Service Bulletin A320–27–1227, Revision 01, dated October 7, 2013. The service information describes procedures for an inspection for damage of the THSA and replacement. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

## Costs of Compliance

We estimate that this AD affects 851 airplanes of U.S. registry.

We also estimate that it would take about 6 work-hours per product to comply with the inspection requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost for the inspection specified in this AD on U.S. operators to be $434,010, or $510 per product.

We estimate that it would take about 11 work-hours per product to comply with the actuator replacement requirements of this AD. Required parts would cost about $240,000 per product. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost for the actuator replacement specified in this AD on U.S. operators to be $205,035,685, or $240,935 per product.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0748;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

## 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):

**2015–15–10 Airbus:** Amendment 39–18219. Docket No. FAA–2014–0748; Directorate Identifier 2014–NM–013–AD.

**(a) Effective Date**

This AD becomes effective August 28, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to the Airbus airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, all manufacturer serial numbers.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by reports of wear of the trimmable horizontal stabilizer actuator (THSA). We are issuing this AD to detect and correct wear on the THSA, which would reduce the remaining life of the THSA, possibly resulting in premature failure and consequent reduced control of the airplane.

**(f) Compliance**

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

**(g) Initial Inspections**

At the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD: Do a detailed inspection of the magnetic chip detector for metal particles, a spectrometric analysis of the oil drained from the THSA gearbox, a detailed inspection of the ballscrew and nut for damage (including, but not limited to, cracks, dents, corrosion, and unsatisfactory surface protection), and a detailed inspection of the upper and the lower attachments for damage (including, but not limited to, cracks, dents, corrosion, and unsatisfactory surface protection), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1227, Revision 01, dated October 7, 2013.

(1) Before the THSA accumulates 48,000 total flight hours or 30,000 total flight cycles, whichever occurs first since first installation on an airplane.

(2) Within 4 months after the effective date of this AD.

**(h) Repetitive Inspections**

Repeat the inspections required by paragraph (g) of this AD thereafter at intervals not to exceed the applicable time specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) For a THSA that, as of the date of the most recent inspection required by paragraph (g) or (h) of this AD, has accumulated less than 67,500 total flight hours since first installation on an airplane: The repetitive inspection interval is 24 months.

(2) For a THSA that, as of the date of the most recent inspection required by paragraph (g) or (h) of this AD, has accumulated 67,500 total flight hours or more since first installation on an airplane: The repetitive inspection interval is 4 months.

**(i) THSA Corrective Action**

If, during any inspection required by paragraphs (g) and (h) of this AD, any finding as described in the Accomplishment Instructions of Airbus Service Bulletin A320–27–1227, Revision 01, dated October 7, 2013, is found: At the applicable compliance time (depending on the applicable findings) specified in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A320–27–1227, Revision 01, dated October 7, 2013, replace the THSA with a serviceable THSA, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1227, Revision 01, dated October 7, 2013. For the purposes of this AD, a serviceable THSA is a THSA that has accumulated less than 67,500 total flight hours since first installation on an airplane.

**(j) THSA Replacement**

Before a THSA accumulates 67,500 total flight hours since first installation on an airplane, or within 12 months after the effective date of this AD, whichever occurs later: Replace the THSA with a serviceable THSA, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1227, Revision 01, dated October 7, 2013. Thereafter, before the accumulation of 67,500 total flight hours on any THSA since first installation on an airplane, replace it with a serviceable THSA.

**(k) Replacement THSA: No Terminating Action**

Replacement of a THSA on an airplane, as required by paragraph (i) or (j) of this AD, does not constitute terminating action for the repetitive inspections required by paragraphs (g) and (h) of this AD for that airplane. After THSA replacement: At the applicable compliance time specified in paragraphs (g)(1), (g)(2), (h)(1), and (h)(2) of this AD, do the inspections required by paragraphs (g) and (h) of this AD.

**(l) Replacement THSA Equivalency**

A THSA that has been repaired in shop as specified in United Technologies Corporation Aerospace Systems Component Maintenance Manual 27–44–51 is considered equivalent to having passed an inspection in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1227, Revision 01, dated October 7, 2013. Depending on the flight hours or flight cycles accumulated by the repaired THSA: At the applicable compliance time specified in paragraphs (g)(1), (g)(2), (h)(1), and (h)(2) of this AD, do the inspections required by paragraphs (g) and (h) of this AD.

**(m) Parts Installation Limitation**

As of the effective date of this AD, installation on an airplane of a THSA that has accumulated 67,500 or more total flight hours is allowed, provided that, prior to installation, the THSA has been modified or inspected using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

**(n) Credit for Previous Actions**

This paragraph provides credit for inspections required by paragraphs (g), (h), and (l) of this AD, if those inspections were performed before the effective date of this AD using Airbus Service Bulletin A320–27–1227, dated July 1, 2013, which is not incorporated by reference in this AD.

**(o) Other FAA AD Provisions**

The following provisions also apply to this AD:

*(1) Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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 International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

*(2) Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

**(p) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0011R1, dated January 17, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0748-0002*.

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

**(q) 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 this AD specifies otherwise.

(i) Airbus Service Bulletin A320–27–1227, Revision 01, dated October 7, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.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 July 12, 2015.

**Jeffrey E. Duven,**

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

[FR Doc. 2015–17956 Filed 7–23–15; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0011; Directorate Identifier 2013–NM–046–AD; Amendment 39–18194; AD 2015–13–07]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 98–13–23 for certain Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). AD 98–13–23 required inspections to detect corrosion and cracking of the lower horizontal stabilizer cutout longeron, the corner fitting, the skin strap, and the outer skin; and repair, if necessary. This new AD reduces the compliance times and repetitive intervals, and changes the inspection procedures. This AD was prompted by the determination that the risk of cracking is higher than initially determined. We are issuing this AD to prevent cracking of the lower horizontal stabilizer cutout longeron, the corner fitting, the skin strap, and the outer skin, which could result in reduced structural integrity of the horizontal-stabilizer cutout longeron.

**DATES:** This AD becomes effective August 28, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 28, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of July 30, 1998 (63 FR 34576).

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0011;* or in person at the Docket Management Facility, U.S. Department of

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

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.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. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0011.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

## Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 98–13–23, Amendment 39–10614 (63 FR 34576, June 25, 1998). AD 98–13–23 applied to certain Airbus Model 300–600 series airplanes. The NPRM published in the **Federal Register** on February 10, 2014 (79 FR 7592).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0048, dated March 4, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on certain Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). The MCAI states:

> During a full scale fatigue test, a crack was found at the lower corner of the assembly of the horizontal stabilizer cut-out, between Frame (FR)87 and FR89 and between Stringer (STGR)24 and STGR27, Left Hand (LH) and Right Hand (RH) sides.
>
> This condition, if not detected and corrected, could reduce the structural integrity of the aeroplane.
>
> DGAC [The Direction Generale de l'Aviation Civile France] France issued AD * * * to require repetitive visual and High Frequency Eddy Current (HFEC) rotating probe inspections of the affected areas and subsequent corrective action, in case of cracks.
>
> Since that [DGAC France] AD was issued, a fleet survey and updated Fatigue and Damage Tolerance analyses have been performed to substantiate the second A300–600 Extended Service Goal (ESG2) exercise. The results of these analyses have shown that the risk of cracks for these aeroplanes is higher than initially determined and that, consequently, the thresholds and intervals must be reduced to allow timely detection of these cracks and accomplishment of an applicable corrective action.
>
> For the reasons described above, this [EASA] AD retains the requirements of DGAC France AD * * *, which is superseded, and requires the accomplishment of these actions within the new thresholds and intervals defined in Revision 03 of Airbus Service Bulletin (SB) A300–53–6042 [dated August 30, 2012].

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0011-0002.*

## Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (79 FR 7592, February 10, 2014) and the FAA's response to each comment.

### Acknowledgement of the NPRM (79 FR 7592, February 10, 2014)

FedEx acknowledges the requirements of the NPRM (79 FR 7592, February 10, 2014).

### Request To Revise Compliance Times

UPS requested that we revise the compliance times in the proposed AD (79 FR 7592, February 10, 2014) to reflect specific times regardless of the aircraft utilization rate. UPS stated that a comment response in AD 98–13–23, Amendment 39–10614 (63 FR 34576, June 25, 1998), noted that the FAA did not concur with the ''average flight time'' (AFT) compliance time methodology as it may not address the unsafe condition in a timely manner. UPS stated that paragraph (h) of the proposed AD specifies that the compliance time is at the applicable times specified in paragraph 1.E. of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, which establishes the initial and repetitive inspection compliance times based on AFT methodology. UPS requested changing the compliance times in paragraph (h) of the proposed AD to reflect specific values regardless of the aircraft utilization rate to provide consistency in the compliance times for paragraphs (g) and (h) of the proposed AD.

We disagree with the commenter's request to revise the compliance times in this AD. At the time the FAA issued AD 98–13–23, Amendment 39–10614 (63 FR 34576, June 25, 1998), the required actions in Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995, contained inspection thresholds and intervals based on airplane flight cycles, and provided instructions for adjusting the flight cycle threshold and interval using each individual airplane's AFT utilization. The FAA did not agree with the AFT method because it could result in a different inspection threshold and interval for each individual airplane, and the FAA did not agree with adjusting a flight cycle based threshold and interval using the average flight time utilization without also having a related flight hour based threshold and interval. In Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, the inspection thresholds and intervals are now based on the accumulation of both flight cycles and flight hours, and are listed in tables appropriately grouping airplanes with average flight time utilization above 1.5 hours, and airplanes with average flight time utilization at or below 1.5 hours. The changes made in Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012 have addressed the FAA's original concerns with the AFT method and is acceptable for this AD.

We acknowledge that a fixed compliance time for a fleet could be easier for operators to schedule and record compliance. Therefore, under the provisions of paragraph (l)(1) of this AD, we will consider requests for approval of an alternative method of compliance (AMOC) if a proposal is submitted that is supported by technical data that includes fatigue and damage tolerance analysis. We have not changed this AD in this regard.

### Request for Credit for Previous Cold Expansion

UPS requested that we allow credit for previous accomplishment of cold expansion of the fastener holes. UPS stated that paragraph (h)(3) of the proposed AD (79 FR 7592, February 10, 2014) requires cold working fastener holes in accordance with Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, if no cracking is found. However, the fastener holes were previously cold worked as a requirement of paragraph (c)(2) of AD 98–13–23, Amendment 39–10614 (63 FR 34576, June 25, 1998). UPS suggested that we add the phrase ''unless previously accomplished'' to

the second sentence of paragraph (h)(3) of the proposed AD.

We agree with the request to give credit if fastener holes were cold worked before the effective date of this AD. We have added a new paragraph (k)(2) to this AD to give credit for cold working fastener holes using Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995, which is referred to as the appropriate source of service information for the actions in AD 98–13–23, Amendment 39–10614 (63 FR 34576, June 25, 1998); or Airbus Service Bulletin A300–53–6042, Revision 02, dated April 28, 1998.

We have re-designated paragraph (k) of the proposed AD (79 FR 7592, February 10, 2014) as paragraph (k)(1) of this AD. We also removed the reference to Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995 from paragraph (k)(1) of this AD, which gives credit for actions in paragraph (g) of this AD. Paragraph (g) of this AD already refers Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995, as a source of service information.

**Request To Remove Requirement To Refer to This AD in Repair Approvals**

UPS also requested that we revise paragraph (i)(2) of the proposed AD (79 FR 7592, February 10, 2014) to remove the requirement to include the AD reference in repair approvals. UPS noted its concerns that the proposal would require development of a unique Airbus process for U.S. operators; that it could have significant financial and administrative impacts to existing customer support agreements and different AD records requirements within an operator's fleet; and that it will increase requests for approval of AMOCs and result in delayed return to service.

We concur with the commenter's request to remove from this AD the requirement that repair approvals must specifically refer to this AD. We have revised paragraph (i)(2) of this AD accordingly.

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD. The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In the NPRM (79 FR 7592, February 10, 2014), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to this FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase ''its delegated agent'' to include ''the Design Approval Holder (DAH) with a State of Design Authority's design organization approval (DOA)'' to refer to a DAH authorized to approve required repairs for the AD.

In its comments to the NPRM (79 FR 7592, February 10, 2014), UPS stated the following: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.''

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed that paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, EASA, or Airbus's EASA DOA.

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility afforded previously by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the AD Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Other commenters to an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) pointed out that in many cases the foreign manufacturer's service bulletin and the foreign authority's MCAI may have been issued some time before the FAA AD. Therefore, the DOA may have provided U.S. operators with an approved repair, developed with full awareness of the unsafe condition, before the FAA AD is issued. Under these circumstances, to comply with the FAA AD, the operator would be required to go back to the manufacturer's DOA and obtain a new approval document, adding time and expense to the compliance process with no safety benefit.

Based on these comments, we removed the requirement from this AD that the DAH-provided repair specifically refer to this AD. Before adopting such a requirement in the future, the FAA will coordinate with affected DAHs and verify they are prepared to implement means to ensure that their repair approvals consider the unsafe condition addressed in an AD. Any such requirements will be adopted through the normal AD rulemaking process, including notice-and-comment procedures, when appropriate.

We have also decided not to include a generic reference to either the

''delegated agent'' or the ''DAH with State of Design Authority design organization approval,'' but instead we will provide the specific delegation approval granted by the State of Design Authority for the DAH.

**Conclusion**

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 7592, February 10, 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 7592, February 10, 2014).

**Related Service Information Under 1 CFR Part 51**

Airbus issued Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012. The service information describes procedures for an inspection of the lower tail plane cut-out. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

**Costs of Compliance**

We estimate that this AD affects 5 airplanes of U.S. registry.

The actions required by AD 98–13–23, Amendment 39–10614 (63 FR 34576, June 25, 1998), and retained in this AD take about 268 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $0 per product. Based on these figures, the estimated cost of the actions that were required by AD 98–13–23 is $22,780 per product.

We also estimate that it will take about 88 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $37,400, or $7,480 per product per inspection cycle.

In addition, we estimate that any necessary follow-on actions will take about 155 work-hours and require parts costing $0, for a cost of $13,175 per product. We have no way of determining the number of aircraft that might need this action.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0011;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

**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) 98–13–23, Amendment 39–10614 (63 FR 34576, June 25, 1998), and adding the following new AD:

**2015–13–07 Airbus:** Amendment 39–18194. Docket No. FAA–2014–0011; Directorate Identifier 2013–NM–046–AD.

**(a) Effective Date**

This AD becomes effective August 28, 2015.

**(b) Affected ADs**

This AD replaces AD 98–13–23, Amendment 39–10614 (63 FR 34576, June 25, 1998).

**(c) Applicability**

This AD applies to Airbus Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A300 C4–605R Variant F airplanes; certificated in any category; on which Airbus Modification 6146 has not been installed.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by reports of cracking found at the lower corner of the horizontal stabilizer cutout longeron during a full scale fatigue test, and a determination that the risk of cracking is higher than initially determined. We are issuing this AD to prevent cracking of the lower horizontal stabilizer cutout longeron, the corner fitting, the skin strap, and the outer skin, which could result in reduced structural integrity of the horizontal-stabilizer cutout longeron.

**(f) Compliance**

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

**(g) Retained Inspections and Corrective Actions**

This paragraph restates the requirements of paragraphs (a), (b), (c), (d), and (e) of AD 98–13–23, Amendment 39–10614 (63 FR 34576,

June 25, 1998), with revised service information.

(1) Prior to the accumulation of 18,000 total landings, or within 2,000 landings after July 30, 1998 (the effective date of AD 98–13–23, Amendment 39–10614 (63 FR 34576, June 25, 1998), whichever occurs later: Perform a visual and eddy current inspection to detect cracks and/or corrosion of Areas 1 and 2 of the lower horizontal stabilizer cutout longeron, in accordance with Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995; or the Accomplishment Instructions of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012. As of the effective date of this AD, use only Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, to do the actions required by this paragraph.

(2) At the later of the times specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD: Perform a visual and an eddy current inspection to detect cracks and corrosion of Area 3 of the lower horizontal stabilizer cutout longeron, in accordance with Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995; or the Accomplishment Instructions of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012. As of the effective date of this AD, use only Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, to do the actions required by this paragraph.

(i) Prior to the accumulation of 24,000 total landings, but not before the accumulation of 18,000 total landings; or

(ii) Prior to the accumulation of 2,000 landings after July 30, 1998 (the effective date of AD 98–13–23, Amendment 39–10614 (63 FR 34576, June 25, 1998)).

(3) If no cracking is detected during any inspection required by paragraph (g)(1) or (g)(2) of this AD: Before further flight, cold work and ream the vacated fastener holes, in accordance with Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995; or the Accomplishment Instructions of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012; and perform the requirements of paragraph (g)(3)(i) or (g)(3)(ii) of this AD, as applicable. As of the effective date of this AD, use only Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, to do the actions required by this paragraph.

(i) For airplanes on which no cracking is found in Area 1 or 2: Repeat the inspections required by paragraph (g)(1) of this AD thereafter at intervals not to exceed 6,000 flight cycles.

(ii) For airplanes on which no cracking is found in Area 3: Perform the various follow-on actions in accordance with Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995; or the Accomplishment Instructions of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012. (The follow-on actions include installing a new corner fitting, installing a new longeron, and performing a cold working procedure.) After accomplishment of these follow-on actions, no further action is required by this AD. After the effective date of this AD, use only Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, to do the actions required by this paragraph.

(4) If any cracking is detected during any inspection required by paragraph (g)(1) or (g)(2) of this AD, perform the requirements of paragraph (g)(4)(i) or (g)(4)(ii) of this AD, as applicable.

(i) If any cracking is found in Area 1 or 3 that is within the limits specified in Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995; or Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012: Before further flight, repair in accordance with Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995; or the Accomplishment Instructions of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012. As of the effective date of this AD, use only Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, to do the actions required by this paragraph.

(ii) If any cracking is found in Area 2, or if any cracking is found in any area and that cracking is beyond the limits described in Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995; or Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA), or Airbus's EASA Design Organization Approval (DOA).

(5) If any corrosion is detected during any inspection required by paragraph (g) of this AD, prior to further flight, repair the corrosion, in accordance with Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995; or the Accomplishment Instructions of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012. As of the effective date of this AD, use only Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, to do the actions required by this paragraph.

**(h) New Inspections**

At the applicable times specified in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, except as provided by paragraphs (j)(1) and (j)(2) of this AD: Do the actions specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012. Repeat the inspections, thereafter, at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012. Doing the initial inspections required by paragraph (h) of this AD and applicable corrective actions required by paragraph (i) of this AD terminates the requirements of paragraph (g) of this AD.

(1) Do a general visual inspection for cracking and corrosion of the lower horizontal stabilizer cut-out longeron, the corner fitting, the skin strap, and the skin between frame (FR)87 and FR89 and between stringers (STGR)24 and STGR27, left- and right-hand sides.

(2) Do a high frequency eddy current (HFEC) inspection for cracking of the flanges of the lower corner fittings and the edges of the outer skin and the edges of the longeron, the skin strap, and the skin at the run-out of the corner fitting above the last eight fasteners.

(3) Do a rotating probe inspection for cracking of the fastener holes. If no cracking is found during the rotating probe inspection, before further flight, do a cold expansion of the fastener holes, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012.

**(i) New Corrective Actions**

(1) If any corrosion is found during any inspection required by paragraph (h) of this AD, before further flight, repair, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012.

(2) If any cracking is found during any inspection required by paragraph (h) of this AD, before further flight, repair in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, except where Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, specifies to contact Airbus, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA, or Airbus's EASA DOA.

**(j) Exception**

(1) Where Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, specifies a grace period of 1950 flight cycles or 4100 flight hours, this AD specifies the grace period after the effective date of this AD.

(2) Where Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012, specifies a compliance time ''after receipt of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

**(k) Credit for Previous Actions**

(1) This paragraph provides credit for the corresponding actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A300–53–6042, Revision 02, dated April 28, 1998, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for the corresponding actions required by paragraph (h)(3) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995, which was incorporated by reference in AD 98–13–23, Amendment 39–10614 (63 FR 34576, June 25, 1998), and continues to be incorporated by reference in this AD; or Airbus Service Bulletin A300–53–6042, Revision 02, dated April 28, 1998, which is not incorporated by reference in this AD.

**(l) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane

Directorate, 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 International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*.

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved for AD 98–13–23, Amendment 39–10614 (63 FR 34576, June 25, 1998), are approved as AMOCs for the corresponding requirements of this AD.

(2) Contacting the Manufacturer: As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

**(m) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0048, dated March 4, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0011.

(2) Service information identified in this AD that is not incorporated by reference in this AD is available at the addresses specified in paragraphs (n)(5) and (n)(6) of this AD.

**(n) 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 this AD specifies otherwise.

(3) The following service information was approved for IBR on August 28, 2015.

(i) Airbus Service Bulletin A300–53–6042, Revision 03, dated August 30, 2012.

(ii) Reserved.

(4) The following service information was approved for IBR on July 30, 1998 (63 FR 34576, June 25, 1998).

(i) Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995.

(ii) Reserved.

(5) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com*.

(6) 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.

(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 Renton, Washington, on June 17, 2015.

**Michael Kaszycki,**

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

[FR Doc. 2015–17934 Filed 7–23–15; 8:45 am]

**BILLING CODE 4910–13–P**

---

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–2957; Directorate Identifier 2015–NM–089–AD; Amendment 39–18218; AD 2015–15–09]**

**RIN 2120–AA64**

## Airworthiness Directives; BAE Systems (Operations) Limited Airplanes

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

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

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all BAE Systems (Operations) Limited Model 4101 airplanes. This AD requires a one-time inspection for damage of the stop arms of the stop plates, an adjustment of the electric trim limit switches, and replacement of the stop plates with newly manufactured stop plates if necessary. This AD was prompted by a report that the pitch trim jammed in the fully down position. We are issuing this AD to detect and correct broken stop arms of the stop plates, which could lead to the pitch trim jamming, loss of control of the elevator trim, and possible reduced control of the airplane.

**DATES:** This AD becomes effective August 10, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 10, 2015.

We must receive comments on this AD September 8, 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone: +44 1292 675207; fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* 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. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–18218.

*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–2015–18218; 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 regulatory 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 FURTHER INFORMATION CONTACT:** Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1175; fax: 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

## Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2015–0099, dated June 3, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all BAE Systems (Operations) Limited Model 4101 airplanes. The MCAI states:

An in-service event was reported of the Pitch Trim jammed in the fully down position. During the event, the trim circuit was adjusted fully nose down and the swaged stop on the trim cable passed beyond the stop plates. With gear down and the autopilot disconnected, the aeroplane pitched nose down and, even with the control column pulled fully back, the pilot was unable to prevent descent. The trim circuit was freed and control restored by the combined efforts of both pilots turning the trim handwheels, which forced the swaged stop on the trim cable back past the broken stop plates. The results of the technical investigation revealed that the pitch trim servo motor travel stops were incorrectly adjusted, allowing the servo motor to force contact of the swaged stop on the trim cable with the stop plates, and parts of the stop plates breaking off.

This condition, if not detected and corrected, could lead to loss of control of the elevator trim, possibly resulting in reduced control of the aeroplane.

To address this unsafe condition, BAE Systems (Operations) Ltd issued Inspection Service Bulletin (ISB) 27–068 to provide instructions to inspect and correct pitch trim servo motor travel stop adjustment and to install new stop plates made of improved (more robust) material.

For the reasons described above, this [EASA] AD requires a one-time [detailed] inspection [for damage of the stop arms of the stop plates, an adjustment of the electric trim limit switches] to correct adjustment of the pitch trim servo motor travel stops to prevent the jam condition and, if damage [including broken stop arms of the stop plates] is found, replacement of the stop arms and plates.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–18218.

## Related Service Information Under 1 CFR Part 51

BAE Systems (Operations) Limited has issued Inspection Service Bulletin J41–27–068, dated January 21, 2014. The service information describes procedures for a one-time inspection for damage of the stop arms of the stop plates, an adjustment of the electric trim limit switches, and replacement of the stop plates with newly manufactured stop plates if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

## FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

## FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because a pitch trim that has jammed in the fully down position could lead to loss of control of the elevator trim, and possible reduced control of the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

## Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–18218; Directorate Identifier 2015–NM–089–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

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

## Costs of Compliance

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

We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $1,275, or $85 per product.

In addition, we estimate that any necessary follow-on actions will take about 1 work-hour and require parts costing $156, for a cost of $241 per product. We have no way of determining the number of aircraft that might need these actions.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

**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):

**2015–15–09 BAE Systems (Operations) Limited:** Amendment 39–18218. Docket No. FAA–2015–2957; Directorate Identifier 2015–NM–089–AD.

**(a) Effective Date**

This AD becomes effective August 10, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to BAE Systems (Operations) Limited Model 4101 airplanes, certificated in any category, all serial numbers.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by a report that the pitch trim jammed in the fully down position due to incorrectly adjusted travel stops of the pitch trim servo motor, causing parts of the stop plates to break off and allowing the servo motor to force contact of the swaged stop on the trim cable with the stop plates. We are issuing this AD to detect and correct broken stop arms of the stop plates, which could lead to the pitch trim jamming, loss of control of the elevator trim, and possible reduced control of the airplane.

**(f) Compliance**

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

**(g) One-Time Inspection**

Within 30 days after the effective date of this AD: Do a one-time detailed inspection for damage of the stop arms of the stop plates, and an adjustment of the electric trim limit switches, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin J41–27–068, dated January 21, 2014. If any damage is found, before further flight, replace the stop plate with a newly manufactured stop plate made of tufnol, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin J41–27–068, dated January 21, 2014.

**(h) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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 International Branch, send it to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1175; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or BAE Systems (Operations) Limited's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(i) Related Information**

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2015–0099, dated June 3, 2015, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2957.

**(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 this AD specifies otherwise.

(i) BAE Systems (Operations) Limited Inspection Service Bulletin J41–27–068, dated January 21, 2014.

(ii) Reserved.

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

(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 July 15, 2015.

**Suzanne Masterson,**

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

[FR Doc. 2015–17933 Filed 7–23–15; 8:45 am]

BILLING CODE 4910–13–P

---

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–0088; Directorate Identifier 2014–NM–179–AD; Amendment 39–18217; AD 2015–15–08]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc. Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes. This AD was prompted by testing of the spoiler electronic control unit (SECU) software for an upgrade, which revealed a timing error between the command and monitor channels. This AD requires revising the maintenance or inspection program to incorporate repetitive operational tests of the aileron disconnect system, and corrective action if necessary. This AD also requires modification and reidentification of the SECU, which would terminate the repetitive operational tests. We are issuing this AD to prevent a timing error in the SECU software, which, in combination with failure of the roll disconnect switch, could result in complete loss of spoiler functionality and consequent reduced controllability of the airplane.

**DATES:** This AD becomes effective August 28, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 28, 2015.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-0088* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this 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. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0088.

**FOR FURTHER INFORMATION CONTACT:** Assata Dessaline, Aerospace Engineer, Avionics and Service Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7301; fax 516–794–5531.

**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 Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes. The NPRM published in the **Federal Register** on February 18, 2015 (80 FR 8564).

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–24, dated August 5, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on certain Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes. The MCAI states:

> During testing of the software for an upgrade of the spoiler electronic control unit (SECU), a timing error between the Command and Monitor channels was found in the SECU software. This timing error, if not corrected, in combination with the failure of the roll disconnect switch, may lead to a complete loss of spoiler functionality and result in a reduction or complete loss of aeroplane roll control.
>
> This [Canadian] AD mandates the SECU software modification to correct the timing error and to change the inspection interval for a maintenance task based on System Functional Hazard Analysis [by revising the inspection or maintenance program].

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0088-0002.*

## Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 8564, February 18, 2015) or on the determination of the cost to the public.

## Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (80 FR 8564, February 18, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 8564, February 18, 2015).

## Related Service Information Under 1 CFR Part 51

Bombardier, Inc. has issued Service Bulletin 100–27–16, dated October 31, 2013. The service information describes procedures for modification and reidentification of the SECU. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

## Costs of Compliance

We estimate that this AD affects 107 airplanes of U.S. registry.

We also estimate that it takes up to 6 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be up to $54,570, or up to $510 per product.

We have received no definitive data on the parts cost for doing the modification 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

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-0088;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

## 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):

**AD 2015–15–08 Bombardier, Inc.:** Amendment 39–18217. Docket No. FAA–2015–0088; Directorate Identifier 2014–NM–179–AD.

**(a) Effective Date**

This AD becomes effective August 28, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bombardier, Inc. Model BD–100–1A10 (Challenger 300) airplanes, equipped with a spoiler electronic control unit (SECU) having part number (P/N) C47330–006, C47330–007, or C47330–008; certificated in any category.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by testing of the spoiler electronic control unit (SECU) software for an upgrade, which revealed a timing error between the command and monitor channels. We are issuing this AD to prevent a timing error in the SECU software, which, in combination with failure of the roll disconnect switch, could result in complete loss of spoiler functionality and consequent reduced controllability of the airplane.

**(f) Compliance**

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

**(g) Revision of the Maintenance or Inspection Program**

Within 600 flight hours since the most recent operational test of the aileron disconnect system for spoiler functionality as of the effective date of this AD, or within 400 flight hours after the effective date of this AD, whichever occurs first: Revise the maintenance or inspection program, as applicable, to incorporate repetitive operational tests of the aileron disconnect system for spoiler functionality, and all applicable corrective actions, using a method approved by the Manager, New York ACO, ANE–170, FAA.

**Note 1 to paragraph (g) of this AD:** Guidance on operational tests of the aileron disconnect system can be found in the Bombardier Inc., BD–100–1A10 Time Limits/Maintenance Checks (TLMC) Manual.

**(h) Modification of the SECU**

Within 1,600 flight hours or 48 months after the effective date of this AD, whichever occurs first: Modify and re-identify the SECU, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 100–27–16, dated October 31, 2013. Doing the actions required by this paragraph terminates the actions required by paragraph (g) of this AD.

**(i) Parts Installation Prohibition**

As of the effective date of this AD, no person may install an SECU, P/N C47330–006, C47330–007, or C47330–008, on any airplane.

**(j) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

**(k) Related Information**

Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–24, dated August 5, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2015–0088–0002.

**(l) 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 this AD specifies otherwise.

(i) Bombardier Service Bulletin 100–27–16, dated October 31, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(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 July 15, 2015.

**Suzanne Masterson,**

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

[FR Doc. 2015–17937 Filed 7–23–15; 8:45 am]

BILLING CODE 4910–13–P

---

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–1052; Directorate Identifier 2014–NM–140–AD; Amendment 39–18210; AD 2015–15–01]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2004–13–02, which applied to certain The Boeing Company Model 747–100, –200B, and –200F series airplanes. AD 2004–13–02 required repetitive inspections to find discrepancies in the upper and lower skins of the fuselage lap joints, and repair if necessary. This new AD adds post-repair inspections for cracking and corrosion, and repair if necessary; structural modification at the lap joints; and post-modification inspections for cracking and corrosion, and repair if necessary. This AD was prompted by an evaluation by the design approval holder (DAH) that indicates the longitudinal lap joints are subject to widespread fatigue damage (WFD). The actions mandated by this AD are necessary to reach the limit of validity (LOV). We are issuing this AD to detect and correct fatigue cracking in the upper and lower skins of the fuselage lap joints, which could result in sudden fracture and failure of a lap joint and rapid in-flight decompression of the airplane fuselage.

**DATES:** This AD is effective August 28, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 28, 2015.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1052.

**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–2014–1052; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** 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:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004). AD 2004–13–02 applied to certain The Boeing Company Model 747–100, –200B, and –200F series airplanes. The NPRM published in the **Federal Register** on January 23, 2015 (80 FR 3506). The NPRM was prompted by an evaluation by the DAH that indicates the longitudinal lap joints are subject to WFD. A structural modification at the lap joint, and post-modification repetitive inspections of the skin, existing internal doubler, or splice strap for cracks, and corrective actions if necessary, are necessary to reach the limit of validity (LOV). The NPRM proposed to continue to require repetitive inspections to find discrepancies in the upper and lower skins of the fuselage lap joints, and repair if necessary; and to add post-repair inspections for cracking and corrosion, and repair if necessary; structural modification at the lap joints; and post-modification inspections for cracking and corrosion, and repair if necessary. We are issuing this AD to detect and correct fatigue cracking in the upper and lower skins of the fuselage lap joints, which could result in sudden fracture and failure of a lap joint and rapid in-flight decompression of the airplane fuselage.

**Comments**

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (80 FR 3506, January 23, 2015) and the FAA's response to each comment.

**Support for the NPRM (80 FR 3506, January 23, 2015)**

Boeing stated that it concurs with the content of the proposed rule (80 FR 3506, January 23, 2015).

**Request To Increase Inspection Frequency for Certain Airplanes**

An anonymous commenter expressed an opinion that there may be more reason to check airplanes that are frequently pressurized to a greater than 2.0 per-square-inch (psi) range than those that are not pressurized to that extent. The commenter also asked if there should be a weighted system that requires inspections sooner if an airplane has proportionally more flight cycles in the greater-than-, rather than the less-than, 2.0-psi differentials.

We do not agree with the commenter's request for different inspection intervals based on pressurization ranges. The proposed inspection intervals were based on airplanes flying in a normal condition, which included full pressurization. In the past, if an operator had documentation substantiating flight cycles of less than 2.0 psi, some of the inspection requirements could be reduced. This reduced inspection requirement was relieving in nature and occurred roughly 10 years ago. We have since determined that fleet findings did not support this relief and have disallowed reduced inspection requirements in future ADs. We have not provided this relief in this AD. We have not changed this final rule in this regard.

**Request To Increase WFD Rule Applicability**

An anonymous commenter requested a reason why the WFD regulation applies only to Boeing and not to any other airplane manufacturer. The commenter stated that it seems like this type of WFD would be present in more than just Boeing airplanes, and yet the regulation and requirement for inspection seems to single out Boeing. The commenter suggested that it would make sense to consolidate and apply these requirements equally over all the types of airplanes.

We do not agree with the commenter's request. On May 24, 2012, we made effective Amendment 26–6 of 14 CFR 26.21, ''Limit of Validity,'' of the Federal Aviation Regulations (14 CFR 26.21). This regulation required all design approval holders (DAHs) to develop an LOV for affected airplanes, which affected several manufacturers and models (not exclusively Boeing). The LOV is established by means of engineering data that support the structural maintenance program that corresponds to the period of time, stated as a number of total accumulated flight cycles or flight hours or both, during which it is demonstrated that WFD will not occur in the airplane. We have not changed this final rule in this regard.

**Conclusion**

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

- Are consistent with the intent that was proposed in the NPRM (80 FR 3506, January 23, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 3506, January 23, 2015).

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

**Related Service Information Under 1 CFR Part 51**

We reviewed Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014. The service information describes procedures for inspections and repairs of cracks and corrosion in the skin at lap joints in the fuselage. This service information is reasonably available because the

interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

## Costs of Compliance

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

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspections [actions retained from AD 2004-13-02, Amendment 39-13682 (69 FR 35237, June 24, 2004)]. | 5,628 work-hours × $85 per hour = $478,380 per inspection cycle. | $0 | $478,380 per inspection cycle. | $956,760 per inspection cycle. |
| Modification [new action] | Up to 3,764 work-hours × $85 per hour = $319,940. | $0 | Up to $319,940 | Up to $639,880. |
| Post-modification/post-repair inspections [new action]. | Up to 3,764 work-hours × $85 per hour = $319,940 per inspection cycle. | $0 | Up to $319,940 per inspection cycle. | Up to $639,880 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

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

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004), and adding the following new AD:

**2015–15–01 The Boeing Company:** Amendment 39–18210; Docket No. FAA–2014–1052; Directorate Identifier 2014–NM–140–AD.

**(a) Effective Date**

This AD is effective August 28, 2015.

**(b) Affected ADs**

This AD replaces AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004).

**(c) Applicability**

This AD applies to The Boeing Company Model 747–100, –200B, and –200F series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by an evaluation by the design approval holder (DAH) that indicates the longitudinal lap joints are subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct fatigue cracking in the upper and lower skins of the fuselage lap joints, which could result in sudden fracture and failure of a lap joint and rapid in-flight decompression of the airplane fuselage.

**(f) Compliance**

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

**(g) Inspections for Corrosion, and Corrective Actions**

For airplanes identified as Groups 2 through 14 in Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014: Except as provided by paragraph (l)(3) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, do an external low frequency eddy current inspection for corrosion at the upper row of fasteners in the lap joint, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection at the upper row of fasteners in the lap joint thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(3) of this AD. Accomplishment of a structural modification in accordance with Part 5 of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD, terminates the inspection requirements of this paragraph in the area of the modification only. The actions required by paragraph (j) of this AD are still applicable in the area of the modification.

**(h) Inspections for Cracking, and Corrective Actions**

For airplanes identified as Groups 2 through 14 in Boeing Alert Service Bulletin

747–53A2463, Revision 2, dated June 16, 2014: Except as provided by paragraph (l)(3) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, do an internal medium frequency eddy current inspection for skin cracks at the lower row of fasteners in the lap joint, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection at the lower row of fasteners in the lap joint thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(3) of this AD. Accomplishment of a structural modification in accordance with Part 5 of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD, terminates the inspection requirements of this paragraph in the area of the modification only. The actions required by paragraph (j) of this AD are still applicable in the area of the modification.

**(i) Structural Modification**

For airplanes identified as Groups 2 through 14 in Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(2) of this AD, do a structural modification at the lap joints, and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD. Do all applicable corrective actions before further flight. Accomplishment of the structural modification required by this paragraph terminates the inspections required by paragraphs (g), (h), and (k) of this AD in the area of the modification only. The actions required by paragraph (j) of this AD are still applicable in the area of the modification.

**(j) Post-Modification Inspections and Corrective Actions**

For airplanes on which the actions required by paragraph (i) of this AD have been done: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(2) of this AD, do an internal high frequency eddy current (HFEC) inspection for cracks of the skin or existing internal doublers, and an open-hole HFEC inspection for splice strap cracks, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014. If any cracking is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (n) of this AD. Repeat the inspections of the skin, internal doublers, and splice straps thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014.

**(k) Post-Repair Inspections and Corrective Actions**

For airplanes with any new or existing external doubler repair accomplished at a lap joint and the repair doubler length is 40 inches or longer: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(2) of this AD, do an internal HFEC inspection for cracking or corrosion of the repairs, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection of external doubler repairs accomplished at lap joints thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014. Accomplishment of a structural modification in accordance with Part 5 of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, except as provided by paragraph (l)(1) of this AD, terminates the inspection requirements of this paragraph in the area of the modification only. The actions required by paragraph (j) of this AD are still applicable in the area of the modification.

**(l) Exceptions**

(1) If, during any action required by this AD, Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, specifies to contact Boeing for an inspection or modification procedure, or repair instructions: Before further flight, do the inspection, or modification, or repair using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

(2) Where Paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2463, Revision 2, dated June 16, 2014, specifies a compliance time ''after the Revision 2 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(3) For the compliance threshold and repetitive interval calculations for inspections required by paragraphs (g) and (h) of this AD, the provisions specified in paragraphs (l)(3)(i) and (l)(3)(ii) of this AD apply regarding differential pressure.

(i) For inspections done before the effective date of this AD: Flight cycles in which the cabin differential pressure was at 2.0 pounds-per-square-inch (psi) or less need not be counted in the flight-cycle determination, provided that flight cycles with momentary spikes in cabin differential pressure above 2.0 psi were included as full pressure flight cycles. For this provision to apply, all cabin pressure records must have been maintained for each airplane. No fleet-averaging of cabin pressure is allowed.

(ii) For inspections done on or after the effective date of this AD: All flight cycles must be counted, regardless of differential pressure.

**(m) 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 the service information identified in paragraph (m)(1) or (m)(2) of this AD.

(1) Boeing Alert Service Bulletin 747–53A2463, dated March 7, 2002, including Appendices A, B, and C, dated March 7, 2002, which was incorporated by reference in AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004).

(2) Boeing Alert Service Bulletin 747–53A2463, Revision 1, dated April 16, 2009, which is not incorporated by reference in this AD.

**(n) 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 (o)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

(4) AMOCs approved for AD 2004–13–02, Amendment 39–13682 (69 FR 35237, June 24, 2004), are approved as AMOCs for the corresponding provisions of paragraphs (g) and (h) of this AD.

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

**(p) 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 747–53A2463, Revision 2, dated June 16, 2014.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on July 10, 2015.

**Michael Kaszycki,**

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

[FR Doc. 2015–17978 Filed 7–23–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Parts 2 and 157

**[Docket No. RM12–11–003; Order No. 790–B]**

## Revisions to Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule, order on clarification.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is amending its regulations to: Provide pre-granted authority under a new paragraph to abandon or replace auxiliary facilities, subject to certain conditions; permit auxiliary facilities that cannot meet the conditions for the pre-granted abandonment authority in the new paragraph to be abandoned under the blanket certificate regulations, subject to those regulations' requirements; and permit replacement facilities constructed under the regulations to be abandoned under the blanket certificate regulations, subject to those regulations' requirements.

**DATES:** This rule will become effective October 7, 2015.

**FOR FURTHER INFORMATION CONTACT:**

Katherine Liberty, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6491, *katherine.liberty@ferc.gov.*

Gordon Wagner, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8947, *gordon.wagner@ferc.gov.*

Howard Wheeler, Office of Energy Projects, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8688, *howard.wheeler@ferc.gov.*

Shannon Jones, Office of Energy Projects, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6410, *shannon.jones@ferc.gov.*

**SUPPLEMENTARY INFORMATION:**

**ORDER NO. 790–B**

**Table of Contents**

| | Paragraph Nos. |
|---|---|
| I. Discussion | 4 |
| A. Section 2.55(a) Auxiliary Facilities | 9 |
| B. Section 2.55(b) Replacements | 14 |
| II. Information Collection Statement | 18 |
| III. Environmental Analysis | 23 |
| IV. Regulatory Flexibility Act | 24 |
| V. Document Availability | 26 |
| VI. Effective Date and Congressional Notification | 29 |

## Order No. 790–B

## Final Rule

## Order on Rehearing and Clarification

1. On November 20, 2014, the Federal Energy Regulatory Commission (Commission) issued Order No. 790–A,[1] which affirmed, *inter alia,* the Commission's clarification in Order No. 790[2] that auxiliary facilities installed under section 2.55(a) of the Commission's regulations[3] may only utilize rights-of-way, facility sites, and work spaces authorized for the construction and operation of interstate transmission facilities.

2. On December 22, 2014, National Fuel Gas Supply Corporation and Empire Pipeline, Inc. (collectively, National Fuel) filed a request that the Commission revise its part 157, subpart F, blanket certificate regulations to provide a mechanism under those regulations for the abandonment of auxiliary facilities that were constructed under section 2.55(a) and replacement facilities that were constructed under section 2.55(b). National Fuel also requests clarification that in addition to authorizing new auxiliary installations, section 2.55(a) also authorizes the replacement of existing auxiliary facilities without the need for abandonment authority under section 7(b) of the Natural Gas Act (NGA).

3. As discussed below, this order responds to National Fuel's requests by (1) adopting a new subsection 2.55(a)(3) to provide pre-granted authority to abandon or replace auxiliary facilities, subject to certain conditions; (2) amending part 157 to provide authority, subject to the blanket certificate regulations' conditions, to abandon section 2.55(a) auxiliary facilities that cannot meet the conditions for the pre-granted abandonment authority being added to section 2.55(a) and to abandon section 2.55(b) replacement facilities.

## I. Discussion

4. In Order No. 790–A, the Commission explained that section 2.55 facilities are installed under the certificate authority that authorized the interstate transmission pipeline facilities being augmented or replaced. The Commission further explained that because section 2.55 auxiliary and replacement facilities are certificated facilities, a company needs prior authorization under NGA section 7(b) to abandon such facilities. The Commission stated that in many instances companies should be able to rely on their part 157, subpart F, blanket certificate authority to abandon section 2.55 facilities. In view of this statement, National Fuel believes it is the Commission's intent that companies be able to rely on their part 157 blanket certificate authority to abandon facilities installed under section 2.55.

5. National Fuel points out, however, that section 157.202(b)(3) of the blanket certificate regulations states that a ''facility'' for purposes of the blanket program does not include a facility ''described under section 2.55,'' and that section 157.216 states that blanket certificate abandonment authority is limited to facilities that ''did or could

[1] *Revisions to Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations,* Order No. 790–A, 79 FR 70056 (Nov. 25, 2014), FERC Stats. & Regs. ¶ 31,361 (2014) (cross-referenced at 149 FERC ¶ 61,144 (2014)).

[2] Order No. 790, 78 FR 72794–801 (Dec. 4, 2013), FERC Stats. & Regs. ¶ 31,351 (2013) (cross-referenced at 145 FERC ¶ 61,154 (2013)).

[3] 18 CFR 2.55 (2014).

now qualify'' for construction authorization under the blanket provisions. National Fuel therefore requests that the Commission revise its blanket certificate regulations to ensure that companies will be able to rely on part 157 blanket certificate authority to abandon section 2.55 auxiliary and replacement facilities. National Fuel stresses that without clear blanket certificate authority to abandon section 2.55 facilities that did or could now qualify for construction authorization under the blanket provisions, companies will be subject to the burden of having to file an NGA section 7(b) application for abandonment authorization for each individual facility.

6. In view of the Commission's statement in Order No. 790–A that NGA section 7(b) authority is required for the abandonment of section 2.55 facilities, National Fuel also seeks clarification on whether section 7(b) abandonment authority is needed to retire an auxiliary facility that is being replaced.

7. The Commission affirms its statement in Order No. 790–A that NGA section 7(b) authority is required for the abandonment of section 2.55 facilities, which includes the retirement of section 2.55 facilities that will be replaced. However, for the reasons discussed below, the Commission believes section 2.55(a) can be amended to include pre-granted authority to abandon section 2.55 facilities in certain situations and agrees that the blanket certificate regulations should be amended so that companies can rely on their blanket certificate authority to abandon auxiliary and replacement facilities that were or could have been constructed under section 2.55, provided the abandonment facilities meet the blanket program criteria.

8. Therefore, the Commission will amend: (1) Section 2.55(a) to provide pre-granted authorization to retire auxiliary facilities that are being replaced or permanently abandon the auxiliary facilities if there will be no need to go outside an authorized right-of-way, facility site, or work space,[4] and (2) part 157, subpart F, to permit the use of blanket certificate authority, subject to the blanket program's conditions, to abandon section 2.55(a) auxiliary facilities if a company is unable to exercise the new pre-granted abandonment authority in section 2.55(a)(3) and to abandon section 2.55(b) replacement facilities.[5] In view of the revisions and additions to section 2.55 since its original provisions were proposed in 1948,[6] the Commission also is changing the current heading for section 2.55, ''Definition of terms used in section 7(c).'' The revised heading for section 2.55 will read ''Auxiliary installations and replacement facilities.''

*A. Section 2.55(a) Auxiliary Facilities*

9. Auxiliary installations under section 2.55(a) are limited to facilities that will serve ''*only* for the purpose of obtaining more efficient operation or more economical operation of the authorized or proposed transmission facilities'' (emphasis added).[7] Further, to add an auxiliary facility to a transmission pipeline system, a company cannot rely on section 2.55(a) unless its activities are confined to the permanent right-of-way, facility site, and temporary work space surveyed and authorized by the Commission in its environmental review of the transmission system.[8] In addition, because section 2.55 facilities are constructed and operated under the certificate authorization for the transmission facilities being augmented or replaced, section 2.55 activities must not result in a violation of any environmental conditions applicable to the certificate authorizing the transmission facilities. Therefore, to install auxiliary facilities under section 2.55(a), a company must:

> conform to the conditions of the certificate authorizing construction of the transmission facilities (*e.g.,* all required mitigation measures, such as erosion control or revegetation protocols, that applied to the case-specific certificate or Part 157 blanket certificate authority under which the transmission facilities were constructed).[9]

10. The Commission believes these limitations will be sufficient to obviate the need for further environmental review if section 2.55(a) is amended to include pre-granted authority for companies to abandon, or to retire and replace, auxiliary facilities ''as described in section 2.55(a),'' regardless of whether the facilities to be abandoned or replaced were installed under section 2.55. Therefore, the Commission will add a new paragraph to section 2.55(a)(3) to provide pre-granted authority to abandon or replace auxiliary facilities if the auxiliary facilities were or could have been installed under section 2.55(a)[10] and all activities are confined to areas previously reviewed and approved by the Commission in conjunction with its authorization of the augmented transmission facilities.

11. Auxiliary facilities, by definition, serve exclusively to enhance the efficiency or economy of the operation of a transmission system; thus, the

[4] As the Commission has previously explained in this rulemaking proceeding, the certificate authority for section 2.55 auxiliary and replacement facilities is a type of blanket certificate that was both a precursor of and a complement to part 157, subpart F, blanket certificate authority. Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 16; Order No. 790–A, ¶ 31,361 at P 13. However, unlike activities under section 2.55, which must comply with previously established environmental conditions, activities under part 157 that will involve ground disturbance or change operational air or noise emissions are subject to a project-specific environmental review in order to comply with the conditions in section 157.206(b). Because of this safeguard, blanket projects are permitted to use new rights-of-way and other previously undisturbed areas. In addition, environmental assessment reports are prepared for companies' larger-scale blanket projects to confirm that section 157.206(b)'s standard conditions will be adequate to ensure that the blanket project will have no significant adverse environmental impacts.

[5] As discussed herein, section 2.55 facilities are jurisdictional, and therefore cannot be abandoned without prior authorization under NGA section 7(b). While the certificate authorization for the transmission facilities being augmented or replaced by section 2.55 facilities is the predicate for the certificate authority to construct section 2.55 facilities, the underlying certificate authorization does not include pre-granted abandonment authority. Note that although a company cannot abandon a newer facility which replaces an older facility without first securing authorization to do so, section 2.55(b) operates to provide pre-granted authority for the older facility. This final rule's regulatory changes are prospective only, and therefore do not operate to retroactively authorize any previous abandonments of section 2.55 facilities. However, consistent with the Commission's prior assurances in this proceeding regarding instances where companies may have mistakenly relied on section 2.55 to install auxiliary facilities that utilized new rights-of-way or other areas that had not been subject to the Commission's prior environmental review and approval, the Commission similarly does not intend to look back to pursue enforcement action with respect to earlier abandonments of auxiliary facilities unless it comes to the Commission's attention that remedial environmental measures need to be taken. *See* Order No. 790–A at P 42.

[6] *Filing of Applications for Certificates of Public Convenience and Necessity, Notice of Proposed Rulemaking,* NOPR, *13 FR 6253,* at 6254 (October 23, 1948).

[7] As examples of auxiliary facilities that serve only to make pipeline operation more efficient or economical, section 2.55(a) lists ''[v]alves; drips; pig launchers/receivers; yard and station piping; cathodic protection equipment; gas cleaning, cooling and dehydration equipment; residual refining equipment; water pumping, treatment and cooling equipment; electrical and communication equipment; and buildings.''

[8] The Commission acknowledged in Order No. 790 that it was not aware of any section 2.55(a) auxiliary installation activities outside authorized areas that approached the scale of certain section 2.55(b) replacement activities that had taken place outside authorized areas. However, as the Commission explained, section 2.55(a) auxiliary installations also must be restricted to previously authorized areas because ''the issues raised for sections 2.55(a) and (b) activities are the same.'' Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 20 (footnotes omitted).

[9] Order No. 790, FERC Stats. & ¶ 31,351 at P 33.

[10] Note that auxiliary facilities installed under case-specific or blanket certificate authority can also qualify for the pre-granted authority under section 2.55(a)(3) if such facilities comply with the section 2.55 spatial constraints.

abandonment or replacement of auxiliary facilities should not result in a reduction or abandonment of service supplied by that system.[11] Nevertheless, the abandonment or replacement of auxiliary facilities under new section 2.55(a)(3) will be authorized only if there will be no adverse impact on customers' certificated services.[12]

12. Further, like the section 2.55(a) authority to install auxiliary facilities, the new section 2.55(a)(3) pre-granted authority will be available only if a company's abandonment or replacement activities will not result in a violation of the conditions on the certificate authorizing the augmented transmission facilities, in particular, the environmental mitigation conditions. For example, if the auxiliary facilities a company plans to abandon or replace are cathodic protection equipment located in a pipeline right-of-way, the case-specific or part 157 blanket certificate authorization for construction of the pipeline generally would have been conditioned on the company's compliance with an *Upland Erosion Control, Revegetation, and Maintenance Plan* [13] and *Wetland and Waterbody Construction and Mitigation Procedures.*[14] Just as the company would have been required to ensure compliance with these environmental certificate conditions to install the cathodic equipment under section 2.55(a), the company will need to similarly ensure that any exercise of the new section 2.55(a)(3) authority to abandon or replace the cathodic protection equipment will also comply with these environmental certificate conditions.[15]

*B. Section 2.55(b) Replacements*

13. Replacements under section 2.55(b), like auxiliary facility activities under section 2.55(a), are restricted to areas previously subject to the Commission's environmental review and approval.[16] Also, replacements under section 2.55(b), like auxiliary facility activities under section 2.55(a), must conform to the conditions on the case-specific or part 157 blanket certificate authorization of the affected transmission facilities.

14. As discussed earlier in this proceeding, replacement projects under section 2.55(b) can be much larger in scale than auxiliary installations under section 2.55(a).[17] Further, section 2.55(b) can be used without prior notice to the Commission and shippers for replacing facilities upon which existing services are dependent,[18] necessitating section 2.55(b)(1)(i)'s condition limiting replacement projects to situations where companies can ensure that the abandonment of existing facilities will not result in a reduction or cessation of service. In view of these considerations, even though activities under section 2.55 are restricted to areas subject to the Commission's prior environmental review and approval, the Commission cannot find, as it has above for section 2.55(a) auxiliary facilities, that it would be consistent with the public interest to provide pre-granted authority to abandon section 2.55(b) replacement facilities. However, abandonment authority for section 2.55(b) replacements can be provided under section 157.216 of the part 157 blanket certificate regulations, since blanket abandonments provide for environmental review.[19] In addition, the blanket provisions afford an opportunity for public input under the prior notice provisions applicable to larger abandonment projects and also require that a company be able to demonstrate the facility it is planning to abandon (be it original or a replacement) is no longer needed to meet its service obligations.[20]

15. National Fuel observes that section 157.202(b)(3) states that a ''facility,'' for the purposes of the blanket program, ''does not include the items described'' in section 2.55, and section 157.216 states that the blanket abandonment authority described in that section is limited to facilities that ''did or could now qualify'' for construction under the blanket certificate regulations. Because these sections operate to exclude the items described in section 2.55 from eligibility for blanket certificate abandonment authorization, we will revise the blanket certificate regulations to allow companies to use the automatic and prior notice provisions of section 157.216 to abandon (1) replacement facilities that were or could have been constructed under section 2.55(b); and (2) auxiliary facilities that cannot be abandoned under new subsection 2.55(a)(3)'s pre-granted authority because their abandonment will require going out outside areas previously reviewed and approved by the Commission in authorizing the augmented transmission facilities.

16. As a result of these revisions to the blanket certificate regulations, a company will need to file an application for case-specific authority to abandon section 2.55 facilities only when the abandonment cannot qualify under the automatic or prior notice provisions of section 157.216 because the current cost to construct the facilities would exceed the blanket regulations' applicable cost limits, or because the company cannot obtain necessary customer consent as

[11] Because section 2.55(b) provides authority to abandon the existing facilities being replaced under that subsection, section 2.55(b)(1)(i) provides that a replacement project is authorized only if the abandonment of the existing facilities ''will not result in a reduction or abandonment of service.''

[12] The pre-granted abandonment authority provided by new subsection 2.55(a)(3) will satisfy the requirement set forth in NGA section 7(b) that ''no natural-gas company shall abandon all or any portion of its facilities subject to the jurisdiction of the Commission, or any service rendered by means of such facilities, without the permission and approval of the Commission first had and obtained.''

[13] *See http://www.ferc.gov/industries/gas/enviro/plan.pdf.*

[14] *See http://www.ferc.gov/industries/gas/enviro/procedures.pdf.*

[15] A company should seek guidance from staff if it is uncertain whether or how an environmental mitigation condition on the construction and operation of transmission facilities at a given location will apply to its abandonment of auxiliary facilities.

[16] As the Commission explained in Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 15, ''[i]n the case of section 2.55(b) replacement facilities, an environmental review was performed prior to construction of the existing facilities to be replaced.''

[17] *Id.* at P 39. The Commission has explained the original intent for section 2.55(b) as follows:

The types of construction activities being conducted under section 2.55 are replacements that should only involve basic maintenance or repair to relatively minor facilities where the Commission has determined that no significant impact to the environment will occur. The Commission believes that the existing right-of-way that was used to construct the original facilities should be sufficient for these types of activities. Pipelines may use their blanket certificate authority to perform projects involving more extensive work that would need additional workspace, including the use of other unrelated rights-of-way. This would allow for the required additional environmental scrutiny. Therefore, those projects should be done under the pipeline's blanket certificate.

*Id.* at P 7, *citing* Order No. 603–A, FERC Stats. & Regs. ¶ 31,081 at 31,922 (1999).

[18] The only notice requirement applicable to replacements under section 2.55(b) is the requirement that a company give the Commission at least 30 days prior notice if the cost of a replacement project will exceed the blanket certificate regulations' current automatic cost limit. *See* section 2.55(b)(1)(iii) and (2). There is no public notice requirement under section 2.55(a).

[19] In general, a facility is replaced as it approaches the end of its useful life, a lifespan which may be measured in decades for cathodically protected pipeline. Given this lifespan, by the time a replaced facility reaches the end of its useful life, there may have been changes in the use of land proximate to the replaced facility that were not contemplated in the Commission's review of the initial project proposal, and thus not accounted for in the certificate conditions. Accordingly, the Commission finds it prudent to revisit potential environmental impacts prior to the abandonment of certain replaced facilities.

[20] Even when a company obtains written consent from all customers whose services during the last year depended on the facilities to be abandoned under section 157.216, the abandonment is subject to the blanket certificate regulations' prior notice provisions if the current cost of constructing the facilities to be abandoned would exceed the blanket certificate regulations' current automatic cost limit. 18 CFR 157.216(b)(2) (2014).

required by section 157.216, or because the project cannot satisfy the section 157.206(b)'s environmental requirements.[21]

## II. Information Collection Statement

17. The Paperwork Reduction Act (PRA)[22] requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability.[23] The OMB regulations implementing the PRA require approval of certain information collection requirements imposed by agency rules.[24] We expect a net decrease in the reporting burden due to this rule's amendment of section 2.55(a) to provide pre-granted authority for companies to abandon or replace auxiliary facilities and amendment of the part 157 regulations to extend blanket certificate authority to the abandonment of certain section 2.55 auxiliary and replacement facilities. Companies must identify facilities abandoned under section 157.216 in the annual report submitted pursuant to section 157.207. While the expanded authority this rule provides under section 156.216 can be expected to increase the number of facilities abandoned under that section, companies can be expected to account for these additional facilities in the annual report with minimal, ministerial efforts. Consequently, this rule will substantially reduce current burdens on companies by eliminating the additional information that would otherwise need to be submitted in an NGA section 7(b) case-specific abandonment application.[25]

18. The Commission solicits comments from the public on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, recommendations to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The burden estimates are for implementing the information collection requirements of this Final Rule. The Commission asks that any revised burden estimates submitted by commenters include the details and assumptions used to generate the estimates.

19. The collection of information modified by this Final Rule falls under FERC–537 (Gas Pipeline Certificates: Construction, Acquisition, and Abandonment). The following estimates of reporting burden are related only to this Final Rule. *Public Reporting Burden:* The estimated average annual burden changes made in Docket RM12–11–003 follow.

RM12–11–003 FINAL RULE

| | Number of respondents (1) | Number of responses per respondent (2) | Average burden hours per response (3) | Total annual burden hours (1)×(2)×(3) | Total annual cost ($)[26] |
|---|---|---|---|---|---|
| **FERC–537** | | | | | |
| Pre-Granted Auxiliary Approval (18 CFR 2.55) | 3 | 1 | 5 | 15 | $1,080 |
| Additional Blanket Certificate Abandonment Applications | 2 | 1 | 25 | 50 | 3,600 |
| Eliminated Blanket Certificate Abandonment Applications | −3 | 1 | 25 | −75 | −5,400 |
| Eliminated Case-Specific Abandonment Applications | −2 | 1 | 160 | −320 | −23,040 |
| Net Change due to RM12–11–003 | | | | −330 | −23,760 |

*Title:* FERC–537 (Gas Pipeline Certificates: Construction, Acquisition and Abandonment)

*Action:* Proposed revisions to information collection

*OMB Control No.:* 1902–0060.

*Respondents:* Business or other for-profit enterprise (Natural Gas Companies).

*Frequency of Responses:* Ongoing and annual.

*Necessity of Information and Internal Review:* The Commission has determined that the proposed revisions are necessary to establish more efficient means to abandon auxiliary and replacement facilities. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the abandonment requirements.

20. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

[21] When a company relies on the automatic or prior notice provisions of section 157.216 to abandon a section 2.55 auxiliary or replacement facility, it will have to identify the abandonment in accordance with section 157.216(d) in the annual report of blanket certificate activities required by section 157.207. Section 157.216(d)(2) requires facilities abandoned under that section to be identified in a company's annual report by the ''docket number(s) of the certificate(s) authorizing the construction and operation of the facilities to be abandoned.'' Since the Commission does not assign docket numbers to facilities put in place under section 2.55, companies' annual reports of blanket certificate activities should identify the docket number(s) associated with the transmission facilities that were augmented or replaced by the section 2.55 facilities abandoned under section 157.216. If section 2.55 facilities are abandoned under section 157.216's prior notice provisions, the company's annual report should also include the docket number that was assigned to its prior notice filing.

[22] 44 U.S.C. 3501–3520 (2012).

[23] OMB's regulations provide at 5 CFR 1320.3(c)(4)(i) (2014) that ''[a]ny recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability is deemed to involve ten or more persons.''

[24] 5 CFR part 1320 (2014).

[25] FERC–537 (Gas Pipeline Certificates: Construction, Acquisition and Abandonment, OMB Control No. 1902–0060) covers both the abandonment application requirements of part 157 and the annual reports under 18 CFR 157.207. The expanded part 157 abandonment authority, as well as the new section 2.55(a)(3) pre-granted authority to abandon and replace auxiliary facilities, will be covered under FERC–537.

[26] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response × $72 per Hour = Average Cost per Response. The cost per hour figure is the FERC average salary plus benefits for Fiscal Year 2015. Subject matter experts found that industry employment costs closely resemble FERC's regarding the FERC–537 information collection.

21. Comments concerning the collection of information and the associated burden estimate should be sent to the Commission and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, telephone: (202) 395–0710, fax: (202) 395–4718]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include OMB Control Number 1902–0060 (FERC–537).

## III. Environmental Analysis

22. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment. The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment. Generally, the regulatory actions taken in this rulemaking proceeding fall within the categorical exclusions in the Commission's regulations for actions that are clarifying, corrective, or procedural, and for information gathering, analysis, and dissemination. Although this rule alters the procedures by which companies may obtain abandonment authorization for certain types of facilities, it will not result in any additional abandonment activities and therefore will not have a significant adverse effect on the human environment. Accordingly, an environmental review is not necessary and has not been prepared in connection with this rulemaking.

## IV. Regulatory Flexibility Act

23. The Regulatory Flexibility Act of 1980 (RFA) generally requires a description and analysis of agency rules that will have a significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The SBA Office of Size Standards develops the numerical definition of a small business. The SBA has established a size standard for companies transporting natural gas, stating that a firm is small if its annual receipts (and the receipts of its affiliates) are less than or equal to $27.5 million.[27]

24. The final rule provides less burdensome and less costly options for specified natural gas companies, the majority of which are not small businesses. The reporting requirements, which provide pre-granted abandonment authority under certain conditions and clarify the regulations, will reduce the burden and cost on those companies (large or small). The Commission estimates that an average of five projects per year will benefit from the less burdensome, streamlined requirements. Three of those five projects are expected to save $1,440 each, by using the new pre-granted approval in 18 CFR 2.55 (rather than the more burdensome blanket certificate abandonment application). In addition, two of those five filers are expected to save $9,720 each, by using the additional blanket certificate applications (rather than the case-specific abandonment applications). Accordingly, the Commission certifies that this Final Rule should not have a significant economic impact on a substantial number of small entities.

## V. Document Availability

25. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

26. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

27. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

[27] See 13 CFR 121.201 for Subsector 486, NAICS code 486210 (Pipeline Transportation of Natural Gas).

## VI. Effective Date and Congressional Notification

28. These regulations are effective October 7, 2015. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule is being submitted to the Senate, House of Representatives, Government Accountability Office, and Small Business Administration.

## List of Subjects

*18 CFR Part 2*

Administrative practice and procedure, Reporting and recordkeeping requirements.

*18 CFR Part 157*

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

Issued: July 16, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

In consideration of the foregoing, the Commission amends parts 2 and 157, chapter I, title 18, *Code of Federal Regulations,* as follows:

## PART 2—GENERAL POLICY AND INTERPRETATIONS

■ 1. The authority citation for part 2 continues to read as follows:

**Authority:** 5 U.S.C. 601; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 792–828c, 2601–2645, 42 U.S.C. 4321–4370h, 7101–7352.

■ 2. Amend § 2.55 by revising the section heading and adding paragraph (a)(3) to read as follows:

### § 2.55 Auxiliary installations and replacement facilities.

* * * * *

(a) * * *

(3) *Abandonment or replacement of auxiliary installations.* Authorization to abandon or replace auxiliary facilities that were or could be installed under paragraph (a)(1) of this section is pre-granted under section 7(b) of the Natural Gas Act, and no reporting is required, provided that:

(i) All activities will be confined to areas, including temporary work space, previously authorized by the Commission for the construction and operation of facilities at that location;

(ii) All activities will comply with applicable conditions on certificate authorizations for the construction and

operation of facilities at that location; and

(iii) The abandonment or replacement will have no adverse impact on customers' certificated services.

* * * * *

## PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PREMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

■ 3. The authority citation for part 157 continues to read as follows:

**Authority:** 15 U.S.C. 717–717z.

■ 4. Amend § 157.202 by adding a sentence at the end of paragraph (b)(2)(i) and revising paragraph (b)(3) to read as follows:

**§ 157.202 Definitions.**

* * * * *

(b) * * *

(2)(i) * * * Finally, for purposes of abandonment under § 157.216, eligible facilities include auxiliary installations that do not qualify for pre-granted abandonment authority under § 2.55(a)(3) and replacement facilities constructed under § 2.55(b).

* * * * *

(3) *Facility,* for purposes of construction under this subpart, does not include an auxiliary facility that qualifies for construction under § 2.55(a) of this chapter or a replacement facility that qualifies for construction under § 2.55(b).

* * * * *

■ 5. Amend § 157.216 by revising paragraphs (a)(2) and (b)(2) to read as follows:

**§ 157.216 Abandonment.**

(a) * * *

(2)(i) An auxiliary facility as described in § 2.55(a) of this chapter when the abandonment:

(A) Will not exceed the cost limit in § 157.208(d) for activities under the automatic provisions;

(B) Will have no adverse impact on customers' certificated services; and

(C) Cannot satisfy the right-of-way, facility site, and work space limitations for the pre-granted abandonment authority in § 2.55(a)(3);

(ii) A replacement facility that was or could have been constructed under § 2.55(b) of this chapter, provided the current cost to construct the facilities would not exceed the cost limit in § 157.208(d) for activities under the automatic provisions and the certificate holder obtains the written consent of each customer served using the facility during the past 12 months;

(iii) Any other facility that did or could now qualify for automatic authorization as described in § 157.203(b), provided the certificate holder obtains the written consent of each customer served using the facility during the past 12 months.

(b) * * *

(2)(i) An auxiliary facility as described in § 2.55(a) of this chapter when the abandonment:

(A) Will exceed the cost limit in § 157.208(d) for activities under the prior notice provisions;

(B) Will have no adverse impact on customers' certificated services; and

(C) Cannot satisfy the right-of-way, facility site, and work space limitations for the pre-granted abandonment authority in § 2.55(a)(3).

(ii) A replacement facility that was or could have been constructed under § 2.55(b) of this chapter, provided the current cost to construct the facilities would not exceed the cost limit in § 157.208(d) for activities under the prior notice provisions and the certificate holder obtains the written consent of each customer served using the facility during the past 12 months;

(iii) Any other facility that did or could now qualify for prior notice authorization as described in § 157.203(c), provided the certificate holder obtains the written consent of each customer served using the facility during the past 12 months.

* * * * *

[FR Doc. 2015–17919 Filed 7–23–15; 8:45 am]

BILLING CODE 6717–01–P

---

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 301

**[TD 9727]**

**RIN 1545–BI36**

## Claims for Credit or Refund

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations for filing a claim for credit or refund. The regulations provide guidance to taxpayers generally as to the proper place to file a claim for credit or refund. The regulations are updated to reflect changes made by the Tax Reform Act of 1976, section 1210, the Internal Revenue Service Restructuring and Reform Act of 1998, and the Community Renewal Tax Relief Act of 2000. The regulations are further updated to reflect that the IRS may prescribe additional claim forms.

**DATES:**

*Effective Date:* These regulations are effective on July 24, 2015.

*Applicability Dates:* For dates of applicability, see §§ 301.6402–2(g), 301.6402–3(f) and 301.6402–4(b).

**FOR FURTHER INFORMATION CONTACT:** Micah A. Levy, (202) 317–6832 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

These final regulations amend current regulations under section 6402 of the Internal Revenue Code (Code). Section 6402 of the Code authorizes the Secretary to make credits or refunds of overpayments. Section 6511 provides the limitations period within which a taxpayer must file a claim for credit or refund and restricts the ability of the Secretary to issue a credit or refund unless the claim is filed by the taxpayer within that period. Section 7422 prohibits the maintenance of a suit for refund until a claim has been duly filed with the Secretary. Currently, § 301.6402–2(a)(2) provides generally that a claim for credit or refund must be filed with the service center serving the internal revenue district in which the tax was paid. These final regulations clarify that, unless otherwise directed, the proper place to file a claim for credit or refund is with the service center at which the taxpayer currently would be required to file a tax return for the type of tax to which the claim relates, irrespective of where the tax was paid or was required to have been paid.

These final regulations remove outdated portions of § 301.6402–2 that provided rules for claims filed prior to April 15, 1968 and § 301.6402–3 that provided special rules for claims for credit or refund of income taxes filed before July 1, 1976, and revises the reference in § 301.6402–4 to reflect the threshold for referral to the Joint Committee on Taxation pursuant to section 6405. These final regulations do not affect § 301.6402–3T as promulgated in Treasury Decision 9658 (79 FR 12880) (March 6, 2014). Other stylistic revisions were adopted solely to conform the regulations to modern drafting style and usage.

On June 10, 2011, the IRS published a notice of proposed rulemaking (REG–137128–08) in the **Federal Register** (76 FR 34017). No request for a public hearing was received. The IRS received written and electronic comments responding to the notice of proposed

rulemaking. After consideration of the comments, the proposed regulations are adopted as amended by this Treasury decision. All comments are available at *www.regulations.gov* or upon request.

**Explanation of Provisions and Summary of Comments**

*I. Electronic Filing*

Commentators suggested that the regulations should provide for electronic filing, when available. Although the final regulations do not explicitly refer to electronic filing, the final regulations instruct taxpayers to file a claim for credit or refund in a manner consistent with forms, form instructions, publications, and other guidance on the IRS Web site. To the extent that electronic filing is or becomes available for filing a claim for credit or refund, it will be described elsewhere—for example, in forms, form instructions, publications, or the IRS Web site.

*2. Claims Unrelated to a Tax for Which a Return Is Required*

Commentators noted that some penalties are not related to any tax for which a return is required. These commentators observed that the instructions to Form 843, ''Claim for Refund and Request for Abatement,'' that taxpayers use to file a claim for credit or refund of penalties that are unrelated to any tax for which a return is required are unhelpful because they instruct taxpayers to file Form 843 with the service center in which the taxpayer would be required to file a current tax return for ''the tax to which your claim or request relates.'' For an assessable penalty that is unrelated to a particular tax, the notice containing or issued along with demand for payment would provide the proper address for filing a claim for credit or refund and the taxpayer should file a claim in accordance with any specific instructions contained therein.

The locations at which the IRS processes the various forms for any given subset of taxpayers may change and the proper place to identify such locations is in the various forms, instructions, publications, and the IRS.gov Web site. These regulations appropriately cross-reference such authorities.

*3. Protective and Informal Claims*

Commentators suggested that the regulations be amended to discuss protective claims and informal claims. Although not provided for in the Code, case law provides that protective claims may be filed to preserve a taxpayer's right to claim a refund when the taxpayer's right to the refund is contingent on future events and may not be determinable until after the statute of limitations expires. Case law also provides that a claim for refund that is technically deficient with respect to some formal claim requirement (*that is,* an ''informal'' claim) might nonetheless be a valid claim as long as it meets certain basic requirements (for example, even an informal claim must contain a written component). While the IRS has recognized both protective and informal claims in some circumstances, neither is within the scope of these regulations.

*4. Authority To Make Refunds on Equitable Grounds*

Commentators suggested that Treas. Reg. sec. 301.6402–2(b)(2), which explains that the IRS lacks the authority to make a refund on equitable grounds, should include exceptions for sections 6015(f) and 6343(d). Those and other Code provisions allow the IRS to consider equitable factors in making certain determinations, such as whether a taxpayer is eligible for innocent spouse relief or whether a levy may be released. The equitable factors that the IRS may consider in these statutorily prescribed situations affect only whether the taxpayer has an overpayment or otherwise may be entitled to particular relief. Once an overpayment is determined, whether by taking equitable considerations into account or not, such overpayment may be refunded only if the taxpayer or IRS follows all of the statutory and administrative prerequisites required to allow and make a refund. *See United States* v. *Clinton Elkhorn Mining Co.,* 553 U.S. 1 (2008). None of those equitable factors otherwise determine whether or how the IRS is to issue a refund. Section 6402, in turn, prescribes the treatment of overpayments and provides the regime under which the IRS may issue a refund. In other words, although equitable considerations may be taken into account under some Code sections in determining either the existence or amount of an overpayment, those sections do not provide any authority (equitable or statutory) to allow or make credits and refunds under section 6402. The statutory language of section 6402(a) provides that, if there is an overpayment, then the IRS *shall* refund that overpayment (subject to certain exceptions enumerated in the statute).

The IRS has discretion to grant equitable relief from joint and several liability under section 6015(f) to a requesting spouse if, considering all of the facts and circumstances, it would be inequitable to hold the requesting spouse jointly and severally liable. In those cases in which the IRS does apply equitable factors to determine whether a taxpayer is in an overpayment situation, such as under section 6015(f), the IRS considers things such as (1) whether the taxpayer is divorced, (2) whether the tax liability is due to income of the non-requesting spouse, and (3) the health of the requesting spouse. *See,* Rev. Proc. 2013–34, 2013–43 IRB 397 (Sept. 16, 2013). When a requesting spouse is relieved of joint and several liability, relief will rarely result in an overpayment because equitable relief under section 6015(f) generally involves unpaid liabilities. As a result, in many cases in which the IRS determines that a requesting spouse is entitled to equitable relief, the IRS ceases collection activity against the requesting spouse for any due, but unpaid, tax liabilities. Nonetheless, when equitable relief does result in an overpayment, the requesting spouse may receive a refund by filing a claim for refund using a Form 8857, Request for Innocent Spouse Relief, that complies with section 6402. Thus, the equitable considerations in section 6015(f) relate to whether the requesting spouse is entitled to relief, not whether a resulting overpayment is refunded.

Section 6343(d) provides for the return of levied property to a taxpayer in certain circumstances, including when, ''with the consent of the taxpayer or the National Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States.'' Although section 6343(d) may allow the IRS to consider equitable factors in determining whether to return the property, the return of levied property does not affect the amount of a taxpayer's tax liability and will not result in an overpayment. Accordingly, if the IRS returns property under section 6343(d) and the taxpayer fails to pay the previously assessed liability for which the levy was made on the returned property, then the IRS may collect the liability again, administratively or otherwise.

The refund provisions of section 6402 are only triggered once an overpayment exists and is established. Indeed, the section begins ''[i]n the case of any overpayment. . . .'' By presupposing the existence of an overpayment, the equitable factors that the IRS may have considered are not implicated or relevant in the determination of whether the overpayment is credited or refunded. Moreover, once the equitable factors have been used to establish the

taxpayer's ability to claim a refund, the amount of any overpayment is a purely mathematical calculation—no equitable factors exist at this stage. The final regulations continue to make clear that the IRS lacks the authority to refund on equitable grounds penalties or other amounts legally collected that comprise an overpayment.

**Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to the regulations and, therefore, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small business, and no comments were received.

**Drafting Information**

The principal author of the regulations is Micah A. Levy, Office of the Associate Chief Counsel (Procedure & Administration). Mr. Levy can be reached at (202) 317–6832 (not a toll-free number).

**List of Subjects in 26 CFR Part 301**

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 301 is amended as follows:

## PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

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

■ **Par. 2.** Section 301.6402–2 is amended by:

■ 1. Revising paragraphs (a)(2), (b)(2), (c), and (d).

■ 2. Adding paragraph (g).

The revisions and addition read as follows:

**§ 301.6402–2 Claims for credit or refund.**

(a) * * *

(2) Except as provided in paragraph (b) of § 301.6091–1 (relating to hand-carried documents), if a taxpayer is required to file a claim for credit or refund using a particular form, then the claim, together with appropriate supporting evidence, shall be filed in a manner consistent with such form, form instructions, publications, or other guidance found on the IRS.gov Web site. If a taxpayer is filing a claim in response to an IRS notice or correspondence, then the claim must be filed in accordance with the specific instructions contained in the notice or correspondence regarding the manner of filing. Any other claim not described in the preceding sentences generally must be filed with the service center at which the taxpayer currently would be required to file a tax return for the type of tax to which the claim relates or via the appropriate electronic portal. For rules relating to interest in the case of credits or refunds, see section 6611. For rules treating timely mailing as timely filing, see section 7502. For rules relating to the time for filing a claim when the last day falls on Saturday, Sunday, or a legal holiday, see section 7503.

(b) * * *

(2) The IRS does not have the authority to refund on equitable grounds penalties or other amounts legally collected.

(c) *Form for filing claim.* If a particular form is prescribed on which the claim must be made, then the claim must be made on the form so prescribed. For special rules applicable to refunds of income taxes, see § 301.6402–3. For provisions relating to credits and refunds of taxes other than income tax, see the regulations relating to the particular tax. All claims by taxpayers for the refund of taxes, interest, penalties, and additions to tax that are not otherwise provided for must be made on Form 843, ''Claim for Refund and Request for Abatement.''

(d) *Separate claims for separate taxable periods.* In the case of income and gift taxes, income tax withheld, taxes under the Federal Insurance Contributions Act, taxes under the Railroad Retirement Tax Act, and taxes under the Federal Unemployment Tax Act, a separate claim must be made for each return for each taxable period.

* * * * *

(g) *Effective/applicability date.* Paragraphs (a)(2), (b)(2), (c), and (d) of this section apply to claims for credit or refund filed on or after July 24, 2015. Paragraphs (a)(1), (b)(1), (e), and (f) of this section apply to claims for credit or refund filed before, on or after July 24, 2015.

■ **Par. 3.** Section 301.6402–3 is amended by:

■ 1. Revising the introductory text of paragraph (a).

■ 2. Removing and reserving paragraph (b).

■ 3. Revising paragraphs (c) and (f).

The revisions read as follows:

**§ 301.6402–3 Special rules applicable to income tax.**

(a) The following rules apply to a claim for credit or refund of income tax:—

* * * * *

(b) [Reserved]

(c) If the taxpayer is not required to show the tax on the form (see section 6014 and the accompanying regulations), the IRS will treat a properly filed income tax return as a claim for refund and such return will constitute a claim for refund within the meaning of section 6402 and section 6511 for the amount of the overpayment shown by the computation of the tax made by the IRS on the basis of the return. For purposes of the limitations period of section 6511, such claim will be treated as filed on the date the return is treated as filed.

* * * * *

(f) *Effective/applicability date.* (1) Paragraph (c) of this section, as revised, applies to claims for credit or refund filed on or after July 24, 2015. Paragraphs (a), (d), and (e) of this section apply to claims for credit or refund filed before, on or after July 24, 2015, except references in paragraph (e) to Form 8805 or other statements required under § 1.1446–3(d)(2) of this chapter apply to partnership taxable years beginning after April 29, 2008.

(2) [Reserved]. For further guidance, see § 301.6402–3T(f)(2).

■ **Par. 4.** Section 301.6402–4 is revised to read as follows:

**§ 301.6402–4 Payments in excess of amounts shown on return.**

(a) If the IRS determines that the payments by the taxpayer that are made within the period prescribed for payment and before the filing of the return exceed the amount of tax shown on the return (for example, excessive estimated income tax payments or excessive withholding), the IRS may credit or refund such overpayment without awaiting examination of the completed return and without awaiting the filing of a claim for refund. The provisions of §§ 301.6402–2 and 301.6402–3 are applicable to such

overpayment, and taxpayers should submit claims for refund (if the income tax return is not itself a claim for refund, as provided in § 301.6402–3) to protect themselves in the event the IRS fails to make such determination and credit or refund. The provisions of section 6405 (relating to reports of refunds in excess of the statutorily prescribed threshold referral amount to the Joint Committee on Taxation) do not apply to the overpayments described in this section.

(b) *Effective/applicability date.* The rules of this section apply to payments made on or after July 24, 2015.

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 8, 2015.

**Mark J. Mazur,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2015–18119 Filed 7–23–15; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket No. USCG–2015–0618]**

**RIN 1625–AA00**

## Safety Zone; Red Bull GRC Air Show, Detroit River, Detroit, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of the Detroit River in the vicinity of Detroit, MI. This zone is intended to restrict and control the movement of vessels in a portion of the Detroit River. This zone is necessary to protect spectators and vessels from the hazards associated with an air show.

**DATES:** This rule is effective from 1:30 p.m. on July 25, 2015 until 4:30 p.m. on July 26, 2015. It will be enforced from 1:30 p.m. to 4:30 p.m. each day on July 25 and 26, 2015.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2015–0618 and are available online by going to *www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. They are also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary final rule, contact or email PO1 Todd Manow, Prevention Department, Sector Detroit, Coast Guard; telephone 313–568–9580, or email *Todd.M.Manow@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

### Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NAD 83 North American Datum of 1983

### A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency, for good cause, finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details of this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect workers, the surrounding public, and vessels from the hazards associated with the maritime air show.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

### B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 1231; 33 CFR 1.05–1 and 160.5; Department of Homeland Security Delegation No. 0170.1.

The Coast Guard was informed that on July 25, 2015, and July 26, 2015, an air show will take place on the Detroit River in the vicinity of Detroit, MI. The Captain of the Port Detroit has determined that the air show may pose a significant risk to public safety and property.

### C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Detroit has determined a temporary safety zone is necessary to ensure the safety of spectators and vessels during the Red Bull GRC air show. This safety zone will encompass U.S. navigable waters of the Detroit River from the Belle Isle Bridge to position: 42°19′58.60″ N., 083°0′38.47″ W. (NAD 83).

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

### D. Regulatory Analyses

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

*1. Regulatory Planning and Review*

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

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port or his on-scene representative.

*2. Impact on Small Entities*

Under the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, we have considered the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Detroit River from 1:30 p.m. to 4:30 p.m. on July 25, 2015 and July 26, 2015.

This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons cited in the *Regulatory Planning and Review* section. Additionally, before the enforcement of the zone, the Captain of the Port will issue a local Broadcast Notice to Mariners so vessel owners and operators can plan accordingly.

*3. Assistance for Small Entities*

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

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

*4. Collection of Information*

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

*5. Federalism*

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

*6. Protest Activities*

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

*7. Unfunded Mandates Reform Act*

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

*8. Taking of Private Property*

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

*9. Civil Justice Reform*

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

*10. Protection of Children*

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

*11. Indian Tribal Governments*

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

*12. Energy Effects*

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

*13. Technical Standards*

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

*14. Environment*

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

**List of Subjects in 33 CFR Part 165**

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0618 to read as follows:

**§ 165.T09–0618 Safety Zone; Red Bull GRC Detroit, Detroit River, Detroit, MI.**

(a) *Location.* The following area is a temporary safety zone: U.S. navigable waters of the Detroit River from the Belle Isle Bridge to position: 42°19′58.60″ N., 083°0′38.47″ W. (NAD 83).

(b) *Enforcement periods.* The safety zone described in paragraph (a) of this section will be enforced from 1:30 p.m. through 4:30 p.m. each day on July 25 and 26, 2015.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit or his on-scene representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Detroit is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port Detroit to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so. The Captain of the Port Detroit or his on-scene representative may be contacted via VHF Channel 16 or at 313—568–9560. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Detroit or his on-scene representative.

Dated: July 13, 2015.

**Scott B. Lemasters,**

*Captain, U.S. Coast Guard, Captain of the Port Detroit.*

[FR Doc. 2015–18201 Filed 7–23–15; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket No. USCG–2010–0063]**

## Safety Zones; Annual Firework Displays Within the Captain of the Port, Puget Sound Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the safety zones for annual firework displays in the Captain of the Port, Puget Sound Zone during the dates and times noted below. This action is necessary to prevent injury and to protect life and property of the maritime public from the hazards associated with the firework displays. During the enforcement periods, entry into, transit through, mooring, or anchoring within these zones is prohibited unless authorized by the Captain of the Port, Puget Sound or Designated Representative.

**DATES:** The regulations in 33 CFR 165.1332 will be enforced during the dates and times noted below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice of enforcement, call or email Petty Officer Ryan Griffin, Sector Puget Sound Waterways Management, Coast Guard; telephone 206–217–6051, *SectorPugetSoundWWM@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the safety zones established for Annual Fireworks Displays within the Captain of the Port, Puget Sound Area of Responsibility in 33 CFR 165.1332 during the dates and times noted below.

The following safety zone will be enforced from 5:00 p.m. on September 12, 2015 through 1:00 a.m. on September 13, 2015: Mukilteo Lighthouse Festival, Possession Sound, 47°56.9′ N., 122°18.6′ W.

The special requirements listed in 33 CFR 165.1332 apply to the activation and enforcement of these safety zones.

All vessel operators who desire to enter the safety zone must obtain permission from the Captain of the Port or Designated Representative by contacting the Coast Guard Sector Puget Sound Joint Harbor Operations Center (JHOC) on VHF Ch 13 or Ch 16 or via telephone at (206) 217–6002.

The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice of enforcement is issued under authority of 33 CFR 165.1332 and 33 CFR 165 and 5 U.S.C. 552(a). In addition to this notice, the Coast Guard will provide the maritime community with extensive advanced notification of the safety zones via the Local Notice to Mariners and marine information broadcasts on the day of the events.

Dated: July 8, 2015.

**M.W. Raymond,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 2015–18197 Filed 7–23–15; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2015–0659]**

**RIN 1625–AA00**

## Safety Zone; Cleveland Triathlon, Lake Erie, North Coast Harbor, Cleveland, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on Lake Erie, North Coast Harbor, Cleveland, OH. This safety zone is intended to restrict vessels from a portion of the North Coast Harbor during the Cleveland Triathlon. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a large scale swimming event.

**DATES:** This rule is effective from 5:45 a.m. until 10:15 a.m. on July 26, 2015.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG–2015–0659]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LTJG Amanda Garcia, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9573, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

### A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior

notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from hazards associated with a large scale swimming event.

Under 5 U.S.C. 553(d)(3), The Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30-day notice period to run would be impracticable and contrary to the public interest.

**B. Basis and Purpose**

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 1231; 33 CFR 1.05–1 and 160.5; Department of Homeland Security Delegation No. 0170.1.

Between 5:45 a.m. and 10:15 a.m. on July 26, 2015, a large scale swimming event will be held on Lake Erie, North Coast Harbor in Cleveland, OH. The Captain of the Port Buffalo has determined that a large scale swimming event in close proximity to a gathering of watercraft poses a significant risk to participants and the boating public safety and property.

**C. Discussion of the Final Rule**

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone is necessary to ensure the safety of participants, spectators and vessels during the Cleveland Triathlon swimming event. This zone will be enforced from 5:45 a.m. until 10:15 a.m. on July 26, 2015. This zone will encompass all waters of Lake Erie, North Coast Harbor, Cleveland, OH within the vicinity of position 41°30′29.66″ N. and 081°41′46.33″ W. (NAD 83) extending in a straight line approximately .4 miles NNW of the transient marina into the East Basin.

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

**D. Regulatory Analyses**

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

*1. Regulatory Planning and Review*

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

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

*2. Impact on Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of North Coast Harbor on the morning of July 26, 2015.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this safety zone would be effective, and thus subject to enforcement, for only 4.5 hours and early in the day. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the enforcement of the zone, we would issue local Broadcast Notice to Mariners.

*3. Assistance for Small Entities*

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

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

*4. Collection of Information*

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

*5. Federalism*

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

various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

*6. Protest Activities*

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

*7. Unfunded Mandates Reform Act*

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

*8. Taking of Private Property*

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

*9. Civil Justice Reform*

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

*10. Protection of Children*

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

*11. Indian Tribal Governments*

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

*12. Energy Effects*

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

*13. Technical Standards*

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

*14. Environment*

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

**List of Subjects in 33 CFR Part 165**

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0659 to read as follows:

**§ 165.T09–0659 Safety Zone; Cleveland Triathlon, Lake Erie, North Coast Harbor, Cleveland, OH.**

(a) *Location.* This zone will encompass all waters of Lake Erie, North Coast Harbor, Cleveland, OH within the vicinity of position 41°30′29.66″ N. and 081°41′46.33″ W. (NAD 83) extending in a straight line approximately .4 miles NNW out of the transient marina into the East Basin.

(b) *Enforcement period.* This regulation will be enforced on July 26, 2015 from 5:45 a.m. until 10:15 a.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: July 14, 2015.

**B.W. Roche,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

[FR Doc. 2015–18206 Filed 7–23–15; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R05–OAR–2015–0407; FRL–9930–81–Region 5]**

## Air Plan Approval; MI, Belding; 2008 Lead Clean Data Determination

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** On May 13, 2015, the Michigan Department of Environmental Quality (MDEQ) submitted a request to the Environmental Protection Agency (EPA) to make a determination under the Clean Air Act (CAA) that the Belding, MI nonattainment area has attained the 2008 lead (Pb) national

ambient air quality standard (NAAQS or standard). In this action, EPA is determining that the Belding, MI nonattainment area (hereafter also referred to as the ''Belding area'' or ''area'') has attained the 2008 Pb NAAQS. This clean data determination is based upon complete, quality-assured and certified ambient air monitoring data for the 2012–2014 period showing that the area has monitored attainment of the 2008 Pb NAAQS. Additionally, as a result of this determination, EPA is suspending the requirements for the area to submit an attainment demonstration, together with reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures for failure to meet the RFP plan, and the attainment deadline for as long as the area continues to attain the 2008 Pb NAAQS.

**DATES:** This direct final rule will be effective September 22, 2015, unless EPA receives adverse comments by August 24, 2015. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2015–0407, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: aburano.douglas@epa.gov.*
3. *Fax:* (312) 408–2279.
4. *Mail:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R05–OAR–2015–0407. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sarah Arra, Environmental Scientist, at (312) 886–9401 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–9401, *arra.sarah@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What action is EPA taking?
II. What is the background for this action?
III. Application of EPA's Clean Data Policy to the 2008 Pb NAAQS
IV. Does the Belding area meet the 2008 Pb NAAQS?
V. What is the effect of this action?
VI. Statutory and Executive Order Reviews

## I. What action is EPA taking?

EPA is taking final action to determine that the Belding area has attained the 2008 Pb NAAQS. This is based upon complete, quality-assured and certified ambient air monitoring data for the 2012–2014 monitoring period showing that the area has monitored attainment of the 2008 Pb NAAQS.

Further, with this clean data determination, the requirements for the Belding area to submit an attainment demonstration together with RACM, a RFP plan, and contingency measures for failure to meet the RFP plan and attainment deadlines are suspended for as long as the area continues to attain the 2008 Pb NAAQS. As discussed below, this action is consistent with EPA's regulations and with its longstanding interpretation of subpart 1 of part D of the CAA.

If the Belding area violates the 2008 Pb NAAQS after this action, the basis for the suspension of these attainment planning requirements would no longer exist for that area, and the area would thereafter have to address applicable requirements.

## II. What is the background for this action?

On November 12, 2008 (73 FR 66964), EPA established a 2008 primary and secondary Pb NAAQS at 0.15 micrograms per cubic meter ($\mu g/m^3$) based on a maximum arithmetic three-month mean concentration for a three-year period. *See* 40 CFR 50.16. This is the ''2008 Pb NAAQS.'' On November 22, 2010 (75 FR 71033), EPA published its initial air quality designations for the 2008 Pb NAAQS based upon air quality monitoring data for calendar years 2007–2009. On November 22, 2011 (76 FR 72097), EPA published a second and final round of designations for the 2008 Pb NAAQS based upon air quality monitoring data for calendar years 2008–2010. As part of the second round, the Belding area was designated nonattainment for the 2008 Pb NAAQS.

On May 13, 2015, MDEQ submitted a request to EPA to make a determination that the Belding area has attained the 2008 Pb NAAQS based on complete, quality-assured, quality-controlled monitoring data from 2012 through 2014. For the reasons set forth in this document, EPA finds the request approvable.

## III. Application of EPA's Clean Data Policy to the 2008 Pb NAAQS

Following enactment of the CAA Amendments of 1990, EPA promulgated its interpretation of the requirements for implementing the NAAQS in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (General Preamble) 57 FR 13498, 13564 (April 16, 1992). In 1995, based on the interpretation of CAA sections 171 and 172, and section 182 in the General Preamble, EPA set forth what has become known as its ''Clean Data Policy'' for the 1-hour ozone NAAQS. *See* Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, ''RFP, Attainment Demonstration, and Related Requirements for Ozone Nonattainment areas Meeting the Ozone National Ambient Air Quality Standard'' (May 10, 1995). In 2004, EPA indicated its intention to extend the Clean Data Policy to the fine particulates ($PM_{2.5}$) NAAQS. *See* Memorandum from Steve Page, Director, EPA Office of Air Quality Planning and Standards, ''Clean Data Policy for the Fine Particle National Ambient Air Quality Standards'' (December 14, 2004). This policy was extended to Pb in 2012 (*see* 77 FR 35653).

Since 1995, EPA has applied its interpretation under the Clean Data Policy in many rulemakings, suspending certain attainment-related planning requirements for individual areas, based on a clean data determination. For a full discussion on EPA's application of this policy, see section III of the Bristol, Tennessee Determination of Attaining Data for the 2008 Pb Standards (77 FR 35653).

## IV. Does the Belding area meet the 2008 Pb NAAQS?

### *A. Criteria*

This rulemaking assesses whether the Belding area has attained the 2008 Pb NAAQS, based on the most recent three years of quality-assured data. The Belding area is comprised of a partial county area in Ionia County [1] and surrounds the Mueller Industries facility.

Under EPA regulations at 40 CFR 50.16, the 2008 primary and secondary Pb standards are met when the maximum arithmetic three-month mean concentration for a three-year period, as determined in accordance with 40 CFR part 50, appendix R, is less than or equal to 0.15 μg/m³ at all relevant monitoring sites in the subject area.

EPA has reviewed the ambient air monitoring data for the Belding area in accordance with the provisions of 40 CFR part 50, appendix R. All data considered are complete, quality-assured, certified, and recorded in EPA's Air Quality System database. This review addresses air quality data collected in the 2012–2014 period which are the most recent quality-assured data available.

### *B. Belding Area Air Quality*

The Belding area has two monitoring sites that are Federal reference method source-oriented monitors which meet the quality assurance requirements of 40 CFR 58, appendix A.[2] After the Mueller Industries facility: Restricted Pb emissions on its chip driers and induction furnaces, implemented a preventative maintenance plan, properly operated controls, increased stack height of the chip driers, and increased monitoring, testing, and record keeping, as required through state rules by October of 2013, the monitored Pb values were well below the standard.

Table 1 shows the 2012–2014 three-month rolling averages for Belding Area monitor 26–067–0002 in μg/m³.

| Location | 3-month period | 2012 | 2013 | 2014 |
|---|---|---|---|---|
| 545 Reed St | Nov–Jan [3] | 0.03 | 0.02 | 0.02 |
| | Dec–Feb | 0.04 | 0.01 | 0.02 |
| | Jan–Mar | 0.05 | 0.01 | 0.02 |
| | Feb–Apr | 0.04 | 0.01 | 0.01 |
| | Mar–May | 0.04 | 0.03 | 0.02 |
| | Apr–Jun | 0.04 | 0.03 | 0.02 |
| | May–July | 0.04 | 0.04 | 0.02 |
| | Jun–Aug | 0.04 | 0.05 | 0.01 |
| | July–Sept | 0.05 | 0.05 | 0.04 |
| | Aug–Oct | 0.04 | 0.06 | 0.04 |
| | Sept–Nov | 0.03 | 0.04 | 0.04 |
| | Oct–Dec | 0.02 | 0.04 | 0.02 |

Table 2 shows the 2012–2014 three-month rolling averages for Belding Area monitor 26–067–0003 in μg/m³.

| Location | 3-month period | 2012 | 2013 | 2014 |
|---|---|---|---|---|
| 509 Merrick St | Nov–Jan [4] | 0.02 | 0.02 | 0.05 |
| | Dec–Feb | 0.02 | 0.03 | 0.03 |
| | Jan–Mar | 0.03 | 0.03 | 0.02 |
| | Feb–Apr | 0.04 | 0.03 | 0.04 |

[1] The specific area is bounded by the following coordinates: Southeast corner by latitude 43.0956705 N and longitude 85.2130771 W; southwest corner (intersection of S. Broas St. and W. Washington St.) by latitude 43.0960358 N and longitude 85.2324027 W; northeast corner by latitude 43.1074942 N and longitude 85.2132313 W; western boundary 1 (intersection of W. Ellis St. and the vertical extension of S. Broas St.) by latitude 43.1033277 N and longitude 85.2322553 W; western boundary 2 (intersection of W. Ellis St. and N. Bridge St.) by latitude 43.1033911 N and longitude 85.2278464 W; western boundary 3 (intersection of N. Bridge St. and Earle St.) by latitude 43.1074479 N and longitude 85.2279722 W.

[2] During a routine audit, the monitor at site 26–067–0002 was discovered to be 0.13 meters below the recommended height. However, EPA determined that this would have minimal effect on the data and, if any, would incorrectly measure concentrations as too high, rather than too low. Therefore, the data were determined valid. The problem was fixed on October 9, 2014 (*see* Belding Reed Memorandum in the docket).

[3] When calculating a three-month rolling average, the first two data points, November through January for 2012 and December through February of 2012, would additionally use data from November and December of 2011.

| Location | 3-month period | 2012 | 2013 | 2014 |
|---|---|---|---|---|
| | Mar–May | 0.05 | 0.03 | 0.04 |
| | Apr–Jun | 0.06 | 0.03 | 0.04 |
| | May–July | 0.05 | 0.04 | 0.03 |
| | Jun–Aug | 0.05 | 0.04 | 0.03 |
| | July–Sept | 0.04 | 0.04 | 0.03 |
| | Aug–Oct | 0.03 | 0.03 | 0.03 |
| | Sept–Nov | 0.02 | 0.04 | 0.03 |
| | Oct–Dec | 0.02 | 0.05 | 0.04 |

The data shown in Tables 1 and 2 are complete, quality-assured, and certified and show 0.06 μg/m$^3$ as the highest three-month rolling average.

The Mueller Industries facility's National Emissions Inventory emissions in 2011 were 0.70 tons per year. With the combination of restricted Pb emissions, preventative maintenance plan, properly operating controls, increased stacks, and increased monitoring, testing, and recordkeeping at the facility, the area is now monitoring less than half of the standard.

EPA's review of these data indicates that the Belding area has attained and continues to attain the 2008 Pb NAAQS, with a design value of 0.06 μg/m$^3$ for the period of 2012–2014.

## V. What is the effect of this action?

Based on complete, quality-assured and certified data for 2012–2014, EPA is determining that the Belding area has attained the 2008 Pb NAAQS. The requirements for MDEQ to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning State Implementation Plans related to attainment of the 2008 Pb NAAQS for the Belding area is suspended for as long as the area continues to attain the 2008 Pb NAAQS. This EPA rulemaking is consistent and in keeping with its long-held interpretation of CAA requirements, as well as with EPA's regulations for similar determinations for ozone (*see* 40 CFR 51.918) and $PM_{2.5}$ (*see* 40 CFR 51.1004(c)).

This action does not constitute a redesignation of the area to attainment of the 2008 Pb NAAQS under section 107(d)(3) of the CAA. This action does not involve approving a maintenance plan for the area as required under section 175A of the CAA, nor does it find that the area has met all other requirements for redesignation. The Belding area remains designated nonattainment for the 2008 Pb NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment and takes action to redesignate the area.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective September 22, 2015 without further notice unless we receive relevant adverse written comments by August 24, 2015. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. Public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective September 22, 2015.

## VI. Statutory and Executive Order Reviews

This action makes a clean data determination for the Belding area for the 2008 Pb NAAQS based on air quality data and results in the suspension of certain Federal requirements and does not impose any additional requirements. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the clean data determination is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General

[4] The 2012 data set includes data from November and December of 2011.

of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 22, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: July 14, 2015.

**Susan Hedman,**

*Regional Administrator, Region 5.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

■ 2. Add § 52.1188 to read as follows:

**§ 52.1188 Control strategy: Lead (Pb).**

(a) Based upon EPA's review of the air quality data for the three-year period 2012 to 2014, EPA determined that the Belding, MI Pb nonattainment area has attained the 2008 Pb National Ambient Air Quality Standard (NAAQS). This clean data determination suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard as long as this area continues to meet the 2008 Pb NAAQS.

(b) [Reserved]

[FR Doc. 2015–18103 Filed 7–23–15; 8:45 am]

BILLING CODE 6560–50–P

---

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R01–OAR–2014–0842; A–1–FRL–9927–32–Region 1]**

### Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Prevention of Significant Deterioration and Nonattainment New Source Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to fully approve revisions to the State of Connecticut's State Implementation Plan (SIP) relating to regulation of fine particulate matter ($PM_{2.5}$) emissions within the context of EPA's Prevention of Significant Deterioration (PSD) regulations. EPA is also approving clarifications to the applicability section of Connecticut's Nonattainment New Source Review (NNSR) regulations. These revisions will be part of Connecticut's major stationary source preconstruction permitting programs, and are intended to align Connecticut's regulations with the federal PSD and NNSR regulations. This action is being taken in accordance with the Clean Air Act (CAA).

**DATES:** This direct final rule will be effective September 22, 2015, unless EPA receives adverse comments by August 24, 2015. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R01–OAR–2014–0842 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: dahl.donald@epa.gov*
3. *Fax:* (617) 918–0657.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2014–0842'', Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier:* Deliver your comments to: Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100 (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R01–OAR–2014–0842. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information may not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material,

is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

In addition, a copy of the state submittal is also available for public inspection during normal business hours, by appointment at the State Air Agency; the Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

**FOR FURTHER INFORMATION CONTACT:** Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Mr. Dahl's telephone number is (617) 918–1657; email address: *dahl.donald@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

**Table of Contents**

I. What is the background for EPA's action?
II. What is EPA's analysis of Connecticut's proposed SIP revisions?
A. Connecticut's September 27, 2012 SIP Submission
B. Connecticut's October 9, 2012 SIP Submission
III. Final Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

## I. What is the background for EPA's action?

On September 27, 2012 and October 9, 2012, the State of Connecticut's Department of Energy and Environmental Protection (CT DEEP) submitted to EPA proposed formal revisions to Connecticut's State Implementation Plan (SIP). The submitted SIP revisions consist of: (1) Amendments to Connecticut's PSD regulations and tables to address $PM_{2.5}$ emissions; (2) a notice requirement to be provided to states affected by emissions from major new or modified construction; (3) one modified definition relating to the State's PSD program; (4) language amending an existing section of the State's NNSR SIP regulations for purposes of clarification; and (5) the addition of $PM_{2.5}$ in an emissions offset provision of the State's NNSR regulations. Each of these revisions relates to requirements contained in EPA's regulations codified at either 40 CFR 51.165 (NNSR) or 51.166 (PSD).

## II. What is EPA's analysis of Connecticut's proposed SIP revisions?

Connecticut is currently a SIP-approved state for all CAA major stationary source preconstruction permitting programs, PSD and NNSR. EPA's analysis of Connecticut's September 27, 2012 and October 9, 2012 submissions in relation to those federal programs appears below.

### *A. Connecticut's September 27, 2012 SIP Submission*

Connecticut's submission included sections 22a–174–2a(b)(5)(E) and (b)(6) of its air program regulations. Those provisions clarify when and which entities will receive from the CT DEEP a copy of the notice of the State's ''tentative determination'' (or draft major stationary source preconstruction permit). More specifically, Connecticut's SIP-approved regulations had not previously contained a provision requiring notice (prior to issuance of a PSD permit) to states whose air quality may be affected by emissions from a major new or modified source. EPA identified this missing requirement when determining whether Connecticut's SIP met the affected state notification requirement in CAA section 110(a)(2)(D)(ii) and 40 CFR 51.166(q)(2)(iv). On October 16, 2012, EPA conditionally approved Connecticut's infrastructure SIP for the 1997 and 2006 $PM_{2.5}$ standards. See 77 FR 63228. The portion of the October 16, 2012 conditional approval addressed by the State's September 27, 2012 SIP revision involved the requirement that Connecticut notify other affected states prior to issuing a PSD permit.

EPA has analyzed the submitted provisions and has determined that they are consistent with EPA's regulations, including the requirement at 40 CFR 51.166(q)(2)(iv) applicable to affected state notice. Therefore, EPA is fully approving the revisions into Connecticut's SIP.

### *B. Connecticut's October 9, 2012 SIP Submission*

Connecticut's submission addresses $PM_{2.5}$ emissions requirements for PSD permitting by adding $PM_{2.5}$ to several sections of the State's SIP regulations. These sections are Section 22a–174–1 (definition of ''Major source baseline date'') and Tables 3a(i)–1 (Ambient Impact [1]), 3a(k)–1 (Significant Emission Rate Thresholds) and 3a(k)–2 (PSD Increment) in Section 22a–174–3a.

Connecticut's SIP-approved regulations had not previously contained provisions that addressed $PM_{2.5}$ requirements for PSD permitting. EPA identified these missing requirements when determining whether Connecticut's infrastructure SIP met the requirements of a fully approved PSD program set forth in CAA sections 110(a)(2)(C), (D)(i)(II) and (J). On October 16, 2012, EPA conditionally approved Connecticut's infrastructure SIP for the 1997 and 2006 $PM_{2.5}$ standards. See 77 FR 63228. The portion of EPA's October 16, 2012 conditional approval addressed by the State's October 9, 2012 SIP revision submission involved establishing a Significant Emission Rate Threshold for $PM_{2.5}$ emissions and precursors to $PM_{2.5}$, $PM_{2.5}$ increment, and adding $PM_{2.5}$ to the definition of ''Major source baseline date.''

The October 9, 2012 submission also included revisions to Connecticut's NNSR regulations. These revisions are to Section 22a–174–3a(*l*)(1) (applicability), discussed in more detail below, and Section 22a–174–3a(*l*)(4)(B)(iv), adding $PM_{2.5}$ to a list of pollutants relevant to emissions offsets. We note, however, that Connecticut currently does not have any $PM_{2.5}$ nonattainment areas.

In EPA's ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers,'' Final Rule, 73 FR 28321 (May 16, 2008), EPA established a new significance level for $PM_{2.5}$ emissions. In EPA's ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC),'' Final Rule, 75 FR 64864 (October 20, 2010), EPA established increments, SILs, and SMCs for $PM_{2.5}$ emissions. Both of these EPA rules required Connecticut to amend their state regulations for permitting major new and modified major

[1] The values contained in Connecticut's Ambient Impact table correspond to EPA's Significant Impact Levels (SILs).

stationary sources in relation to the $PM_{2.5}$ NAAQS.

On January 22, 2013, the United States Court of Appeals for the District of Columbia Circuit granted a request from EPA to vacate and remand to EPA the portions of the $PM_{2.5}$ PSD Increment-SILs-SMC Rule (40 CFR 51.166(k)(2) and 40 CFR 52.21(k)(2)) addressing the SILs for $PM_{2.5}$ so that EPA could voluntarily correct an error in these provisions. See *Sierra Club* v. *EPA,* 705 F.3d 458, 463–66 (D.C. Cir. 2013). The court declined to vacate the SILs provision at 40 CFR 51.165(b)(2) that did not contain that same error. *Id.* The Court also vacated the part of the $PM_{2.5}$ PSD Increment-SILs-SMC Rule establishing the $PM_{2.5}$ SMC for the PSD permitting program, finding that EPA was precluded from using the $PM_{2.5}$ SMC to exempt permit applicants from the statutory requirement to compile and submit preconstruction monitoring data as part of a complete PSD application. *Id.* at 469. On December 9, 2013, EPA issued a final rulemaking to remove the vacated $PM_{2.5}$ SILs provisions and revising the existing $PM_{2.5}$ SMC listed in 40 CFR 51.166(i)(5)(i)(c) to zero micrograms per cubic meter (0 $\mu g/m^3$). See 78 FR 73698.

Connecticut has never adopted an SMC for $PM_{2.5}$ emissions pursuant to 40 CFR 51.166(i)(5), which was vacated by the United States Court of Appeals for the District of Columbia Circuit, because the provision is an optional element of a state's program and Connecticut chose not to include that element in its program. Connecticut's regulations also do not contain provisions that address the SIL provisions at 40 CFR 51.166(k)(2) vacated by the Court.

EPA has analyzed the above-described amended sections of Connecticut's regulations and has determined those sections are consistent with the requirements codified at 40 CFR 51.166, and therefore should be approved into Connecticut's SIP.

Connecticut's October 9, 2012 submission also included amendments to certain sections of the State's NNSR regulations. One change affected section 22a–174–3a(*l*)(1) of Connecticut's regulations and was adopted to clarify that the applicability of the State's NNSR requirements is triggered in designated nonattainment areas by emissions of the pollutant for which the area is designated nonattainment.

As noted earlier, Connecticut also added $PM_{2.5}$ emissions to a list of pollutants in section 22a–174–3a(*l*)(4)(B)(iv), which addresses emission reduction credits. As also noted earlier, however, Connecticut currently does not have any $PM_{2.5}$ nonattainment areas.

EPA has analyzed the above-described amended sections of Connecticut's regulations and has determined those sections are consistent with the requirements codified at 40 CFR 51.165, and therefore should be approved into Connecticut's SIP.

The State's October 9, 2012 submission also included an amendment to Table 3a(i)–1 of section 22a–174–3a, adding values for $PM_{2.5}$ Ambient Impact (these values are equivalent conceptually to EPA's SILs). The State's October 9, 2012 submission also included section 22a–174–3a(*l*)(l)(C), which requires sources to undergo NNSR and permitting even though they are located in attainment areas or areas that are unclassifiable, but only if the allowable emissions from such sources would cause or exacerbate a violation of a NAAQS in an adjacent nonattainment area. EPA is approving these two revisions to Connecticut's SIP. In doing so, however, we note that section 22a–174–3a(*l*)(l)(C) contains a reference to Table 3a(i)–1 of section 22a–174–3a (the State's Ambient Impact values) and specifies that if the modeled ambient impacts from a source's allowable emissions would be below those impact values the NNSR permitting requirements of section 22a–174–3a(*l*)(l)(C) would then not apply. EPA interprets this provision to only apply in the state's NNSR permitting program to determine whether a source locating in an attainment or unclassifiable area will cause or exacerbate a violation of the NAAQS in an adjacent nonattainment area and thus be subject to NNSR review under the particular requirements of the Connecticut SIP. As this provision only appears in the state's NNSR permitting rules, EPA does not interpret this provision to apply in Connecticut's PSD permitting program to determine whether a proposed new or modified source would cause or contribute to a violation of the NAAQS anywhere. Thus, this narrowly drafted NNSR applicability provision and the manner in which Connecticut's regulation applies the ambient impact values from Table 3a(i)–1 in this provision are not in conflict with the DC Circuit decision in *Sierra Club* v. *EPA* that vacated EPA's SIL provision at 40 CFR 51.166(k)(2). EPA views Section 22a–174–3a(*l*)(l)(C) as a NNSR applicability provision that has no effect on Connecticut's PSD permitting program, which still requires that a proposed new or modified source locating in an attainment or unclassifiable area to make an appropriate demonstration that it does not cause or contribute to a violation of any NAAQS or increment. See Section 22a–174–3a(k) of CT DEEP's regulations.

## III. Final Action

Pursuant to section 110 of the CAA, EPA is fully approving Connecticut's September 27, 2012 and October 9, 2012 SIP revisions. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revisions should relevant adverse comments be filed. This rule will be effective September 22, 2015 without further notice unless the Agency receives relevant adverse comments by August 24, 2015.

If the EPA receives such comments, then EPA will publish a notice withdrawing today's final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 22, 2015 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the State of Connecticut Department of Energy and Environmental Protection Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

## V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 22, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping, Sulfur oxides, Volatile organic compounds.

Dated: April 20, 2015.

**H. Curtis Spalding,**

*Regional Administrator, EPA New England.*

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

## Subpart H—Connecticut

■ 2. Section 52.370 is amended by adding paragraphs (c)(107) and (108) to read as follows:

### § 52.370 Identification of plan

* * * * *

(c) * * *

(107) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on September 27, 2012.

(i) Incorporation by reference.

(A) Regulations of Connecticut State Agencies Section 22a–174–2a(b)(5) introductory text and Section 22a–174–2a(b)(5)(E), as published in the Connecticut Law Journal on October 23, 2012, effective September 10, 2012.

(B) Regulations of Connecticut State Agencies Section 22a–174–2a(b)(6), as published in the Connecticut Law Journal on October 23, 2012, effective September 10, 2012.

(108) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on October 9, 2012.

(i) Incorporation by reference.

(A) Regulations of Connecticut State Agencies Section 22a–174–1(62), as published in the Connecticut Law Journal on October 16, 2012, effective September 10, 2012.

(B) Regulations of Connecticut State Agencies Section 22a–174–3a(i), Table 3a(i)–1, published in the Connecticut Law Journal on October 16, 2012, effective September 10, 2012.

(C) Regulations of Connecticut State Agencies revisions to Section 22a–174–3a(k), Table 3a(k)–1, published in the Connecticut Law Journal on October 16, 2012, effective September 10, 2012.

(D) Regulations of Connecticut State Agencies revisions to Section 22a–174–3a(k), Table 3a(k)–2, published in the Connecticut Law Journal on October 16, 2012, effective September 10, 2012.

(E) Regulations of Connecticut State Agencies revisions to Section 22a–174–3a (*l*)(1), published in the Connecticut Law Journal on October 16, 2012, effective September 10, 2012.

(F) Regulations of Connecticut State Agencies revisions to Section 22a–174–3a(*l*)(4)(B) introductory text and Section 22a–174–3a(*l*)(4)(B)(iv), published in the Connecticut Law Journal on October 16, 2012, effective September 10, 2012.

■ 3. In § 52.385, Table 52.385 is amended by adding new entries to existing state citations for 22a–174–1, 22a–174–2a, and 22a–174–3a to read as follows:

**§ 52.385 EPA-approved Connecticut regulations.**

* * * * *

TABLE 52.385—EPA-APPROVED REGULATIONS

| Connecticut State citation | Title/subject | Dates | | Federal Register citation | Section 52.370 | Comments/description |
|---|---|---|---|---|---|---|
| | | Date adopted by State | Date approved by EPA | | | |
| * | * | * | | * | * | * |
| 22a–174–1 ..... | Definitions ..... | 9/10/2012 | 7/24/2015 | [Insert **Federal Register** citation]. | (c)(108) | Modified definition of ''major source baseline date'' for purposes of adding $PM_{2.5}$. |
| * | * | * | | * | * | * |
| 22a–174–2a ... | Procedural Requirements for New Source Review and Title V Permitting. | 9/10/2012 | 7/24/2015 | [Insert **Federal Register** citation]. | (c)(107) | Only sections 22a–174–2a(b)(5)(E) and (b)(6) are being approved. |
| * | * | * | | * | * | * |
| 22a–174–3a ... | Permit to Construct and Operate Stationary Sources. | 9/10/2012 | 7/24/2015 | [Insert **Federal Register** citation]. | (c)(108) | Added Ambient Impact values for $PM_{2.5}$ in Table 3a(i)–1, Significant Emission Rate Thresholds for $PM_{2.5}$ emissions and its precursors in Table 3a(k)–1, $PM_{2.5}$ increment added to Table 3a(k)–2, and $PM_{2.5}$ added to section 22a–174–3a(*l*)(4)(B)(iv). Revised section 22a–174–3a(*l*)(1). |
| * | * | * | | * | * | * |

[FR Doc. 2015–17664 Filed 7–23–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R06–OAR–2015–0172; FRL–9931–09–Region 6]**

## Approval and Promulgation of Implementation Plans; New Mexico; Electronic Reporting Consistent With the Cross Media Electronic Reporting Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New Mexico. The revision pertains primarily to electronic reporting and would require electronic reporting of documents submitted for compliance with Clean Air Act (CAA) requirements. The revision also includes other changes which are non-substantive and primarily address updates to New Mexico Environment Department's (NMED) document viewing locations.

**DATES:** This rule is effective on September 22, 2015 without further notice, unless EPA receives relevant adverse comment by August 24, 2015. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2015–0172, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions.
- *Email: fuerst.sherry@epa.gov.*
- *Mail or delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

*Instructions:* Direct your comments to Docket ID No. EPA–R06–OAR–2015–0172. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that 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 along with any disk or CD–ROM submitted. 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 and any form of encryption and should be free of any defects or viruses. For additional information

about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

**FOR FURTHER INFORMATION CONTACT:** Ms. Sherry Fuerst, 214–665–6454, *fuerst.sherry@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Ms. Fuerst or Mr. Bill Deese at 214–665–7253.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

## I. Background

On February 2, 2015, the Secretary of the NMED submitted rules for inclusion into the SIP which amended regulations to include authorizing and requiring the electronic submittal of data, reports and permit applications in lieu of paper submittals. The revision to the SIP would incorporate amendments to rule 20.2.1 of the New Mexico Administrative Code (NMAC)—*General Provisions.* The amendments provide that, after proper notification is given, submittals to NMED required under 20 NMAC Chapter 2 (Air Quality) must be electronic, unless a waiver is granted (20.2.1.117NMAC). Additionally, the revision amends 20 NMAC Chapter 2, Part 1 to make non-substantive changes which primarily address updates to NMED document viewing locations.

## II. EPA's Evaluation

Our regulations assert that States that wish to receive electronic documents must revise the SIP to satisfy the requirements of 40 CFR part 3 (Electronic reporting) (40 CFR 51.286). EPA has evaluated the State's submittal allowing electronic reporting and has determined that it meets the applicable requirements of the EPA air quality regulations because it is consistent with EPA's requirements for electronic reporting.

Section 110(l) of the Federal CAA states that each revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. Additionally, we may not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. In its submittal, NMED provided documentation that reasonable notice and a public hearing were provided. As the revision allows for the electronic reporting of information and does not alter the substance of the state monitoring submittals, it will not interfere with any applicable requirement of the CAA.

## III. Final Action

We are approving revisions to the New Mexico SIP that pertain to electronic reporting, 20.2.1.117 A and B, as proposed in the SIP revision proposal package submitted by the Secretary of NMED on February 2, 2015.

We are also approving the amendments that were proposed to correct typographical errors and to standardize formatting of rule language.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on September 22, 2015 without further notice unless we receive relevant adverse comment by August 24, 2015. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## IV. Incorporation by Reference

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the revisions to the New Mexico regulations as described in the Final Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have

tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 22, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: July 10, 2015.

**Ron Curry,**

*Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### Subpart GG—New Mexico

■ 2. In § 52.1620(c), the table titled ''EPA Approved New Mexico Regulations'' is amended by revising the entry for ''Part 1'' under ''New Mexico Administrative Code (NMAC) Title 20—Environment Protection, Chapter 2—Air Quality'' to read as follows:

**§ 52.1620 Identification of plan.**

* * * * *

(c) * * *

EPA APPROVED NEW MEXICO REGULATIONS

| State citation | Title/subject | State approval/ effective date | EPA approval date | Comments |
|---|---|---|---|---|
| **New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2—Air Quality** | | | | |
| Part 1 | General Provisions | 1/23/2015 | 7/24/2015 [Insert **Federal Register** citation]. | |
| * | * | * | * | * |

* * * * *

[FR Doc. 2015–18098 Filed 7–23–15; 8:45 am]

**BILLING CODE 6560–50–P**

## LEGAL SERVICES CORPORATION

### 45 CFR Part 1628

### Recipient Fund Balances

**AGENCY:** Legal Services Corporation.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the Legal Services Corporation (LSC or Corporation) regulation on recipient fund balances to give the Corporation more discretion to grant a recipient's request for a waiver to retain a fund balance in excess of 25% of its annual LSC support. This final rule also provides that recipients facing a fund balance in excess of 25% of their annual LSC support may submit a waiver request prior to submitting their annual audited financial statements.

**DATES:** This final rule is effective August 24, 2015.

**FOR FURTHER INFORMATION CONTACT:** Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; (202) 295–1563 (phone), (202) 337–6519 (fax), or *sdavis@lsc.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Regulatory Background**

LSC issued its first instruction on recipient fund balances in 1983 to implement what is now the Corporation's longstanding objective of ensuring the timely expenditure of LSC funds for the effective and economical provision of high quality legal assistance to eligible clients. 48 FR 560, 561, Jan. 5, 1983. Later that year, LSC published a redrafted version titled Instruction 83–4, Recipient Fund Balances (''Instruction''). 48 FR 49710, 49711, Oct. 27, 1983. The Instruction limited recipients' ability to carry over LSC funds that remained unused at the end of the fiscal year. *Id.* Specifically, the Instruction provided that in the absence of a waiver granted by the Corporation, a recipient must repay to LSC any funds retained at the end of the fiscal year in excess of 10% of its total annual LSC support. *Id.* The Instruction also prohibited a recipient from ever retaining a fund balance in excess of 25% of its annual support, thereby limiting the Corporation's waiver granting authority to fund balance amounts of 25% or less of a recipient's annual LSC support. *Id.*

In 1984, LSC substantially adopted the Instruction in a regulation published at 45 CFR part 1628. 49 FR 21331, May 21, 1984. Part 1628 remained unchanged until 2000, when LSC promulgated revisions in response to public comments and staff advice that the rule was ''more strict'' than the fund balance requirements of most federal agencies. 65 FR 66637, 66638, Nov. 7, 2000. The revised rule provided the Corporation with more discretion to grant a recipient's request for a waiver to retain a fund balance of up to 25% of its annual LSC support. *Id.* at 66637.

In addition, for the first time, the rule authorized the Corporation to exercise its discretion to grant a recipient's request for a waiver to retain a fund balance in excess of 25% of its annual LSC support. *Id.* The Corporation reasoned that, by allowing for waivers to retain that amount, ''[t]he recipient can better plan and find the best use for the funds, rather than being forced into a hasty expenditure simply to avoid the limitation on the carryover of fund balances.'' *Id.* at 66640. The rule, however, limited the situations justifying a recipient's request to retain more than 25% of its annual support to ''three specific circumstances when extraordinary and compelling reasons exist for such a waiver,'' listed in § 1628.3(c). *Id.* at 66638. These extraordinary and compelling circumstances were restricted to the following situations when a recipient received income derived from its use of LSC funds: ''(1) An insurance reimbursement; (2) the sale of real property; and (3) the receipt of monies from a lawsuit in which the recipient was a party.'' *Id.* at 66639. Although the Operations and Regulations Committee (Committee) ''considered using a standard of 'extraordinary and compelling' for these waivers with the three specific circumstances discussed as examples,'' it ultimately decided ''that more guidance was required to avoid erosion of the standard,'' and the three circumstances became exclusive limitations, not mere examples. *Id.* at 66640. The LSC Board of Directors (Board) adopted the revisions to part 1628 on November 20, 1999, and the revised rule has been in effect since December 7, 2000. *Id.* at 66637–38.

During the nearly 15-year period since part 1628 was last revised, LSC grantees have experienced various unexpected occurrences outside of those listed in § 1628.3(c) that caused them to accrue fund balances in excess of 25% of their annual support. These occurrences have included an end-of-year transfer of assets from a former grantee to a current grantee, a natural disaster that resulted in a significant infusion of use-or-lose disaster relief funds from non-LSC sources, and receipt of a large attorneys' fees award in an LSC-funded case near the end of the fiscal year. In each of these situations, LSC determined that part 1628 prevented recipients with legitimate reasons for having fund balances exceeding 25% of their annual LSC support from seeking and obtaining needed waivers.

On January 22, 2015, LSC staff presented the Committee with a proposal to consider revising part 1628 to address the difficulties faced by recipients that encounter these types of occurrences, yet are unable to justify a waiver request to retain a balance in excess of 25% of their annual support under part 1628's standards. The Committee authorized LSC management to add the matter to the Committee's rulemaking agenda.

As required by the LSC Rulemaking Protocol, LSC staff prepared an explanatory rulemaking options paper, accompanied by a proposed rule amending part 1628. On April 12, 2015, the Committee voted to recommend that the Board publish the notice of proposed rulemaking (NPRM) in the **Federal Register** for notice and comment. On April 14, 2015, the Board accepted the Committee's recommendation and voted to approve publication of the NPRM in the **Federal Register**. 80 FR 21700, Apr. 20, 2015. The comment period remained open for thirty days and closed on May 20, 2015.

On July 16, 2015, the Committee considered the draft final rule for publication and voted to recommend its adoption publication to the Board. On July 18, 2015, the Board adopted the final rule and approved its publication.

Material regarding this rulemaking is available in the open rulemaking section of LSC's Web site at *http://www.lsc.gov/about/regulations-rules/open-rulemaking.* After the effective date of this rule, those materials will appear in the closed rulemaking section of LSC's Web site at *http://www.lsc.gov/about/regulations-rules/closed-rulemaking.*

## II. Section-by-Section Discussion of Comments and Regulatory Provisions

LSC received two comments during the public comment period. One comment was submitted by an LSC recipient, the Northwest Justice Project (NJP). The other comment was submitted by the non-LSC-funded nonprofit National Legal Aid and Defender Association (NLADA) through its Civil Policy Group and Regulations and Policy Committee. Both commenters were generally supportive of LSC's proposed changes to part 1628.

### *Section 1628.3 Policy*

LSC proposed to revise § 1628.3(c) to eliminate the language limiting the extraordinary and compelling circumstances in which LSC may grant a recipient's request for a waiver to retain a fund balance that exceeds 25% of its annual support. LSC staff determined that the list of extraordinary and compelling circumstances should be illustrative, rather than exhaustive, so that recipients that encounter truly unforeseeable situations can avoid having to make the difficult choice between returning large portions of unused balances and hurriedly spending funds before the end of the fiscal year. Whereas existing § 1628.3(c) is limited to three circumstances where a recipient receives a sudden infusion of income, the new section expands the types of situations that the Corporation, in its discretion, may consider to be extraordinary and compelling circumstances. The new section adds the example of a natural disaster to illustrate a situation where a recipient would be unable to expend its current LSC grant for reasons other than the receipt of new funds, such as being forced to temporarily shut down operations. The section also adds the example of ''a payment from an LSC-funded lawsuit, regardless of whether the recipient was a party to the lawsuit.'' This revision makes clear that a recipient may request a waiver to retain a fund balance in excess of 25% of its annual support when it receives an award as the result of a court decision in an LSC-funded case, even if the recipient was not named as a party to the action. LSC also proposed to make a minor revision to § 1628.3(d) to reflect the proposed redesignation of certain paragraphs in § 1628.4.

*Comments:* Both commenters expressed strong support of the revisions to § 1628.3.

### *Section 1628.4 Procedures*

LSC proposed to add a new § 1628.4(d) to expressly allow recipients that expect to have a fund balance in excess of 25% of their annual support at the end of the fiscal year to submit a waiver request prior to the submission of their annual audited financial statements. This addition will require existing § 1628.4(d), (e), (f), and (g) to be redesignated as § 1628.4(e), (f), (g), and (h). The new § 1628.4(d) will list the written requirements for a waiver request to retain a fund balance in excess of 25% of annual support. It will also require recipients that receive early approval to later submit updated information consistent with the requirements of § 1628.4(a) to confirm the actual fund balance amount to be retained by the recipient, as determined by reference to its annual audited financial statements. Accordingly, an advance approval would be, in effect, an approval of the reasons for a waiver and of the proposed amount to be retained. The recipient must later provide confirmation of the actual amount of excess funds it has retained. Finally, LSC proposed to revise the introductory text of paragraph (a), as well as paragraphs (a)(2) and (a)(3), for clarity and readability.

*Comments:* Both commenters were supportive of LSC's proposal to allow recipients with fund balances in excess of 25% of annual support to submit waiver requests prior to the submission of their annual audit reports. NLADA recommended that LSC further revise § 1628.4 to also allow recipients expecting to have fund balances in excess of 10% and up to 25% of their annual LSC support to submit early waiver requests. NLADA reasoned that this would allow recipients seeking such waivers to plan for the next fiscal year with greater certainty. NJP, on the other hand, expressed support for continuing the standard waiver request process for recipients with fund balances that do not exceed 25% of annual support. NJP stated that, in its experience, such requests are more than likely to be approved and that using annual audit report information to draft them assures that the amount approved for retention is equal to the final audited carryover.

*Response:* As stated in the preamble of the NPRM, LSC staff found that limiting early approvals to waiver requests for fund balances in excess of 25% of annual support was proper in light of the unique and significant financial planning burdens faced by recipients that experience extraordinary and compelling circumstances causing them to accrue substantial amounts of unused funds. Furthermore, while the Corporation will continue to apply the heightened standard of ''extraordinary and compelling circumstances'' to requests to retain fund balances in excess of 25% of annual support, it will maintain the less burdensome standard of ''special circumstances'' for requests to retain fund balances that do not exceed 25% of annual support. Therefore, LSC believes that recipients seeking to retain fund balance amounts in excess of 10% and up to 25% of annual support would not benefit significantly from the minimal level of additional assurance that allowing the early submission of waiver requests may potentially provide. In addition, recipients that receive early approvals of such requests would later have to provide confirmation of the actual amount of excess funds they accrued when they submit their annual audited financial statements. LSC believes that the additional time and effort required by this process would not be justified by the small amount of additional assurance that it may provide.

**List of Subjects in 45 CFR Part 1628**

Administrative practice and procedure, Grant programs—law, Legal services.

For the reasons set forth in the preamble, the Legal Services Corporation amends 45 CFR part 1628 as follows:

## PART 1628—RECIPIENT FUND BALANCES

■ 1. The authority citation for Part 1628 is revised to read as follows:

**Authority:** 42 U.S.C. 2996g(e).

■ 2. Revise paragraphs (c) and (d) of § 1628.3 to read as follows:

### § 1628.3 Policy.

* * * * *

(c) Recipients may request a waiver to retain a fund balance in excess of 25% of a recipient's LSC support only for extraordinary and compelling circumstances, such as when a natural disaster or other catastrophic event prevents the timely expenditure of LSC funds, or when the recipient receives an insurance reimbursement, the proceeds from the sale of real property, a payment from a lawsuit in which the recipient was a party, or a payment from an LSC-funded lawsuit, regardless of whether the recipient was a party to the lawsuit.

(d) A waiver pursuant to paragraph (b) or (c) of this section may be granted at the discretion of the Corporation pursuant to the criteria set out in § 1628.4(e).

* * * * *

■ 3. Amend § 1628.4 by revising paragraphs (a) introductory text, (a)(2) and (3), and (d) to read as follows:

### § 1628.4 Procedures.

(a) A recipient may request a waiver of the 10% ceiling on LSC fund balances within 30 days after the submission to LSC of its annual audited financial statements. The request shall specify:

* * * * *

(2) The reason(s) for the excess fund balance;

(3) The recipient's plan for disposing of the excess fund balance during the current fiscal year;

* * * * *

(d) A recipient may submit a waiver request to retain a fund balance in excess of 25% of its LSC support prior to the submission of its audited financial statements. The Corporation may, at its discretion, provide approval in writing. The request shall specify the extraordinary and compelling circumstances justifying the fund balance in excess of 25%; the estimated fund balance that the recipient anticipates it will accrue by the time of the submission of its audited financial statements; and the recipient's plan for disposing of the excess fund balance. Upon the submission of its annual audited financial statements, the recipient must submit updated information consistent with the requirements of paragraph (a) of this section to confirm the actual fund balance to be retained.

* * * * *

Dated: July 20, 2015.

**Stefanie K. Davis,**

*Assistant General Counsel.*

[FR Doc. 2015–18138 Filed 7–23–15; 8:45 am]

BILLING CODE 7050–01–P

# Proposed Rules

Federal Register
Vol. 80, No. 142
Friday, July 24, 2015

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

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Part 3

**[Docket No. APHIS–2014–0098]**

### Petition To Develop Specific Ethologically Appropriate Standards for Nonhuman Primates in Research

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of petition; reopening of comment period.

**SUMMARY:** We are reopening the comment period for a petition requesting that we amend the Animal Welfare Act regulations to specify ethologically appropriate standards that researchers must adhere to in order to promote the psychological well-being of nonhuman primates used in research. This action will allow interested persons additional time to prepare and submit comments.

**DATES:** The comment period for the notice published May 1, 2015 (80 FR 24840–24841) is reopened. We will consider all comments that we receive on or before August 31, 2015.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0098.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0098, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0098* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Dr. Carol Clarke, Research Program Manager, USDA, APHIS, Animal Care, 4700 River Road Unit 84, Riverdale, MD 20737–1234; (301) 851–3751.

**SUPPLEMENTARY INFORMATION:**

#### Background

On May 1, 2015, the Animal and Plant Health Inspection Service published in the **Federal Register** (80 FR 24840–24841, Docket No. APHIS–2014–0098) a notice [1] requesting comments on a petition to amend the Animal Welfare Act regulations to specify ethologically appropriate standards that researchers must adhere to in order to promote the psychological well-being of nonhuman primates used in research.

Comments on the notice were required to be received on or before June 30, 2015. We are reopening the comment period on Docket No. APHIS–2014–0098 for an additional 60 days, until August 31, 2015. We will accept all comments received between July 1, 2015 (the day after the close of the original comment period) and the date of this notice. This action will allow interested persons additional time to prepare and submit comments.

We encourage the submission of scientific data, studies, or research to support your comments and position. We also invite data on the costs and benefits associated with any recommendations. We will consider all comments and recommendations received.

**Authority:** 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

Done in Washington, DC, this 20th day of July 2015.

**Kevin Shea,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2015–18174 Filed 7–23–15; 8:45 am]

**BILLING CODE 3410–34–P**

[1] To view the notice, supporting documents, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0098.*

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 21

**[Docket No. FAA–2015–3031]**

### Proposed Primary Category Airworthiness Design Standards; AutoGyro USA, LLC (AutoGyro) Model Calidus Gyroplanes

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

**ACTION:** Request for comments.

**SUMMARY:** This notice announces the existence of and requests comments on the proposed airworthiness design standards for acceptance of the AutoGyro Model Calidus gyroplane under the regulations for primary category aircraft.

**DATES:** We must receive comments by September 8, 2015.

**ADDRESSES:** Send all comments to the Federal Aviation Administration (FAA), Rotorcraft Standards Staff, Rotorcraft Directorate (ASW–110), FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177.

**FOR FURTHER INFORMATION CONTACT:** Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, Texas 76177; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

**SUPPLEMENTARY INFORMATION:** Any person may obtain a copy of this information by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**.

#### Comments Invited

We invite you to submit comments on the proposed airworthiness standards to the address specified above. Commenters must identify the AutoGyro Model Calidus on all submitted correspondence. The FAA will consider all communications received on or before the closing date before issuing the final acceptance. The proposed airworthiness design standards and comments received may be inspected at the FAA, Rotorcraft Directorate, Rotorcraft Standards Staff (ASW–110), FAA, 2601 Meacham Blvd., Fort Worth, TX 76137, between the hours of 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

## Background

The ''primary'' category for aircraft was created specifically for the simple, low performance personal aircraft. Section 21.17(f) provides a means for applicants to propose airworthiness standards for their particular primary category aircraft. The FAA procedure establishing appropriate airworthiness standards includes reviewing and possibly revising the applicant's proposal, publication of the submittal in the **Federal Register** for public review and comment, and addressing the comments. After all necessary revisions, the standards are published as approved FAA airworthiness standards.

Accordingly, the applicant, AutoGyro, has submitted a request to the FAA to include the following:

## Proposed Airworthiness Standards for Acceptance Under the Primary Category Rule

For Aircraft Certification and the Powerplant Installation:

Section T Light Gyroplanes, of the British Civil Airworthiness Requirements, Issue 3, dated August 12, 2005.

14 CFR 27.853(a) and (c)(1) Amdt 27–37 Compartment Interior; §§ 23.735(a) through (c) Amdt 23–62 Brakes except that the reference to 23.75 is replaced with Section T75 of BCAR Section T, Issue 3; §§ 27.735(a) and (c)(1) Amdt 27–21 Brakes; §§ 27.1365(b) and (c) Amdt 27–35 Electrical Cables; and § 27.1561(a) Safety Equipment, as applicable to these aircraft.

For Engine Assembly Certification:

ASTM F2339–06 (2009), ''Standard Practice for Design and Manufacture of Reciprocating Spark Ignition Engines for Light Sport Aircraft,'' except paragraph A1.1.3.

For Propeller Certification:

Section T Light Gyroplanes, of the British Civil Airworthiness Requirements, Issue 3, dated August 12, 2005; ASTM F2506–10 (2009), ''Standard Specification for Design and Testing of Fixed-Pitch or Ground Adjustable Light Sport Aircraft Propellers,'' paragraph 5.5 Propeller Strength and Endurance and Section 6 Tests and Inspections.

Issued in Fort Worth, Texas on July 16, 2015.

**Bruce E. Cain,**

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

[FR Doc. 2015–18221 Filed 7–23–15; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2015–2994; Directorate Identifier 2014–SW–057–AD]**

**RIN 2120–AA64**

# Airworthiness Directives; Airbus Helicopters Deutschland GmbH (Formerly Eurocopter Deutschland GmbH) Helicopters

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for Airbus Helicopters Deutschland GmbH (Airbus) (formerly Eurocopter Deutschland GmbH) Model MBB–BK 117C–2 helicopters with an external mounted hoist system wiring harness installed. This proposed AD would require inspecting the hoist control pendant wiring harness for chafing, and if there is chafing, before the next hoist operation, replacing the wiring harness. This proposed AD would also require a installing a protection sleeve on the hoist control pendant wiring harness. This proposed AD is prompted by an uncommanded hoist release involving chafing on the wiring harness of the hoist control pendant and on the wiring. The proposed actions are intended to prevent loss of an external load or person from the hoist resulting in injury to persons being lifted and loss of control of the helicopter.

**DATES:** We must receive comments on this proposed AD by September 22, 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 proposed AD, the European Aviation Safety Agency (EASA) AD, 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 proposed AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

**FOR FURTHER INFORMATION CONTACT:** George Schwab, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *george.schwab@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

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 might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, 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 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 proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

## Discussion

EASA, which is the Technical Agent for the Member States of the European

Union, issued EASA AD No. 2014–0211, dated September 19, 2014, to correct an unsafe condition for the Airbus Model MBB–BK117 C–2 helicopters ''equipped with optional equipment external mounted hoist system.'' EASA advises that an uncommanded hoist cable cut occurred and that an investigation revealed chafing on the wiring harness of the hoist control pendant and on the wiring of the +28V wire of the stand-by horizon inside the middle ceiling panel. The wire of the stand-by horizon contacted the hoist control pendant wiring harness and caused the uncommanded cable cut. EASA also states that this condition, if not detected and corrected, could lead to load release, possibly resulting in injury to a human load or to the persons on the ground. EASA issued AD No. 2014–0211 requiring an inspection and modification of the wiring harness to correct this unsafe condition.

**FAA's Determination**

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

**Related Service Information Under 1 CFR Part 51**

Airbus Helicopters issued Alert Service Bulletin (ASB) MBB–BK117 C–2–88A–009, Revision 0, on June 18, 2014, specifying a visual inspection of the hoist control pendant wiring harness for chafing. If there is heavy chafing, before the next hoist operation, the ASB specifies replacing the wiring harness. The ASB also specifies a ''retrofit'' of an additional protective sleeve for the hoist control pendant wiring harness. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

**Proposed AD Requirements**

This proposed AD would require:

- Before the next hoist operation:
  - ○ Visually inspecting the hoist control pendant wiring harness for chafing, and replacing the wiring harness if there is chafing on the wiring harness protection sleeve and any internal wiring is visible, or if there is chafing on any internal wire.
  - ○ Installing each wiring harness cable tie so that the cable tie heads do not contact any adjacent parts or wiring harnesses.
- Within the next 100 hours time-in-service, installing a protection sleeve on the wiring harness and inspecting each cable tie for correct installation.

**Costs of Compliance**

We estimate that this proposed AD would affect 109 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. We estimate 1.5 work hours to inspect the hoist control pendant wiring harness at a cost of about $128 per helicopter and $13,952 for the fleet. We estimate 2 work hours to install a protection sleeve and inspect the cable ties and $125 for required parts at a cost of $295 per helicopter and $32,155 for the fleet. If required, we estimate a minimal amount of time for labor and $224 for required parts to replace a wiring harness.

**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 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, 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 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 proposed 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.

**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):

**Airbus Helicopters Deutschland GmbH (formerly Eurocopter Deutschland GmbH):** Docket No. FAA–2015–2994; Directorate Identifier 2014–SW–057–AD.

**(a) Applicability**

This AD applies to Model MBB–BK 117 C–2 helicopters with an external mounted hoist system wiring harness part number (P/N) B851M2063101 installed, certificated in any category.

**(b) Unsafe Condition**

This AD defines the unsafe condition as chafing on the wiring harness or wiring of a hoist control pendant. This condition could result in loss of an external load or person from the hoist resulting in injury to persons being lifted and loss of control of the helicopter.

**(c) Comments Due Date**

We must receive comments by September 22, 2015.

**(d) 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.

**(e) Required Actions**

(1) Before the next hoist operation:

(i) Visually inspect the hoist control pendant wiring harness (wiring harness) for chafing. The wiring harness is shown in Figure 1 of Airbus Helicopters Alert Service Bulletin (ASB) MBB–BK117 C–2–88A–009, Revision 0, dated June 18, 2014 (MBB–BK117 C–2–88A–009). If there is chafing on the wiring harness protection sleeve such that any internal wiring is visible, or if there is chafing on any internal wire, replace the wiring harness.

(ii) Install each wiring harness cable tie so that the cable tie heads do not contact any adjacent parts or wiring harnesses, as shown in Figure 3 of ASB MBB–BK117 C–2–88A–009.

(2) Within the next 100 hours time-in-service, install a protection sleeve on the wiring harness and inspect each cable tie by following the Accomplishment Instructions, paragraph 3.B.3, of ASB MBB–BK117 C–2–88A–009.

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

(1) The Manager, Regulations Group, FAA, may approve AMOCs for this AD. Send your proposal to: George Schwab, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *george.schwab@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.

**(g) Additional Information**

(1) For service information identified in this AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2014–0211, dated September 19, 2014. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2015–2994.

**(h) Subject**

Joint Aircraft System Component (JASC) Code: 5397 Fuselage Wiring.

Issued in Fort Worth, Texas, on July 15, 2015.

**Bruce E. Cain,**

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

[FR Doc. 2015–18049 Filed 7–23–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–2959; Directorate Identifier 2015–NM–008–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 reports indicating that the ram air turbine (RAT) assembly may fail to operate if deployed at low airspeeds. This proposed AD would require replacing either the RAT pump and control module assembly or the entire RAT assembly. We are proposing this AD to prevent failure of the RAT assembly to operate at low air speeds. The volume fuse on the RAT assembly may be activated in-flight before the RAT is deployed. This may lead to improper pump hydraulic pressure offloading when the RAT is needed. Failure of the RAT to operate in an all engine out event would result in loss of control of the airplane.

**DATES:** We must receive comments on this proposed AD by September 8, 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. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA 2015–2959.

**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–2015–2959; 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:** Sean J. Schauer, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6479; fax: 425–917–6590; email: *sean.schauer@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–2015–2959; Directorate Identifier 2015–NM–008–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**

An engineering review by Boeing's RAT supplier discovered that the RAT assembly may fail to operate if deployed at low airspeeds. A hydraulic fuse in the RAT control module is intended to remain open to enable RAT spin-up at low air speeds by off-loading the RAT hydraulic pump. After the RAT is spinning, the fuse sets and the pump

output supplies power to the center hydraulic system. The supplier found that the fuse may prematurely set as a result of nominal leakage through the hydraulic pump and/or check valve, preventing the RAT from spinning up when deployed below 160 knots. This has been attributed to a design defect in the fuse. A RAT in service will spin up if deployed above 160 knots and remain operational as the airplane decelerates through the minimum RAT design speed of 130 knots. The premature setting of the RAT fuse can prevent the RAT from spinning up and providing emergency hydraulic power when deployed below 160 knots. In an all engine out event, an inoperative RAT would result in loss of control of the airplane.

**Related Service Information Under 1 CFR Part 51**

We reviewed Boeing Alert Service Bulletin B787–81205–SB290015–00, Issue 002, dated November 25, 2014. The service information describes procedures for replacing either the RAT pump and control module assembly or the RAT assembly including an installation test and corrective actions if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

**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. Refer to this service information for details on the procedures and compliance times.

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 Directive Implementation Aviation Rulemaking Committee (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 steps identified as RC (required for compliance) in any service information identified previously have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

For service information that contains steps that are labeled as Required for Compliance (RC), the following provisions apply: (1) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD, and an AMOC is required for any deviations to RC steps, including substeps and identified figures; and (2) steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

**Costs of Compliance**

We estimate that this proposed AD affects 12 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 | 7 work-hours × $85 per hour = $595. | N/A | $595 | $7,140 |

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

**Authority for This Rulemaking**

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This 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–2015–2959; Directorate Identifier 2015–NM–008–AD.

**(a) Comments Due Date**

We must receive comments by September 8, 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–SB290015–00, Issue 002, dated November 25, 2014.

**(d) Subject**

Air Transport Association (ATA) of America Code 29, Hydraulic Power.

**(e) Unsafe Condition**

This AD was prompted by reports indicating that the ram air turbine (RAT) assembly may fail to operate if deployed at low airspeeds. We are issuing this AD to prevent failure of the RAT assembly to operate at low air speeds. The volume fuse on the RAT assembly may be activated in-flight before the RAT is deployed. This may lead to improper pump hydraulic pressure offloading when the RAT is needed. Failure of the RAT to operate in an all engine out event would result in loss of control of the airplane.

**(f) Compliance**

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

**(g) Replacement**

Within 36 months after the effective date of this AD, replace the RAT pump and control module assembly or the RAT assembly, including an installation test and applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB290015–00, Issue 002, dated November 25, 2014. Do all applicable corrective actions before further flight.

**(h) Credit for Previous Actions**

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin B787–81205–SB290015–00, Issue 001, dated September 4, 2014, which is not incorporated by reference in this AD.

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

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

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

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

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (i)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

**(j) Related Information**

(1) For more information about this AD, contact Sean J. Schauer, Aerospace Engineer, Systems and Equipment Branch, ANM 130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6479; fax: 425–917–6590; email: *sean.schauer@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 July 16, 2015.

**Suzanne Masterson,**

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

[FR Doc. 2015–18151 Filed 7–23–15; 8:45 am]

BILLING CODE 4910–13–P

---

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–2961; Directorate Identifier 2014–NM–145–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 supersede Airworthiness Directive (AD) 2012–15–13, which applies to certain The Boeing Company Model 747–100B SUD, 747–300, 747–400, and 747–400D series airplanes; and Model 747–200B series airplanes having a stretched upper deck. AD 2012–15–13 currently requires inspections for cracking and discrepancies of certain fasteners; modification of the frame-to-tension-tie joints; repetitive post-modification inspections; related investigative and corrective actions if necessary; and repetitive inspections for cracking in the tension tie channels, and repair if necessary. For certain airplanes, AD 2012–15–13 also requires an inspection to determine if the angle is installed correctly, and re-installation if necessary; and an inspection at the fastener locations where the tension tie previously attached to the frame prior to certain modifications, and repair if necessary. Since we issued AD 2012–15–13, an evaluation indicated that the upper deck is subject to widespread fatigue damage (WFD). This proposed AD would add a new inspection for cracking in the tension tie channels and post-modification inspections of the modified tension ties for cracking, and repair if necessary. We are proposing this AD to prevent fatigue cracking of the tension ties, shear webs, and frames of the upper deck, which could result in rapid decompression and reduced structural integrity of the airplane.

**DATES:** We must receive comments on this proposed AD by September 8, 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. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2961.

**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–2015–2961; 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, 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 proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–2961; Directorate Identifier 2014–NM–145–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

**Discussion**

On July 23, 2012, we issued AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), for certain The Boeing Company Model 747–100B SUD, 747–300, 747–400, and 747–400D series airplanes; and Model 747–200B series airplanes having a stretched upper deck. AD 2012–15–13 requires repetitive open hole high frequency eddy current (HFEC) inspections for cracking in the forward and aft tension tie channels, and repair if necessary. For certain airplanes, AD 2012–15–13 also requires a one-time angle inspection to determine if the angle is installed correctly, and re-installation if necessary; and a one-time open hole HFEC inspection at the fastener locations where the tension tie previously attached to the frame prior to certain modifications, and repair if necessary. AD 2012–15–13 resulted from reports of cracked and severed tension ties, broken fasteners, and cracks in the frame, shear web, and shear ties adjacent to tension ties for the upper deck. We issued AD 2012–15–13 to detect and correct cracking of the tension ties, shear webs, and frames of the upper deck, which could result in rapid decompression and reduced structural integrity of the airplane.

**Widespread Fatigue Damage**

Structural fatigue damage is progressive. It begins as minute cracks, and those cracks grow under the action of repeated stresses. This can happen because of normal operational conditions and design attributes, or because of isolated situations or incidents such as material defects, poor fabrication quality, or corrosion pits, dings, or scratches. Fatigue damage can occur locally, in small areas or structural design details, or globally. Global fatigue damage is general degradation of large areas of structure with similar structural details and stress levels. Multiple-site damage is global damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Global damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site-damage and multiple-element-damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane, in a condition known as widespread fatigue damage (WFD). As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that design approval holders (DAHs) establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

**Actions Since AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), Was Issued**

The preamble to AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), specified that we considered the requirements of that AD

''interim action.'' AD 2012–15–13 explained that we might consider further rulemaking if final action is later identified. Since we issued AD 2012–15–13, an evaluation by the DAH indicated that the upper deck is subject to WFD. We have determined that it is necessary to mandate a new inspection for cracking in the tension tie channels, repetitive post-modification inspections of the modified tension ties for cracking, and repair if necessary.

**Related Service Information Under 1 CFR Part 51**

We reviewed Boeing Alert Service Bulletin 747–53A2559, Revision 2, dated May 13, 2014. The service information describes procedures for modifying the tension tie and frame at certain center sections. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

**FAA's Determination**

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

**Proposed AD Requirements**

This proposed AD would retain all of the requirements of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012). For certain airplanes, this proposed AD would mandate a new inspection for cracking in the forward and aft tension tie channels, repetitive post-modification inspections of the modified tension ties for cracking, and repair if necessary. Refer to Boeing Alert Service Bulletin 747–53A2559, Revision 2, dated May 13, 2014, for details on the procedures and compliance times.

**Explanation of Compliance Time**

The compliance time for the modification specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is modified before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

**Costs of Compliance**

We estimate that this proposed AD affects 120 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 |
|---|---|---|---|---|
| Retained modification in AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012) (67 airplanes). | Between 257 and 263 work-hours = between $21,845 and $22,355. | Between $341,334 and $345,490. | Between $363,179 and $367,845. | Between $24,332,993 and $24,645,615. |
| Retained post-modification inspections in AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012) (67 airplanes). | 6 work-hours × $85 per hour = $510 per inspection cycle. | $0 | $510 per inspection cycle. | $34,170 per inspection cycle. |
| New proposed inspection | 10 work-hours × $85 per hour = $850 | $0 | $850 | $102,000. |
| New proposed post-modification eddy current inspections. | 216 work-hours × $85 per hour = $18,360 per inspection cycle. | $0 | $18,360 per inspection cycle. | $2,203,200 per inspection cycle. |

We have received no definitive data that would enable us to provide a cost estimate 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 regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

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

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

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

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

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

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

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

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), and adding the following new AD:

**The Boeing Company:** Docket No. FAA–2015–2961; Directorate Identifier 2014–NM–145–AD.

**(a) Comments Due Date**

The FAA must receive comments on this AD action by September 8, 2015.

**(b) Affected ADs**

This AD replaces AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012).

**(c) Applicability**

This AD applies to The Boeing Company Model 747–100B SUD, 747–300, 747–400, and 747–400D series airplanes; and Model 747–200B series airplanes having a stretched upper deck; certificated in any category; excluding airplanes that have been converted to a large cargo freighter configuration.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by reports of cracked and severed tension ties, broken fasteners, and cracks in the frame, shear web, and shear ties adjacent to tension ties for the upper deck. This AD was also prompted by an evaluation by the design approval holder (DAH), which indicated that the upper deck is subject to widespread fatigue damage (WFD). We are issuing this AD to prevent fatigue cracking of the tension ties, shear webs, and frames of the upper deck, which could result in rapid decompression and reduced structural integrity of the airplane.

**(f) Compliance**

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

**(g) Retained Repetitive Stage 1 Inspections, With No Changes**

This paragraph restates the requirements of paragraph (g) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), with no changes. For all airplanes: Do detailed inspections for cracking or discrepancies of the fasteners in the tension ties, shear webs, and frames at body stations (STA) 1120 through 1220, and related investigative and corrective actions as applicable, by doing all actions specified in and in accordance with ''Stage 1 Inspection'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2507, dated April 21, 2005, except as provided by paragraph (k) of this AD; or Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010. As of September 12, 2012 (the effective date of AD 2012–15–13), only Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010, may be used to do the actions required by this paragraph. Do the Stage 1 inspections at the applicable times specified in paragraphs (h) and (i) of this AD, except as provided by paragraphs (g)(1) and (g)(2) of this AD. Accomplishment of the initial Stage 2 inspection required by paragraph (j) of this AD terminates the requirements of this paragraph. Any applicable related investigative and corrective actions must be done before further flight. Doing the modification required by paragraph (p) of this AD terminates the repetitive inspection requirements of this paragraph.

(1) Where paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2507, dated April 21, 2005, specifies a compliance time relative to ''the original issue date on this service bulletin,'' this AD requires compliance before the specified compliance time after April 26, 2006 (the effective date of AD 2006–06–11, Amendment 39–14520 (71 FR 14367, March 22, 2006)).

(2) For any airplane that reaches the applicable compliance time for the initial Stage 2 inspection (as specified in Table 1, Compliance Recommendations, under paragraph 1.E., of Boeing Alert Service Bulletin 747–53A2507, dated April 21, 2005) before reaching the applicable compliance time for the initial Stage 1 inspection: Accomplishment of the initial Stage 2 inspection terminates the Stage 1 inspections.

**(h) Retained Compliance Time for Initial Stage 1 Inspection, With No Changes**

This paragraph restates the requirements of paragraph (h) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), with no changes. Do the initial Stage 1 inspection at the earlier of the times specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Inspect at the earlier of the times specified in paragraphs (h)(1)(i) and (h)(1)(ii) of this AD.

(i) At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2507, dated April 21, 2005.

(ii) Before the accumulation of 10,000 total flight cycles, or within 250 flight cycles after November 28, 2007 (the effective date of AD 2007–23–18, Amendment 39–15266 (72 FR 65655, November 23, 2007)), whichever occurs later.

(2) Inspect at the later of the times specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD.

(i) Before the accumulation of 12,000 total flight cycles.

(ii) Within 50 flight cycles or 20 days, whichever occurs first, after November 28, 2007 (the effective date of AD 2007–23–18, Amendment 39–15266 (72 FR 65655, November 23, 2007)).

**(i) Retained Compliance Times for Repetitive Stage 1 Inspections, With No Changes**

This paragraph restates the requirements of paragraph (i) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), with no changes. Repeat the Stage 1 inspection specified in paragraph (g) of this AD at the time specified in paragraph (i)(1) or (i)(2) of this AD, as applicable. Repeat the inspection thereafter at intervals not to exceed 250 flight cycles, until the initial Stage 2 inspection required by paragraph (j) of this AD has been done.

(1) For airplanes on which the initial Stage 1 inspection has not been accomplished as of November 28, 2007 (the effective date of AD 2007–23–18, Amendment 39–15266 (72 FR 65655, November 23, 2007)): Do the next inspection before the accumulation of 10,000 total flight cycles, or within 250 flight cycles after the initial Stage 1 inspection done in accordance with paragraph (g) of this AD, whichever occurs later.

(2) For airplanes on which the initial Stage 1 inspection has been accomplished as of November 28, 2007 (the effective date of AD 2007–23–18, Amendment 39–15266 (72 FR 65655, November 23, 2007)): Do the next inspection at the applicable time specified in paragraph (i)(2)(i) or (i)(2)(ii) of this AD.

(i) For airplanes that have accumulated fewer than 12,000 total flight cycles as of November 28, 2007 (the effective date of AD 2007–23–18, Amendment 39–15266 (72 FR 65655, November 23, 2007)): Do the next inspection before the accumulation of 10,000 total flight cycles, or within 250 flight cycles after November 28, 2007, whichever occurs later.

(ii) For airplanes that have accumulated 12,000 total flight cycles or more as of November 28, 2007 (the effective date of AD 2007–23–18, Amendment 39–15266 (72 FR 65655, November 23, 2007)): Do the next inspection at the later of the times specified in paragraphs (i)(2)(ii)(A) and (i)(2)(ii)(B) of this AD.

(A) Within 250 flight cycles after accomplishment of the initial Stage 1 inspection.

(B) Within 50 flight cycles or 20 days, whichever occurs first, after November 28, 2007 (the effective date of AD 2007–23–18, Amendment 39–15266 (72 FR 65655, November 23, 2007)).

**(j) Retained Repetitive Stage 2 Inspections, With No Changes**

This paragraph restates the requirements of paragraph (j) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), with no changes. For all airplanes: Do detailed and high frequency eddy current inspections for cracking or discrepancies of the fasteners in the tension ties, shear webs, and frames at body stations 1120 through 1220, and related investigative and corrective actions as applicable, by doing all actions specified in and in accordance with ''Stage 2 Inspection'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2507, dated April 21, 2005, or Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010; except as provided by paragraph (k) of this AD. Do the initial inspections at the earlier of the times specified in paragraphs (j)(1) and (j)(2) of this AD. Repeat the Stage 2 inspection thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2507, dated April 21, 2005, or Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010. As of September 12, 2012 (the effective date of AD 2012–15–13), only Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010, may be used. Any applicable related investigative and corrective actions must be done before further flight. Accomplishment of the initial Stage 2 inspection ends the repetitive Stage 1 inspections. Doing the modification required by paragraph (p) of this AD

terminates the repetitive inspection requirements of this paragraph.

(1) Before the accumulation of 16,000 total flight cycles, or within 1,000 flight cycles after November 28, 2007 (the effective date of AD 2007–23–18, Amendment 39–15266 (72 FR 65655, November 23, 2007)), whichever occurs later.

(2) Before the accumulation of 10,000 total flight cycles, or within 1,000 flight cycles after September 12, 2012 (the effective date of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012)), whichever occurs later.

**(k) Retained Exception to Corrective Action Instructions, With No Changes**

This paragraph restates the requirements of paragraph (k) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), with no changes. If any discrepancy, including but not limited to any crack, broken fastener, loose fastener, or missing fastener is found during any inspection required by paragraph (g), (h), (i), or (j) of this AD, and Boeing Alert Service Bulletin 747–53A2507, dated April 21, 2005, or Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010, specifies to contact Boeing for appropriate action: Before further flight, repair the discrepancy using a method approved in accordance with the procedures specified in paragraph (t) of this AD.

**(l) Retained Stage 2 Inspection: Work at STA 1140, With No Changes**

This paragraph restates the requirements of paragraph (l) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), with no changes. For all airplanes: Except as provided by paragraph (o) of this AD, at the time specified in paragraph 1.E, ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010, do an open hole high frequency eddy current (HFEC) inspection for cracking in the forward and aft tension tie channels at 12 fastener locations inboard of the aluminum straps at STA 1140, and before further flight do all applicable repairs. Do all actions in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010. Repeat the inspections thereafter at the time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010. Doing the modification required by paragraph (p) of this AD terminates the inspection requirements in this paragraph.

**(m) Retained One-Time Inspection for Incorrectly Installed Angles, With No Changes**

This paragraph restates the requirements of paragraph (m) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), with no changes. For Group 1, Configuration 1, airplanes as identified in Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010: Except as provided by paragraph (o) of this AD, at the time specified in paragraph 1.E, ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010, do a detailed inspection to determine if the angle is installed correctly, and before further flight re-install all angles that were installed incorrectly. Do all actions in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010.

**(n) Retained One-time Inspection for Cracks in Frames at Previous Tension Tie Locations, With No Changes**

This paragraph restates the requirements of paragraph (n) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), with no changes. For Group 1, Configuration 2, airplanes; and Groups 2 and 3 airplanes; as identified in Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010: Except as provided by paragraph (o) of this AD, at the time specified in paragraph 1.E, ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010, do an open hole HFEC inspection for cracks at the fastener locations (STAs 1120, 1160, 1200, and 1220) where the tension tie previously attached to the frame prior to modification to the Boeing Special Freighter or Boeing Converted Freighter configuration, and before further flight do all applicable repairs. Do all actions in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010. Doing the modification required by paragraph (p) of this AD terminates the one-time inspection requirements in this paragraph.

**(o) Retained Exception to Boeing Alert Service Bulletin 747–53A2507, Revision 1, Dated January 14, 2010, With No Changes**

This paragraph restates the requirements of paragraph (o) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), with no changes. Where paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2507, Revision 1, dated January 14, 2010, specifies a compliance time relative to ''the Revision 1 date of this service bulletin,'' this AD requires compliance within the specified compliance time after September 12, 2012 (the effective date of AD 2012–15–13).

**(p) Retained Modification and Post-Modification Repetitive Inspections, With Revised Service Information**

This paragraph restates the requirements of paragraph (p) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), with revised service information. Except as provided by paragraphs (p)(1) and (p)(2) of this AD: At the applicable times specified in paragraph 1.E, ''Compliance,'' of Boeing Service Bulletin 747–53A2559, Revision 1, dated August 4, 2011, modify the frame-to-tension-tie joints at STAs 1120 through 1220; do all related investigative and applicable corrective actions; do the repetitive post-modification detailed inspections for cracking of the tension tie and frame structure and all applicable corrective actions; and do the additional modification. Do all actions in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2559, Revision 1, dated August 4, 2011, or Boeing Alert Service Bulletin 747–53A2559, Revision 2, dated May 13, 2014. Modifying the frame-to-tension-tie joints at STAs 1120 through 1220 terminates the repetitive inspection requirements of paragraphs (g) and (j) of this AD, the inspection requirements of paragraph (l) of this AD, and the one-time inspection requirement of paragraph (n) of this AD. As of the effective date of this AD, only Boeing Alert Service Bulletin 747–53A2559, Revision 2, dated May 13, 2014, may be used to accomplish the actions specified in this paragraph.

(1) Where paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2559, Revision 1, dated August 4, 2011, specifies a compliance time relative to ''the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after September 12, 2012 (the effective date of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012)).

(2) Where Boeing Service Bulletin 747–53A2559, Revision 1, dated August 4, 2011, or Boeing Alert Service Bulletin 747–53A2559, Revision 2, dated May 13, 2014, specifies to contact Boeing for repair instructions or additional modification requirements: Before further flight, repair the cracking or do the additional actions using a method approved in accordance with the procedures specified in paragraph (t) of this AD.

**(q) Retained Credit for Previous Actions, With No Changes**

This paragraph restates the credit provided by paragraph (q) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), with no changes. This paragraph provides credit for the corresponding actions required by paragraph (p) of this AD, if those actions were done before September 12, 2012 (the effective date of AD 2012–15–13), using Boeing Alert Service Bulletin 747–53A2559, dated January 8, 2009.

**(r) New Repetitive Post-Modification Eddy Current Inspections**

Do an eddy current inspection of all areas of the modified tension ties for cracking, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2559, Revision 2, dated May 13, 2014. Do the inspection at the time specified in Table 2 of paragraph 1.E, ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2559, Revision 2, dated May 13, 2014, except where paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2559, Revision 2, dated May 13, 2014, specifies a compliance time relative to ''the Revision 2 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD. If any crack is found, before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (t) of this AD. If no crack is found, repeat the inspection thereafter at the intervals specified in paragraph 1.E, ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2559, Revision 2, dated May 13, 2014.

**(s) New One-Time Surface HFEC Inspections**

Do a surface HFEC inspection of the tension tie center section, for cracking in the forward and aft tension tie channels between STA 1120 through 1220, in accordance with Part 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2559, Revision 2, dated May 13, 2014. Do the inspection at the applicable time specified in Table 1 or Table 3 of paragraph 1.E, ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2559, Revision 2, dated May 13, 2014, except where paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2559, Revision 2, dated May 13, 2014, specifies a compliance time relative to ''the Revision 2 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD. If any crack is found, before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (t) of this AD.

**(t) 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 (u)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

(4) AMOCs approved previously for AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), are approved as AMOCs for the corresponding provisions of this AD.

**(u) Related Information**

(1) For more information about this AD, contact Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 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, 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.

Issued in Renton, Washington, on July 16, 2015.

**Suzanne Masterson,**

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

[FR Doc. 2015–18152 Filed 7–23–15; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Parts 157, 260, and 284

**[Docket No. RM96–1–038]**

## Standards for Business Practices of Interstate Natural Gas Pipelines

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to incorporate by reference, with certain enumerated exceptions, the latest version (Version 3.0) of business practice standards adopted by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB) applicable to natural gas pipelines. These revisions, in part, revise the codes used to identify receipt and delivery locations in the Index of Customers. In addition, for consistency with the revisions to the Index of Customers, the Commission is proposing certain conforming changes to the Commission's regulations on exhibits and on system flow diagrams.

**DATES:** Comments are due August 24, 2015.

**ADDRESSES:** Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

*Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures section of this document.

**FOR FURTHER INFORMATION CONTACT:** Stanley Wolf (technical issues), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6841, Email: *stanley.wolf@ferc.gov.*

Oscar F. Santillana (technical issues), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6392, Email: *oscar.santillana@ferc.gov.*

Gary D. Cohen (legal issues), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8321, Email: *gary.cohen@ferc.gov.*

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

| | Paragraph Nos. |
|---|---|
| I. Background | 2 |
| II. Discussion | 8 |
| A. Modifications to Standards to Support the Commission's Show Cause Order in Docket No. RP14–442–000 | 12 |
| B. Location Codes | 15 |
| C. Request in Order No. 587–V for NAESB to Evaluate the Use of the Terms ''Operating Capacity'' and ''Design Capacity'' | 18 |
| D. Standards Previously Not Incorporated by Reference | 20 |
| 1. Contracts Standards and eTariff Related Standards | 20 |
| 2. Record Retention Standards | 21 |
| 3. WGQ Interpretations | 22 |
| E. Proposed Implementation Procedures | 23 |
| III. Notice of Use of Voluntary Consensus Standards | 28 |

Paragraph Nos.

IV. Incorporation By Reference ..... 29
V. Information Collection Statement ..... 32
VI. Environmental Analysis ..... 36
VII. Regulatory Flexibility Act Analysis and Certification ..... 37
VIII. Comment Procedures ..... 40
IX. Document Availability ..... 44
Appendix ..... a

1. The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations at 18 CFR 284.12 to incorporate by reference, with certain enumerated exceptions, the latest version (Version 3.0) of business practice standards adopted by the Wholesale Gas Quadrant (WGQ) of the North American Energy Standards Board (NAESB) applicable to natural gas pipelines that NAESB reported to the Commission on November 14, 2014. The Version 3.0 package of standards includes standards governing coordination of the scheduling processes of interstate natural gas pipelines and public utilities that the Commission incorporated by reference in Docket No. RM14–2–000.[1] The standards also revise the codes used to identify receipt and delivery locations in the Index of Customers. In addition, for consistency with the Index of Customers, the Commission proposes to amend its regulations at 18 CFR 157.14, 157.18, and 260.8 to have receipt and delivery point information in exhibits and system flow diagrams use the same location point names as provided for in the Version 3.0 Standards.

## I. Background

2. Since 1996, the Commission has adopted regulations to standardize the business practices and communication methodologies of interstate natural gas pipelines to create a more integrated and efficient pipeline grid. These regulations have been promulgated in the Order No. 587 series of orders,[2] wherein the Commission has incorporated by reference standards for interstate natural gas pipeline business practices and electronic communications that were developed and adopted by NAESB's WGQ. Upon incorporation by reference, this version of these standards will become part of the Commission's regulations and compliance by interstate natural gas pipelines will become mandatory.

3. On July 23, 2013, as corrected on July 25, 2013, NAESB filed a report informing the Commission that it had adopted and ratified Version 2.1 of its business practice standards applicable to natural gas pipelines. NAESB reports that the WGQ reviewed, at the request of the industry, the necessity of maintaining the current location common codes system to determine if the system provides a significant benefit to the industry and should be continued.[3] NAESB (in its previous corporate incarnation as the Gas Industry Standards Board) adopted a system of registering common codes to identify interconnection points between pipelines using a single code for the shared point. The industry chose an independent third party to assign and maintain the common code database.

4. NAESB reports that, after extensive discussions, the WGQ reached the conclusion that the NAESB WGQ Standards should no longer support the location common codes system, as the NAESB membership concluded that the system provided little commercial benefit to the industry at large. Consistent with this determination, the Version 2.1 Standards added seven new standards, modified six standards, and deleted three standards to match up with a transition from common codes to proprietary codes.[4] These will be the codes assigned by the transportation service providers for the identification of locations.[5] The standards require pipelines to post sufficient information on their Web sites to permit shippers and the Commission to identify the interconnection points between pipelines that were previously identified through the common codes.

5. Additionally, as requested by the Commission in Order No. 587–V,[6] NAESB modified the standards to include reporting requirements for ''Design Capacity'' for each location by transportation service providers.[7] Other changes to the existing standards were made at the request of industry. These include changes to the NAESB WGQ Additional Standards, Nominations Related Standards, Flowing Gas Related Standards, Invoicing Related Standards, Quadrant Electronic Delivery Mechanism Standards, Capacity Release Related Standards, and Data Set Standards.[8] NAESB further reports on the changes it made to the NAESB WGQ Interpretations and Contracts and Manuals that the Commission has declined to incorporate by reference in past Final Rules.[9] NAESB also reports on all the minor corrections it has made to the standards since Version 2.0 of the Standards.[10] Finally, NAESB reports on items that it considered changing but on which it took no action.[11]

6. On November 14, 2014, NAESB filed a report informing the Commission that it had adopted and ratified Version 3.0 of its business practice standards applicable to natural gas pipelines. NAESB reports that all of the modifications made in the Version 2.1 Standards are included in the Version 3.0 Standards and thus no action is needed on the Version 2.1 Standards.[12] The Version 3.0 Standards added the modifications to support efforts to harmonize gas-electric scheduling coordination that NAESB had separately filed and that the Commission incorporated by reference in Order No. 809.[13] In addition, the Version 3.0 Standards contain revisions to the

[1] *Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities,* Order No. 809, Final Rule, 80 FR 23197 (Apr. 24, 2015), FERC Stats. & Regs. ¶ 31,368.

[2] This series of orders began with the Commission's issuance of *Standards for Business Practices of Interstate Natural Gas Pipelines,* Order No. 587, FERC Stats. & Regs. ¶ 31,038 (1996).

[3] NAESB Version 2.1 Report dated July 23, 2013 (NAESB Version 2.1 Report). As explained in the NAESB Version 2.1 Report, this request was received by NAESB in November 2010 and was included by the NAESB Board of Directors in the 2011 WGQ Annual Plan as part of Item No. 7 and as part of the 2012 WGQ Annual Plan Item No. 8. *See* NAESB Version 2.1 Report at 3. The proposed modifications made in response to this request were developed by the WGQ's Business Practices Subcommittee and jointly by the Information Requirements/Technical Subcommittees.

[4] NAESB Version 2.1 Report at 2.

[5] *Id.* at 4.

[6] *Standards for Business Practices of Interstate Natural Gas Pipelines,* Final Rule, Order No. 587–V, FERC Stats. & Regs. ¶ 31,332 (2012) (Order No. 587–V).

[7] *Id.* at 2–3.

[8] *Id.* at 3.

[9] *See, e.g.,* Order No. 587–V, FERC Stats. & Regs. ¶ 31,332 at n.11.

[10] NAESB Version 2.1 Report at 18.

[11] *Id.* at 17–18.

[12] NAESB Version 3.0 Report dated Nov. 14, 2014 (NAESB Version 3.0 Report) at 2.

[13] *See supra* n.1.

capacity release standards regarding posting requirements for offers to purchase released capacity that were the subject of the Commission's order to show cause in Docket No. RP14–442–000.[14] Other revisions in the Version 3.0 Standards are: (1) Revisions to the standards to define ''Operating Capacity'' and ''Design Capacity'' in response to the Commission request in Order No. 587–V; [15] (2) elimination of the WGQ Interpretations, which the Commission declined to incorporate by reference; (3) modifications to standards to reflect the interpretations; (4) modifications for maintenance purposes, which includes changes to eliminate the appearance of the electronic data interchange in the imbalance trading process; (5) modifications to reflect new data elements; and (6) edits for clarity and to increase user-friendliness. The Version 3.0 standards have also been revised to include 29 minor corrections.[16]

7. On July 7, 2015, NAESB filed a report informing the Commission that it has made errata corrections to the WGQ Version 3.0 Business Practice Standards.[17] These corrections incorporate a 9:00 a.m. Central Clock Time (CCT) start to the gas operating day, consistent with the Commission's findings in Order No. 809 [18] and also correct other minor errors.

## II. Discussion

8. In this NOPR, the Commission proposes to incorporate by reference, in its regulations, Version 3.0 of the NAESB WGQ's consensus business practice standards,[19] with certain exceptions.[20] We propose that the implementation date for these standards coincide with the implementation of the Gas-Electric Coordination standards on April 1, 2016.

9. Adoption of the Version 3.0 Standards will continue the process of updating and improving NAESB's business practice standards for the benefit of the entire wholesale natural gas market.

10. As the Commission found in Order No. 587, adoption of consensus standards is appropriate because the consensus process helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of industry participants representing all segments of the industry.[21] Moreover, because the industry has to conduct business under these standards, the Commission's regulations should reflect those standards that have the widest possible support. In section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTT&AA), Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as a means to carry out policy objectives or activities.[22]

11. We discuss below some specific aspects of the filing.

### *A. Modifications to Standards To Support the Commission's Show Cause Order in Docket No. RP14–442–000*

12. On March 20, 2014, the Commission issued an Order to Show Cause in Docket No. RP14–442–000,[23] which required all interstate pipelines to either revise their respective tariffs to provide for the posting of offers to purchase released capacity as required by section 284.8(d) of the Commission's regulations,[24] or to demonstrate that their existing tariffs are in full compliance with that section. In the Show Cause Order, the Commission also requested that NAESB develop certain business practice and communications standards specifying: (1) The information required for requests to acquire capacity; (2) the methods by which such information is to be exchanged; and (3) the location of the information on a pipeline's Internet Web site.[25]

13. In response, NAESB proposes to modify WGQ Standard 4.3.23 to add ''Request to Purchase Releasable Capacity'' as a subcategory of information contained in a transportation service provider's information postings Web site. NAESB also proposes to add new WGQ Standard 5.3.73, containing requirements regarding requests to purchase capacity that is releasable.

14. The Commission proposes to incorporate by reference revised WGQ Standard 4.3.23 and WGQ Standard 5.3.73. We note, however, that our proposal to incorporate WGQ Standard 5.3.73 by reference is not intended to eliminate any posting requirements additionally imposed by the Commission in Docket No. RP14–442–000.

### *B. Location Codes*

15. NAESB has proposed to revise its standards regarding the use of location codes. The industry has determined that having a third party maintain a common code database is not worth the expense and effort and has revised the prior standards to introduce the use of proprietary codes to identify the location of points of receipt and delivery. The revised standards include requirements for the pipelines to post on their Web sites information on each of the proprietary points that can be used to determine which points are interconnecting points between pipelines, one of the primary reasons for adoption of the common code database. These codes are also used by the Commission in its Index of Customers to identify the points on shippers' contracts and we propose to revise section 284.13(c) of the regulations to coordinate with this change.

16. We propose to incorporate by reference these revised standards, as they are based on an industry consensus, will reduce industry's costs to support the retention of common codes, and because the changes will maintain the ability of shippers and others to identify interconnection points between pipelines. Given the ability of the Commission and customers to continue to identify interconnection points referenced in the Index of Customers, the Commission finds that the revised code standards appear to satisfy the requirements for the Index of Customers and we will modify the regulations to permit the use of the proprietary codes. In addition, to avoid any confusion from the use of inconsistent location codes, we propose to accompany our incorporation by reference of these revised standards with a proposal to revise our regulations

[14] *Posting of Offers to Purchase Capacity,* 146 FERC ¶ 61,203, at P 6 (2014) (Show Cause Order); *B–R Pipeline Co.,* 149 FERC ¶ 61,031 (2014) (order accepting compliance filings).

[15] Order No. 587–V, FERC Stats. & Regs. ¶ 31,332 at P 8.

[16] The NAESB Version 3.0 Report also provides information on other NAESB activities and tools unrelated to standards development.

[17] NAESB adopted two minor corrections, MC15009 and MC15012, approved on April 30, 2015 and May 29, 2015, respectively.

[18] Order No. 809, FERC Stats. & Regs. ¶ 31,368 at P 171.

[19] A list of the revisions NAESB's WGQ Version 3.0 Standards made to prior standards is appended to this NOPR.

[20] In the discussion below we identify the NAESB WGQ Version 3.0 Standards that we propose *not* to incorporate by reference.

[21] The NAESB process first requires a super-majority vote of 17 out of 25 members of the WGQ's Executive Committee with support from at least two members from each of the five industry segments—Distributors, End Users, Pipelines, Producers, and Services (including marketers and computer service providers). For final approval, 67 percent of the WGQ's general membership voting must ratify the standards.

[22] Pub. L. 104–113, section 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272, note (1997).

[23] Show Cause Order, 146 FERC ¶ 61,203 at P 6.

[24] 18 CFR 284.8(d). That section states that ''[t]he pipeline must provide notice of offers to release or to purchase capacity, the terms and conditions of such offers, and the name of any replacement shipper . . ., on an Internet Web site, for a reasonable period.''

[25] Show Cause Order, 146 FERC ¶ 61,203 at P 6.

at 18 CFR 157.14, 157.18, and 260.8 that require the use of location code information in certain filings and flow diagrams.

17. Pipelines will be required to continue to file the Index of Customers using the current tab-delimited file format according to the Form No. 549B—Index of Customers Instruction Manual. The major changes to the instructions are the change from the use of common codes to proprietary codes and the use of the pipelines' company registration number in place of three digit pipeline code. A revised instruction manual (with revisions marked) will be posted in this docket on eLibrary and will be available on the Commission's Web site.[26] Because tab-delimited file formats can be difficult and can result in errors that impose burdens both on Commission and pipeline staff to correct, we also are adding the Index of Customers form to the list of forms that are being updated as part of the Commission's forms refresh project in Docket No. AD15–11–000 (Forms Project).[27] Adding the Index of Customers to the Forms Project will move the Commission towards the use of a standard approach for all Commission forms that will result in more efficient filing and processing of forms.

*C. Request in Order No. 587–V for NAESB to Evaluate the Use of the Terms ''Operating Capacity'' and ''Design Capacity''*

18. In Order No. 587–V, the Commission directed the industry, through NAESB, to consider whether the term ''Operating Capacity,'' found in NAESB WGQ Standard No. 0.3.19 and related standards,[28] and ''Design Capacity,'' found in section 284.13(d) of the Commission's regulations, are functionally equivalent,[29] and to include this information as part of the next version of the NAESB WGQ Standards.[30]

19. In response, NAESB states that a consensus could not be reached for a detailed definition of the term ''Design Capacity'' and that ''Design Capacity'' and ''Operating Capacity'' are not equivalent terms and therefore proposed to include both terms as separately reportable items.[31] NAESB modified WGQ Dataset 0.4.2 to provide a definition of terms:

> Design capacity is the design capacity of the point, segment, or zone as required by the applicable regulatory authority. Operating Capacity is the total capacity which could be scheduled at (or through) the identified point, segment or zone in the indicated direction of flow. Total scheduled quantity is the net quantity scheduled at the point, segment or zone level in the indicated direction of flow. Operationally available capacity is the quantity remaining that is available to be scheduled at (or through) the identified point, segment or zone, in the indicated direction of flow.

The Commission finds reasonable NAESB's approach of separately reporting both ''Design Capacity'' and ''Operating Capacity'' as part of the reporting data set as this will provide shippers and the Commission with added information. Accordingly, the Commission proposes to incorporate by reference revised WGQ Standards 0.3.18, 0.3.20, and 0.3.21, and Dataset 0.4.2, as the revised standards and dataset meet the Commission's past concerns and no longer conflict with section 284.13(d) of the Commission's regulations.

*D. Standards Previously Not Incorporated by Reference*

1. Contracts Standards and eTariff Related Standards

20. The Commission proposes to continue its past practice of not incorporating by reference into its regulations any optional contracts, because the Commission does not require the use of these contracts.[32] In addition, consistent with our findings in past proceedings, the Commission is not proposing to incorporate by reference the WEQ/WGQ eTariff Related Standards, because the Commission has already adopted standards and protocols for electronic tariff filings based on the NAESB Standards.[33]

2. Record Retention Standards

21. In past rulemakings, the Commission declined to incorporate by reference WGQ Standards 4.3.4 and 10.3.2, because the Commission found they were inconsistent with the Commission's record retention requirement in 18 CFR 284.12(b)(3)(v).[34] In Version 3.0, NAESB deleted WGQ Standards 4.3.4 and 10.3.2. NAESB asserts that deleting the standards avoids any potential conflict between the WGQ Standards and the Commission mandated requirements for regulated entities or the retention policies of non-regulated entities. Thus, the Version 3.0 Standards that the Commission is considering for incorporation by reference no longer conflict with Commission regulations regarding storage retention.

3. WGQ Interpretations

22. In past rulemakings, the Commission also declined to incorporate by reference into the Commission's regulations NAESB's interpretations of NAESB WGQ business practice standards because, while interpretations may provide useful guidance, they are not determinative.[35] In the Version 3.0 Standards, NAESB deleted the interpretations of standards. NAESB states that the WGQ decided that, where greater clarity was needed to make standards more easily understood, it modified and/or added new standards to provide additional clarity, rather than adopting interpretations.[36] NAESB states that moving forward, the WGQ will evaluate new requests for clarifications or interpretations on a case-by-case basis and plans to work with the requestor to determine if the request would be more appropriately framed as a request for a minor correction or a request for a new and/or modified standard. NAESB asserts that this approach is similar to the one used by the Wholesale Electric Quadrant. Thus, there are no NAESB interpretations of its business practice standards for the Commission to decline to incorporate by reference.

*E. Proposed Implementation Procedures*

23. The Commission anticipates acting on the proposed rule in order to

[26] *http://www.ferc.gov/industries/gas/indus-act/pipelines/standards.asp.*

[27] *Electronic Filing Protocols for Commission Forms,* 151 FERC ¶ 61,025 (2015).

[28] NAESB defines Operating Capacity as ''the total capacity which could be scheduled at (or through) the identified point, segment or zone in the indicated direction of flow.''

[29] In Order No. 587–V, the Commission explained that while pipelines that post both design and operating capacity, often report the same number for both types of capacity, they may sometimes report differences between operating and design capacity. *See* Order No. 587–V, FERC Stats. & Regs. ¶ 31,332 at P 30, n.41.

[30] *Id.* P 30. NAESB also states it proposes to correct typographical errors and to clarify that ''All Quantities Available Indicator'' in NAESB WGQ Dataset 0.4.2 applies to all quantities at a specific identified point, segment, or zone.

[31] NAESB also states it proposes to correct typographical errors and to clarify that ''All Quantities Available Indicator'' in NAESB WGQ Dataset 0.4.2 applies to all quantities at a specific identified point, segment, or zone.

[32] Order No. 587–V, FERC Stats. & Regs. ¶ 31,332 at n.11.

[33] *See Electronic Tariff Filings,* Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

[34] *See, e.g., Standards for Business Practices for Interstate Natural Gas Pipelines,* Final Rule, Order No. 587–T, FERC Stats. & Regs. ¶ 31,289, at P 5 & n.9 (2009); *see also* Order No. 587–V, FERC Stats. & Regs. ¶ 31,332 at P 8.

[35] Order No. 587–V, FERC Stats. & Regs. ¶ 31,332 at P 28.

[36] In its Version 3.0 Standards, the WGQ revised Standards 1.1.3, 1.2.2, 1.3.3, 1.3.15, 1.3.22, 2.3.9, 2.3.14, 2.3.15, 2.3.26, 3.3.14, 3.3.15, and 4.3.23; added Standard 0.2.5; and deleted Standard 3.3.2.

permit these standards to become effective April 1, 2016 at the same time as the Gas-Electric Harmonization standards, with compliance filings due February 1, 2016. Requiring implementation on the same date should reduce the compliance burden on the pipelines and avoid confusion. Requests for waivers that do not meet the requirements set forth in Order No. 587–V will not be granted. In particular, as we explained in Order No. 587–V, waivers are unnecessary and will not be granted when the standard applies only on condition the pipeline performs a business function and the pipeline currently does not perform that function.[37]

24. The Commission is proposing to continue the compliance filing requirements as revised in Order No. 587–V.[38] As the Commission found in Order No. 587–V, adoption of the revised compliance filing requirements increases the transparency of the pipelines' incorporation by reference of the NAESB WGQ Standards so that shippers and the Commission will know which tariff provision(s) implements each standard as well as the status of each standard.[39] Likewise, consistent with past practice, the Commission will post on its eLibrary Web site (under Docket No. RM96–1–038) a sample tariff format, to provide filers an illustrative example to aid them in preparing their compliance filings. Requests for waivers need to comply with the requirements of Order No. 587–V.[40]

25. Consistent with our practice in Order No. 587–V, the pipelines should designate a single tariff section under which every NAESB standard incorporated by reference by the Commission is listed.[41] The pipeline tariff filings should list all the incorporated standards with which the pipeline will comply. In addition, for any standard that the pipeline seeks approval not to comply with, the tariff filing must identify the standard in question and either identify the provision in its tariff that complies with the standard;[42] or provide an explanation of any waiver, extension of time, or other variance with respect to compliance with the standard that would excuse compliance.[43]

26. If the pipeline is requesting a continuation of an existing waiver or extension of time, it must include a table in its transmittal letter that identifies the standard for which a waiver or extension of time was granted, and the docket number or order citation to the proceeding in which the waiver or extension was granted. It must also present an explanation for why such waiver or extension should remain in force with regard to the WGQ Version 3.0 Business Practice Standards.

27. This continues the Commission's practice of having pipelines including in their tariffs a common location that identifies the way the pipeline is incorporating all the NAESB WGQ Standards and the standards with which it is required to comply. As explained above, the Commission will post on its eLibrary Web site (under Docket No. RM96–1–038) a sample tariff format, to provide filers an illustrative example to aid them in preparing their compliance filings.[44]

## III. Notice of Use of Voluntary Consensus Standards

28. Office of Management and Budget Circular A–119 (section 11) (February 10, 1998) provides that federal agencies should publish a request for comment in a NOPR when the agency is seeking to issue or revise a regulation proposing to adopt a voluntary consensus standard or a government-unique standard. In this NOPR, the Commission is proposing to incorporate by reference voluntary consensus standards developed by the WGQ.

## IV. Incorporation by Reference

29. The Office of the Federal Register requires agencies incorporating material by reference in final rules to discuss, in the preamble of the final rule, the ways that the materials it incorporates by reference are reasonably available to interested parties and how interested parties can obtain the materials.[45] The regulations also require agencies to summarize, in the preamble of the final rule, the material it incorporates by reference.

30. The NAESB standards we are proposing in this NOPR to incorporate by reference are summarized in paragraphs 3–6 above. Our regulations provide that copies of the NAESB standards incorporated by reference may be obtained from the North American Energy Standards Board, 801 Travis Street, Suite 1675, Houston, TX 77002, Phone: (713) 356–0060. NAESB's Web site is at *http://www.naesb.org/*. Copies may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street NE., Washington, DC 20426, Phone: (202) 502–8371, *http://www.ferc.gov*.[46]

31. NAESB is a private consensus standards developer that develops voluntary wholesale and retail standards related to the energy industry. The procedures used by NAESB make its standards reasonably available to those affected by the Commission regulations, which is comprised of entities that have the means to acquire the information they need to effectively participate in Commission proceedings. Participants can join NAESB, for an annual membership cost of only $7,000, which entitles them to full participation in NAESB and enables them to obtain these standards at no additional cost.[47] Non-members may obtain the Individual Standards Manual or Booklets for each of the seven Manuals by email for $250 per manual, which in the case of these standards would total $1,750.[48] Nonmembers also may obtain the complete set of Standards Manuals, Booklets, and Contracts on CD for $2,000. NAESB also provides a free electronic read-only version of the standards for a three business day period or, in the case of a regulatory comment period, through the end of the comment period.[49] In addition, NAESB considers requests for waivers of the

[37] Order No. 587–V, FERC Stats. & Regs. ¶ 31,332 at P 38(2). For example, the Commission has denied waivers of NAESB's gas-electric operational communications standards requested by pipelines on the grounds that their systems do not connect to power plants. *Trans-Union Interstate Pipeline L.P,* 141 FERC ¶ 61,167, at P 18 (2012).

[38] Order No. 587–V, FERC Stats. & Regs. ¶ 31,332 at PP 36–37.

[39] *Id.* P 36. To accomplish this, the Commission gave instructions on how pipelines should designate sections in their tariff filings.

[40] Order No. 587–V, FERC Stats. & Regs. ¶ 31,332 at PP 38–41.

[41] This section should be a separate tariff record under the Commission's electronic tariff filing requirement and be filed electronically using the eTariff portal using the Type of Filing Code 580.

[42] For example, pipelines are required to include the full text of the NAESB nomination timeline standards (WGQ Standards 1.3.2(i–v) and 5.3.2) in their tariffs. *Standards for Business Practices for Interstate Natural Gas Pipelines*, Final Rule, Order No. 587–U, FERC Stats. & Regs. ¶ 31,307, at P 39 & n. 42 (2010). The pipeline would indicate which tariff provision complies with each of these standards.

[43] Shippers can use the Commission's electronic tariff system to locate the tariff record containing the NAESB standards, which will indicate the docket number in which any waiver or extension of time was granted.

[44] *http://www.ferc.gov/docs-filing/elibrary.asp.*

[45] 1 CFR 51.5. *See* Incorporation by Reference, 79 FR 66267 (Nov. 7, 2014).

[46] 18 CFR 284.12.

[47] North American Energy Standards Board Membership Application, *https://www.naesb.org/pdf4/naesbapp.pdf.*

[48] NAESB Materials Order Form, *https://www.naesb.org//pdf/ordrform.pdf.*

[49] Procedures for non-members to evaluate work products before purchasing, *https://www.naesb.org/misc/NAESB_Nonmember_Evaluation.pdf. See* Incorporation by Reference, 79 FR at 66271, n. 51 & 53 (Nov. 7, 2014) (citing to NAESB's procedure of providing ''no-cost, no-print electronic access'', NAESB Comment, at 1, *available at http://www.regulations.gov/#!documentDetail;D=OFR-2013-0001-0023*).

charges on a case-by-case basis depending on need.

## V. Information Collection Statement

32. The following collections of information contained in this proposed rule are being submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

33. The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

*Public Reporting Burden:* The Commission's burden estimates for the proposals in this NOPR are for one-time implementation of the information collection requirements of this NOPR (including tariff filing, documentation of the process and procedures, and IT work). The collections of information related to this NOPR fall under FERC–545 (Gas Pipeline Rates: Rate Change (Non-Formal)) [50] and FERC–549C (Standards for Business Practices of Interstate Natural Gas Pipelines).[51] The following estimates of reporting burden are related only to this NOPR and anticipate the costs to pipelines for compliance with the Commission's proposals in this NOPR.[52] The burden estimates are primarily related to start-up to implement these standards and regulations and will not result in ongoing costs.

RM96–1–038, STANDARDS FOR BUSINESS PRACTICES OF INTERSTATE NATURAL GAS PIPELINES

| | Number of respondents [53] (1) | Annual number of responses per respondent (2) | Total number of responses (1) * (2) = (3) | Average burden & cost per response (4) | Total annual burden hours & total annual cost (3) * (4) = (5) | Cost per respondent [54] ($) (5) ÷ (1) |
|---|---|---|---|---|---|---|
| FERC–545 [55] | 165 | 1 | 165 | 10 | 1,650 | $138,056 |
| FERC–549C | 165 | 1 | 165 | 22 | 3,630 | 303,722 |
| Totals | | | | | 5,280 | 441,778 |

*Information Collection Costs:* The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be the following:

| | FERC–545 | FERC–549C |
|---|---|---|
| Annualized Capital/Startup Costs | $138,056 | $303,722 |
| Annualized Costs (Operations & Maintenance) | N/A | N/A |
| Total Annualized Costs | 138,056 | 303,722 |

Total Cost for all Respondents = $441,778.

OMB regulations require OMB to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this proposed rule to OMB. These information collections are mandatory requirements.

*Title:* FERC–545, Gas Pipeline Rates: Rates Change (Non-Formal); FERC–549C, Standards for Business Practices of Interstate Natural Gas Pipelines.

*Action:* Proposed collections.

*OMB Control Nos.:* 1902–0154, 1902–0174.

*Respondents:* Business or other for profit, (*i.e.*, Natural Gas Pipelines, applicable to only a few small businesses.) Although the intraday reporting requirements will affect electric plant operators, the Commission is not imposing the reporting burden of adopting these standards on those entities.

*Frequency of Responses:* One-time implementation (business procedures, capital/start-up).

*Necessity of Information:* The proposals in this NOPR would, if implemented, upgrade the Commission's current business practices and communication standards by specifically: (1) Requiring the posting of information on requests to purchase

[50] FERC–545 covers rate change filings made by natural gas pipelines, including tariff changes.

[51] FERC–549C covers Standards for Business Practices of Interstate Natural Gas Pipelines.

[52] We note that although this NOPR proposes a minor revision to section 260.8, we are not including Form No. 567 (OMB No. 1902–005) as part of this burden estimate because we estimate that the substitution of proprietary codes for common codes in the system flow diagrams submitted under section 260.8 will not increase the burden of filing that form. The same is true with regard to the identical revisions we are proposing to sections 157.14 and 157.18, Form No. 537 (OMB No. 1902–0060). Likewise, we estimate that our proposed revision to Form 549B (OMB No. 1902–0169), *see http://www.ferc.gov/docs-filing/forms.asp,* which changes the point record for Point identification Code Qualifier (Item ID yj) and Point Identification Code (Item ID yk) will not increase the burden of filing that form.

[53] The number of respondents is the number of entities in which a change in burden from the current standards to the proposed exists, not the total number of entities from the current or proposed standards that are applicable.

[54] Wage data is based on the Bureau of Labor Statistics data for 2012 (''May 2012 National Industry-Specific Occupational Employment and Wage Estimates, [for] Sector 22—Utilities'' at *http://bls.gov/oes/current/naics2_22.htm*) and is compiled for the top 10 percent earned. For the estimate of the benefits component, *see http://www.bls.gov/news.release/ecec.nr0.htm.*

[55] The mean hourly cost of tariff filings and implementation for interstate natural gas pipelines is $83.67. This represents the average composite wage (salary and benefits for 2,080 annual work-hours) of the following occupational categories: ''Legal'' ($128.02 per hour), ''Computer Analyst'' ($83.50 per hour), and ''Office and Administrative'' ($39.49 per hour). Wage data is available from the Bureau of Labor Statistics at *http://bls.gov/oes/current/naics2_22.htm* and is compiled for the top 10 percent earned. For the estimate of the benefits component, *see http://www.bls.gov/news.release/ecec.nr0.htm.*

releasable capacity on a pipeline's Web site; (2) revising standards to support the elimination of NAESB WGQ interpretations; (3) revising standards to add new data elements; and (4) revising standards related to the technical implementation and data sets for the NAESB WGQ Standards.

The implementation of these data requirements will provide additional transparency to informational posting Web sites and will improve communication standards, including gas-electric communications. The implementation of these standards and regulations will promote the additional efficiency and reliability of the gas industries' operations thereby helping the Commission to carry out its responsibilities under the Natural Gas Act of promoting the efficiency and reliability of the gas industries' operations. In addition, the Commission's Office of Enforcement will use the data for general industry oversight.

*Internal Review:* The Commission has reviewed the requirements pertaining to business practices of natural gas pipelines and made a preliminary determination that the proposed revisions are necessary to establish more efficient coordination between the gas and electric industries. Requiring such information ensures both a common means of communication and common business practices to limit miscommunication for participants engaged in the sale of electric energy at wholesale and the transportation of natural gas. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas pipeline industries. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

34. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

35. Comments concerning the collection of information(s) and the associated burden estimate(s), should be sent to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, telephone: (202) 395–0710, fax: (202) 395–4718].

## VI. Environmental Analysis

36. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[56] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[57] The actions proposed here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[58] Therefore, an environmental assessment is unnecessary and has not been prepared as part of this NOPR.

## VII. Regulatory Flexibility Act Analysis and Certification

37. The Regulatory Flexibility Act of 1980 (RFA)[59] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[60] The SBA has established a size standard for pipelines transporting natural gas, stating that a firm is small if its annual receipts are less than $25.5 million.[61]

38. The regulations proposed here impose requirements only on interstate pipelines, the majority of which are not small businesses. Most companies regulated by the Commission do not fall within the RFA's definition of a small entity. Approximately 165 entities are potential respondents subject to data collection FERC–545 reporting requirements and also are subject to data collection FERC 549–C reporting requirements. Nearly all of these entities are large entities. For the year 2012 (the most recent year for which information is available), only eleven companies not affiliated with larger companies had annual revenues of less than $25.5 million and are defined by the SBA as ''small entities.'' These companies constitute about seven percent of the total universe of potential respondents. The Commission estimates that the one-time implementation cost of the proposals in this NOPR is $441,778 (or $2,677 per entity, regardless of entity size).[62] The Commission does not consider the estimated $2,677 impact per entity to be significant. Moreover, these requirements are designed to benefit all customers, including small businesses that must comply with them. Further, as noted above, adoption of consensus standards helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of industry participants representing all segments of the industry. Because of that representation and the fact that industry conducts business under these standards, the Commission's regulations should reflect those standards that have the widest possible support.

39. Accordingly, pursuant to § 605(b) of the RFA,[63] the regulations proposed herein should not have a significant economic impact on a substantial number of small entities.

## VIII. Comment Procedures

40. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due August 24, 2015. Comments must refer to Docket No. RM96–1–038, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

41. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

42. Commenters that are not able to file comments electronically must send

[56] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[57] 18 CFR 380.4.

[58] *See* 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

[59] 5 U.S.C. 601–612.

[60] 13 CFR 121.101.

[61] 13 CFR 121.201, subsection 486.

[62] This number is derived by dividing the total cost figure by the number of respondents. $441,778/165 = $2,677.

[63] 5 U.S.C. 605(b).

an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

43. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

## IX. Document Availability

44. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

45. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

46. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov*, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

## List of Subjects in 18 CFR Parts 157, 260, and 284

Incorporation by reference, Natural gas, Reporting and recordkeeping requirements.

By direction of the Commission.

Issued: July 16, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

In consideration of the foregoing, the Commission proposes to amend parts 157, 260, and 284, chapter I, title 18, *Code of Federal Regulations*, as follows.

## PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

■ 1. The authority citation for part 157 continues to read as follows:

**Authority:** 15 U.S.C. 717–717Z.

■ 2. Section 157.14 is amended by revising paragraph (a) to read as follows:

### § 157.14 Exhibits.

(a) *To be attached to each application.* All exhibits specified must accompany each application when tendered for filing. Together with each exhibit applicant must provide a full and complete explanation of the data submitted, the manner in which it was obtained, and the reasons for the conclusions derived from the exhibits. If the Commission determines that a formal hearing upon the application is required or that testimony and hearing exhibits should be filed, the Secretary will promptly notify the applicant that submittal of all exhibits and testimony of all witnesses to be sponsored by the applicant in support of his case-in-chief is required. Submittal of these exhibits and testimony must be within 20 days from the date of the Secretary's notice, or any other time as the Secretary will specify. Exhibits, except exhibits F, F–1, G, G–I, G–II, and H(iv), must be submitted to the Commission on electronic media as prescribed in § 385.2011 of this chapter. Receipt and delivery point information required in various exhibits must be labeled with a location point name in accordance with the name adopted in § 284.12 of this chapter.

* * * * *

■ 3. Section 157.18 is amended by revising paragraph (c) to read as follows:

### § 157.18 Applications to abandon facilities or service; exhibits.

* * * * *

(c) *Exhibit V*—Flow diagram showing daily design capacity and reflecting operation of applicant's system after abandonment. Receipt and delivery point information required in various exhibits must be labeled with a location point name in accordance with the name adopted in § 284.12 of this chapter. A flow diagram showing daily design capacity and reflecting operating conditions of applicant's system after abandonment of facilities on that segment of the system affected by the abandonment, including the following:

* * * * *

## PART 260—STATEMENTS AND REPORTS (SCHEDULES)

■ 4. The authority citation for part 260 continues to read as follows:

**Authority:** 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

■ 5. Section 260.8 is amended by revising paragraph (a) to read as follows:

### § 260.8 System flow diagrams: Format No. FERC 567.

(a) Each Major natural gas pipeline company, having a system delivery capacity in excess of 100,000 Mcf per day (measured at 14.73 p.s.i.a. and 60 °F), shall file with the Commission by June 1 of each year five (5) copies of a diagram or diagrams reflecting operating conditions on its main transmission system during the previous twelve months ended December 31. For purposes of system peak deliveries, the heating season overlapping the year's end shall be used. Facilities shall be those installed and in operation on December 31 of the reporting year. All volumes shall be reported on a uniform stated pressure and temperature base. Receipt and delivery point information required in various exhibits must be labeled with a location point name in accordance with the name adopted in § 284.12 of this chapter.

* * * * *

## PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

■ 6. The authority citation for part 284 continues to read as follows:

**Authority:** 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352; 43 U.S.C. 1331–1356.

■ 7. Section 284.12 is amended by revising paragraph (a)(1) to read as follows:

### § 284.12 Standards for pipeline business operations and communications.

(a) * * *

(1) An interstate pipeline that transports gas under subparts B or G of this part must comply with the business practices and electronic communications standards as promulgated by the North American Energy Standards Board, as incorporated herein by reference in paragraphs (a)(1)(i) thru (vii) of this section, and as revised by Minor Correction/Clarification MC15009 and Minor Correction/Clarification MC15012, as incorporated herein by reference in paragraphs (a)(1)(viii) and (ix) of this section.

(i) Additional Standards (Version 3.0, November 14, 2014);

(ii) Nominations Related Standards (Version 3.0, November 14, 2014);

(iii) Flowing Gas Related Standards (Version 3.0, November 14, 2014);

(iv) Invoicing Related Standards (Version 3.0, November 14, 2014);

(v) Quadrant Electronic Delivery Mechanism Related Standards (Version 3.0, November 14, 2014);

(vi) Capacity Release Related Standards (Version 3.0, November 14, 2014);

(vii) Internet Electronic Transport Related Standards (Version 3.0, November 14, 2014);

(viii) Minor Correction/Clarification, Request No. MC15009, approved April 30, 2015; and

(ix) Minor Correction/Clarification, Request No. MC15012, approved May 29, 2015.

* * * * *

■ 8. Section 284.13 is amended by revising paragraph (c)(2)(vi) to read as follows:

**§ 284.13 Reporting requirements for interstate pipelines.**

* * * * *

(c) * * *

(2) * * *

(vi) The receipt and delivery points and the zones or segments covered by the contract in which the capacity is held, including the location code for each point zone or segment along with a posting on the pipeline's Web site that identifies active and inactive points, the date the point becomes active or inactive, the location of the point, and an identification of the upstream or downstream entity, if any, at that point;

* * * * *

**Note:** The following appendix will not appear in the Code of Federal Regulations.

## Appendix

**List of Revisions in NAESB's WGQ Version 3.0 Business Practice Standards to Its Prior Business Practice Standards**

Version 3.0 makes the following changes to the Version 2.1 Standards:

a. Revises Standards 0.3.28, 1.1.3, 1.3.1, 1.3.2 through 1.3.5, 1.3.7 through 1.3.9, 1.3.11, 1.3.13 through 1.3.15, 1.3.22, 1.3.27, 1.3.33, 1.3.41, 1.3.42, 1.3.51, 1.3.80, 2.3.5, 2.3.9, 2.3.14, 2.3.15, 2.3.21, 2.3.26, 2.3.40, 2.3.46, 2.3.47, 3.3.3, 3.3.7, 3.3.14, 3.3.15, 4.3.2, 4.3.3, 4.3.16, 4.3.23, 4.3.35, 4.3.45, 4.3.46, 4.3.54, 4.3.90, 5.3.2, 5.3.32, 5.3.44, 5.3.45, 5.3.48, 5.3.49, 5.3.53, 5.3.54, 5.3.56; Datasets 0.4.1, 0.4.2, 0.4.4, 1.4.1 through 1.4.7, 2.4.1 through 2.4.11, 2.4.17, 2.4.18, 3.4.1 through 3.4.4, 5.4.14 through 5.4.17, 5.4.20 through 5.4.27; Principles 1.1.15, 1.1.18, 2.1.5; and Definitions 1.2.2, 1.2.4, 2.2.5.

b. Adds Standards 0.2.5, 4.3.105, 5.3.73.

c. Deletes Standards 1.3.52, 2.3.49, 3.3.2, 3.3.20, 4.3.4, 4.3.39, 4.3.65, 5.3.27, 10.3.2; Datasets 2.4.12 through 2.4.16; and Principles 1.1.5, 1.1.7, 1.1.9, 1.1.17, 4.1.31.

Version 2.1 made the following changes to the Version 2.0 Standards:

a. Revises Standards 0.3.18, 0.3.20, 0.3.21, 1.3.27, 1.3.55, 1.3.73, 2.3.32, 4.3.23, 4.3.28, 4.3.35, 4.3.52, 4.3.67, 5.3.2, 5.3.4, 5.3.26, 5.3.38, 5.3.70, 5.3.71, 6.5.2, 7.3.16, 7.3.27; Datasets 0.4.1 through 0.4.3, 1.4.1 through 1.4.7, 2.4.1 through 2.4.7, 2.4.9 through 2.4.11, 2.4.13 through 2.4.18, 3.4.1 through 3.4.4, 5.4.14 through 5.4.17, 5.4.20 through 5.4.22, 5.4.24 through 5.4.26; and Definitions 10.2.8, 10.2.30.

b. Adds Standards 0.3.23 through 0.3.29, 1.3.58, 1.3.73, 1.3.81, 2.3.66, 4.3.103, 4.3.104; and Dataset 0.4.4.

c. Deletes Standards 0.3.19, 1.3.47, 1.3.49, 1.3.50, 1.3.54, 1.3.57, 1.3.59 through 1.3.61, 1.3.63, 2.3.33 through 2.3.35, 3.3.1, 4.3.39, 4.3.51, 4.3.56, 4.3.59, 4.3.73, 4.3.74, 4.3.76.

[FR Doc. 2015–17921 Filed 7–23–15; 8:45 am]

BILLING CODE 6717–01–P

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 1

**[Docket No. FDA–2011–N–0146]**

**RIN 0910–AG66**

## User Fee Program To Provide for Accreditation of Third-Party Auditors/Certification Bodies To Conduct Food Safety Audits and To Issue Certifications

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA, the Agency, or we) is issuing this proposed rule to amend the proposed rule, ''Accreditation of Third-Party Auditors/Certification Bodies to Conduct Food Safety Audits and to Issue Certifications'' (Accreditation of Third-Party Auditors proposed rule) and to propose to establish a reimbursement (user fee) program to assess fees and require reimbursement for the work performed to establish and administer the system for the Accreditation of Third-Party Auditors under the FDA Food Safety Modernization Act (FSMA).

**DATES:** Submit either electronic or written comments on the proposed rule by October 7, 2015.

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

*Electronic Submissions*

Submit electronic comments in the following way:

• *Federal eRulemaking Portal*: *http://www.regulations.gov.* Follow the instructions for submitting comments.

*Written Submissions*

Submit written submissions in the following ways:

• *Mail/Hand delivery/Courier (for paper submissions)*: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

*Instructions:* All submissions received must include the Docket No. FDA–2011–N–0146 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number(s), found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Charlotte A. Christin, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–3708.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Background
  A. Introduction
  B. Accreditation of Third-Party Auditors Proposed Rule
  C. Regulatory Use of Certifications Under FSMA
  D. Reimbursement (User Fee) Program Under Section 808(c)(8) of the FD&C Act
II. Legal Authority
III. Description of the Proposed Rule
  A. Who would be subject to a user fee?
  B. What user fees would be established?
  C. How will FDA notify the public about the fee schedule?
  D. When must the user fee be submitted?
  E. Are user fees refundable?
  F. What are the consequences of not paying a user fee on time?
  G. Possible Exemptions
IV. Preliminary Regulatory Impact Analysis
  A. Introduction
  B. Regulatory Flexibility Act
  C. Unfunded Mandates Reform Act of 1995
  D. Need for This Regulation
V. Paperwork Reduction Act of 1995
VI. Analysis of Environmental Impact
VII. Federalism
VIII. Comments
IX. References

## I. Background

### *A. Introduction*

President Obama signed FSMA (Pub. L. 111–353) into law on January 4, 2011. FSMA enables us to better protect public health by helping to ensure the safety and security of the U.S. food supply. Among other things, FSMA gives us important new tools to better ensure the safety of imported foods, which constitute approximately 15 percent of the U.S. food supply (including approximately 80 percent of our seafood, 50 percent of our fresh fruit, and 20 percent of our vegetables). One of these tools is a new program authorized by section 307 of FSMA for third-party auditing and certification of eligible foreign entities, including registered foreign food facilities that meet our applicable requirements.

### *B. Accreditation of Third-Party Auditors Proposed Rule*

On July 29, 2013, FDA published for public comment in the **Federal Register** a proposed rule, ''Accreditation of Third-Party Auditors/Certification Bodies to Conduct Food Safety Audits and to Issue Certifications'' (Accreditation of Third-Party Auditors proposed rule) to establish a program that would provide for accreditation of third-party auditors/certification bodies (CBs) to conduct food safety audits of eligible foreign entities (including registered foreign food facilities), and to issue food and facility certifications (third-party accreditation program) (78 FR 45782, July 29, 2013). Under this program, FDA would recognize accreditation bodies (ABs) to accredit CBs, except for limited circumstances in which we may directly accredit CBs. The Accreditation of Third-Party Auditors proposed rule contains eligibility requirements for ABs to qualify for recognition and requirements that ABs participating in the FDA program must meet, once recognized. It also contains eligibility requirements for CBs to qualify for accreditation and requirements that CBs choosing to participate in the FDA program must meet, once accredited. These proposed requirements would ensure the competence and independence of the ABs and CBs participating in the third-party accreditation program. The Accreditation of Third-Party Auditors proposed rule also provides for the monitoring and oversight of participating ABs and CBs, and procedures for removing a CB or an AB from the program. Finally, the Accreditation of Third-Party Auditors proposed rule proposes requirements relating to auditing and certification of eligible foreign entities under the program and for notifying FDA of conditions in an audited facility that could cause or contribute to a serious risk to the public health. More information on the Accreditation of Third-Party Auditors proposed rule can be found on FDA's Web site at *http://www.fda.gov/FSMA.*

The comment period on that proposed rule closed on January 27, 2014, and FDA is currently working on the final rule, which will respond to the comments submitted. Because that rule has not yet been finalized, this user fee proposed rule is based on the Accreditation of Third-Party Auditors proposed rule. When this user fee proposed rule is finalized, this proposed rule will be finalized to align with the Accreditation of Third-Party Auditors final rule.

### *C. Regulatory Use of Certifications Under FSMA*

FDA will use certifications issued by accredited CBs in deciding whether to admit certain imported food into the United States that FDA has determined poses a food safety risk under section 801(q) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 381), and in deciding whether an importer is eligible to participate in the Voluntary Qualified Importer Program (VQIP) under section 806(a) of the FD&C Act (21 U.S.C. 384b(a)) for expedited review and entry of food imports. These and other potential uses of facility and food certifications are discussed in more detail in the **Federal Register** notice announcing the Accreditation of Third-Party Auditors proposed rule (78 FR 45782 at 45785 through 45786). On June 5, 2015, FDA published a notice of availability, ''Draft Guidance for Industry on the Voluntary Qualified Importer Program for Food Importers and Guidelines in Consideration of the Burden of the Voluntary Qualified Importer Program Fee Amounts on Small Business,'' which contains draft criteria and procedures for VQIP participation (80 FR 32136). The VQIP draft guidance can be found on FDA's Web site at *http://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm253380.htm.*

### *D. Reimbursement (User Fee) Program Under Section 808(c)(8) of the FD&C Act*

Section 808(c)(8) of the FD&C Act (21 U.S.C. 384d(c)(8)), established by FSMA, requires FDA to establish by regulation a reimbursement (user fee) program by which we assess fees and require reimbursement for the work we perform to establish and administer the third-party accreditation program under section 808 of the FD&C Act. In this document, we are proposing to establish this user fee program.

## II. Legal Authority

Section 307 of FSMA, Accreditation of Third-Party Auditors, amends the FD&C Act to create a new provision, section 808, under the same name. Section 808 of the FD&C Act directs us to establish a new program for accreditation of third-party auditors conducting food safety audits and issuing food and facility certifications to eligible foreign entities (including registered foreign food facilities) that meet our applicable requirements. Under this provision, we will recognize ABs to accredit CBs, except for limited circumstances in which we may directly accredit CBs to participate in the third-party accreditation program.

Our authority for this proposed rule is derived in part from section 808(c)(8) of the FD&C Act, which requires us to establish by regulation a reimbursement (user fee) program by which we assess fees and require accredited third-party auditors and audit agents to reimburse us for the work performed to establish and administer the third-party accreditation program under section 808 of the FD&C Act. Accordingly, section 808(c)(8) of the FD&C Act authorizes us to assess fees and require reimbursement from ABs applying for recognition under section 808 of the FD&C Act, CBs applying for direct accreditation under section 808 of the FD&C Act, and recognized ABs and accredited CBs participating in the third-party accreditation program under section 808 of the FD&C Act.

Further, section 701(a) (21 U.S.C. 371(a)) authorizes us to issue regulations for the efficient enforcement of the FD&C Act, including this proposed rule to establish a user fee program for the third-party accreditation program under section 808 of the FD&C Act. Thus, FDA has the authority to issue this proposed rule under sections 808 and 701(a) of the FD&C Act.

## III. Description of the Proposed Rule

This proposal includes the following: (1) Who would be subject to a user fee; (2) how user fees would be computed; (3) how FDA would notify the public about annual fee rates; (4) how the user fee would be collected; and (5) what the consequences would be for not paying a user fee.

### *A. Who would be subject to a user fee?*

In determining what user fees to establish, FDA considered the obligations the Agency would have under the Accreditation of Third-Party

Auditors proposed rule and the parties that would be participating in the third-party accreditation program. FDA is likely to perform a significant amount of work reviewing applications for recognition of ABs, even where FDA denies an application (see proposed 21 CFR 1.631). Reviewing renewal applications is also a source of cost to FDA, but that will likely take fewer resources than reviewing original applications for recognition. FDA will also perform a significant amount of work to monitor recognized ABs, which may include onsite assessments of statistically significant numbers of CBs accredited by the recognized AB and onsite audits of eligible entities that such CBs certified (see proposed § 1.633). FDA also will perform a significant amount of work to periodically evaluate the performance of each accredited CB to determine whether it continues to comply with the requirements for participation (see proposed § 1.662).

In certain circumstances, FDA would consider applications from CBs for direct accreditation (see proposed § 1.670). This application review, and any subsequent monitoring and renewal application review, would add to FDA's program costs.

FDA tentatively concludes that there are four main groups to whom costs should be attributed for the purposes of charging fees:

- ABs submitting applications or renewal applications for recognition in the third-party accreditation program;
- Recognized ABs participating in the third-party accreditation program subject to FDA monitoring activities;
- CBs submitting applications or renewal applications for direct accreditation; and
- Accredited CBs (whether accredited by recognized ABs or by FDA through direct accreditation) participating in the third-party accreditation program subject to FDA monitoring activities.

These are the parties identified in proposed § 1.700.

We note that under this proposed rule, FDA's collection of fees through the proposed user fee program would not recover all costs associated with the establishment and administration of the third-party accreditation program under section 808 of the FD&C Act. Other FDA costs include those involving reconsiderations of certain regulatory decisions such as denial of an application for recognition or waiver request (see proposed § 1.691), reviewing waiver requests (see proposed § 1.663), revocation of recognition of ABs or withdrawal of accreditation of CBs (see proposed § 1.634 and § 1.664), and maintaining a Web site listing recognized ABs and accredited CBs (see proposed § 1.690). Additionally, FDA would bear general initial startup costs, mainly due to training new employees and establishing an IT system to support the new third-party accreditation program.

FDA requests comment on whether any of the costs to FDA of the third-party accreditation program that are not accounted for in this proposed rulemaking should be paid for through user fees collected under section 808(c)(8) of the FD&C Act, and if so, to whom should the fees be charged and how should the fees be calculated (*e.g.,* the estimated average cost of processing a waiver request, per hour of FDA's work to determine whether to revoke recognition of an AB or withdraw accreditation of a CB, a flat annual fee to recognized ABs and accredited CBs to cover maintenance of the Web site).

*B. What user fees would be established?*

Proposed § 1.705 would establish application fees and annual fees. The proposed rule would establish application fees for ABs applying for recognition (proposed § 1.705(a)(1)), recognized ABs submitting renewal applications (proposed § 1.705(a)(2)), CBs applying for direct accreditation (proposed § 1.705(a)(3)), and CBs applying for renewal of direct accreditation (proposed § 1.705(a)(4)). The proposed rule would establish annual fees for recognized ABs (proposed § 1.705(b)(1)), CBs directly accredited by FDA (proposed § 1.705(b)(2)), and CBs accredited by recognized ABs (proposed § 1.705(b)(3)). The application fees would fund our review of the applications. The annual fees would support relevant monitoring activities.

1. Application Fee for ABs Applying for Recognition

Under proposed § 1.705(a)(1), ABs applying for recognition would be subject to an application fee for the estimated average cost of the work FDA performs in reviewing and evaluating applications for recognition of ABs. The average cost of the work FDA performs in reviewing and evaluating one application for recognition of an AB would be estimated by: (1) Estimating the number of hours, on average, it would take a full-time federal employee (FTE) to review and evaluate an application for recognition and (2) multiplying that estimate by the fully supported FTE hourly rates calculated by the Agency for the applicable fiscal year.

Data collected over a number of years and used consistently in other FDA user fee programs (*e.g.,* under the Prescription Drug User Fee Act and the Medical Device User Fee and Modernization Act) show that every seven FTEs who perform direct FDA work require three indirect and supporting FTEs. These indirect and supporting FTEs function in budget, facility, human resource, information technology, planning, security, administrative support, legislative liaison, legal counsel, program management, and other essential program areas. On average, two of these indirect and supporting FTEs are located in the Office of Regulatory Affairs (ORA) or the FDA center where the direct work is being conducted, and one of them is located in the Office of the Commissioner.

To calculate an hourly rate of a fully supported FTE (*i.e.,* an hourly rate that takes into account the direct work performed by FTEs and the work performed by indirect and supporting FTEs), FDA would first calculate the average cost of the direct work performed by an FTE per year and multiply that average annual cost of the work performed by an FTE by 1.43 (10 total FTEs divided by 7 direct FTEs). FDA would then divide the fully supported cost of an FTE per year by the average number of supported direct FDA work hours in that year an average FTE is available for work assignment (which excludes, *e.g.,* annual leave, sick leave, and trainings).

For example, in fiscal year (FY) 2013, a recent fiscal year for which data is available, the estimated average cost of an FTE doing Center for Food Safety and Applied Nutrition (CFSAN) and Center for Veterinary Medicine (CVM) related field activities work was $216,543, excluding the cost of inspection travel. Multiplying $216,543 by 1.43 results in an average fully supported cost of $309,657 per FTE, excluding travel costs. Dividing this average fully supported cost of an FTE in FY 2013 by the total number of supported direct work hours available for assignment per FTE (1,600 hours) results in an average fully supported cost of $194 per supported direct work hour in FY 2013, excluding travel costs.

In this example, to estimate the inflation-adjusted average fully supported cost for FY 2015, we use the method set forth in the Prescription Drug User Fee Act provisions of the FD&C Act (21 U.S.C. 379h), the statutory method for inflation adjustment in the FD&C Act that FDA has used consistently in setting user fees. FDA previously determined the FY 2014

inflation adjustment factor to be 2.20 percent (78 FR 46980, August 2, 2013), and the inflation adjustment factor for the FY 2015 to be 2.0813 percent (79 FR 44807, August 1, 2014). The inflation adjustment factor for FY 2015 (2.0813 percent) is compounded by adding 1 and then multiplying by 1 plus the inflation adjustment factor for FY 2014 (2.20 percent), which equals a compounded inflation adjustment factor of 1.043271 (rounded) (1.020813 × 1.0220). After adjusting for inflation, the estimated cost of $192 per supported direct work hour in FY 2013 increases to $202 per supported direct work hour in FY 2015.

For the purposes of providing a sense of the fee we are proposing, in this document we use $202 as the base unit fee in determining the hourly fee rate, prior to including domestic or foreign travel costs as applicable for the activity.

When travel is required, we would have one hourly rate for domestic travel and one hourly rate for foreign travel. To calculate an hourly rate of a fully supported FTE including travel costs, FDA would calculate the additional cost per hour spent on travel (taking into account domestic and foreign travel, as applicable), adjust for inflation, and add this amount to the base unit fee.

For the purposes of providing a sense of the fee we are proposing, in this document we demonstrate calculation of additional costs per hour spent on travel using information from ORA's inspection trips related to FDA's CFSAN and CVM field activities programs. In FY 2013, ORA spent a total of $2,797,656 on 235 foreign inspection trips related to FDA's CFSAN and CVM field activities programs which averaged a total of $11,905 per trip. The average paid hours per trip was 120 hours. Dividing $11,905 per trip by the average paid hours per trip (120 hours) results in a total and an additional cost of $99 per paid hour spent for foreign inspection travel costs in FY 2013. To adjust for inflationary increases in FY 2014 and FY 2015, we multiply $99 by the compounded inflation adjustment factor previously mentioned in this document (1.04327), which results in an adjusted estimated additional cost of $103 per paid hour spent for foreign inspection travel costs in FY 2015. We then add $103 to $202 (base unit fee) to get a total of $305 per paid hour for each direct hour of work requiring foreign inspection travel.

In addition, in FY 2013, ORA spent a total of $4,687,907 on 11,779 domestic regulatory inspection trips related to FDA's CFSAN and CVM activities programs which averaged a total of $398 per inspection. Dividing $398 by the average number of hours per inspection (27.91 hours) results in an additional cost of $14 per hour spent for domestic inspection travel costs in FY 2013. To adjust for inflationary increases in FY 2014 and FY 2015, we multiply $14 by the compounded inflation adjustment factor previously mentioned in this document (1.04327), which results in an adjusted estimated additional cost of $15 per paid hour spent for domestic inspection travel costs in FY 2015. We then add $15 to $202 (base unit fee) to get a total of $217 per paid hour for each direct hour of work requiring domestic inspection travel.

To provide a sense of the fee we are proposing, we calculate an estimated fee using these fully supported FTE hourly rates, and estimates of the number of hours it would take FDA to perform relevant activities. These estimates represent FDA's current thinking and differ from the Preliminary Regulatory Impact Analysis (PRIA) for the Accreditation of Third-Party Auditors proposed rule (Ref. 1). FDA's thinking may also continue to evolve as we consider the RIA for the Accreditation of Third-Party Auditors final rule. We estimate that it would take, on average, 60 person-hours to review an AB's submitted application, 48 person-hours for an onsite performance evaluation of the applicant AB (including travel and other steps necessary for a fully supported FTE to complete an onsite performance evaluation), and 45 person-hours to prepare a written report documenting the onsite audit.

FDA employees are likely to review applications and prepare reports from their worksites, so we use the fully supported FTE hourly rate excluding travel, $202/hour, to estimate the portion of the user fee attributable to those activities: $202/hour × (60 hours + 45 hours) = $21,210. FDA employees will likely travel to foreign countries for the onsite performance evaluations because most ABs are located in foreign countries, so for this estimated fee we use the fully supported FTE hourly rate for work requiring foreign inspection travel, $305/hour, to estimate the portion of the user fee attributable to those activities: $305 × 48 hours (*i.e.,* 2 fully supported FTEs × (2 travel days + 1 day onsite)) = $14,640. The estimated average cost of the work FDA performs in total for reviewing an application for recognition for an AB based on these figures would be $21,210 + $14,640 = $35,850.

We anticipate that the RIA for the Accreditation of Third-Party Auditors final rule, which FDA intends to publish in the fall of 2015, will include updated hourly estimates based on comments received on that rulemaking. In addition, we expect that all of these estimates used to calculate the actual user fees will be informed by FDA's experience with the third-party accreditation program, once that program begins, and the estimates used to calculate the user fees will be updated accordingly. For example, if it takes less time, on average for us to prepare written reports documenting audits, we will use that information to decrease the fee for the following year. As another example, if an AB applying for recognition is located in the United States, domestic travel, not foreign travel will be needed to conduct onsite audits of such applicant ABs. This, too, would lower the average cost to FDA of conducting onsite audits, and, in turn, would contribute to lowering the estimated fee rate.

Note that in the above calculation, we estimate the average number of hours it would take for FDA to conduct relevant activities, and multiply that by the appropriate fully supported FTE hourly rate to generate one flat fee that would be paid by every applicant AB. Alternatively, we could track the number of hours it actually takes FDA staff to conduct relevant activities for each applicant AB, and multiply that number by the fully supported FTE hourly rate calculated by the Agency for the applicable fiscal year. We could then bill each applicant AB separately for the actual application costs attributable to it. Under this approach, we would likely bill after ABs learn whether or not they are accepted into the program.

The proposed approach provides predictability for FDA and for industry, and allows FDA to collect application fees before beginning to perform the work of reviewing the application. However, this alternative approach may create incentives for higher quality applications. Applications that are faster to review, *e.g.,* because they are better prepared, could result in lower fees, while applications that are slower to review, *e.g.,* because they are less organized or necessitate more back-and-forth with the applicant, could result in higher fees. Similarly, applicants that facilitate the onsite audit process and have higher quality operations would likely have shorter onsite audits than other applicants. Still, because FDA would bill applicant ABs after completing application review, applicants whose applications are not accepted may have a lowered incentive to pay the application fee at all. This alternative approach might also raise questions regarding differences in

application review costs that in turn could take additional FDA resources to resolve.

We request comment on the proposed and alternative approaches, particularly whether one approach would create more favorable incentives for quality of the application. For the alternative approach, we also request comment on possible consequences we should impose on ABs for not paying the fee on time. We also request comment on whether we should adopt the alternative approach for a portion of the application review process, *e.g.,* the onsite audit portion, while maintaining a flat fee for other portions, *e.g.,* the paper application review. Such a hybrid approach may be most consistent with how ABs currently charge CBs and provide a balance of predictability and incentives.

2. Application Fee for Recognized ABs Submitting Renewal Applications

Under proposed § 1.705(a)(2), recognized ABs submitting renewal applications would be subject to a renewal application fee for the estimated average cost of the work FDA performs in reviewing and evaluating renewal applications for recognition of ABs. The average cost of the work FDA performs in reviewing and evaluating renewal applications for recognized ABs would be estimated by: (1) Estimating the number of hours it would take an FTE to review and evaluate a renewal application, on average and (2) multiplying that estimate by the fully supported FTE hourly rates calculated by the Agency for the applicable fiscal year.

The review and evaluation of renewal applications submitted by recognized ABs, including the onsite assessments, is expected to be less burdensome than the review and evaluation required for initial applications for recognition submitted by ABs. As above, to provide a sense of the fee we are proposing, we calculate an estimated fee here using estimates that represent FDA's current thinking of the number of hours it would take FDA to perform relevant activities and the fully supported FTE hourly rates described above. We estimate that it would take, on average, 40 person-hours to review an AB's renewal application, including review of reports prepared by FDA detailing the FDA performance evaluations, which include FDA's onsite assessments of the AB, review of the AB's annual self-assessment reports submitted to FDA, and review of relevant records maintained by the AB. We estimate that for AB's seeking renewal of recognition, approximately 25 percent of such FDA performance evaluations will be conducted onsite and we expect that it will take 1 fully supported FTE 2 travel days and 2 onsite days to conduct an onsite assessment for a total of 32 hours. Therefore, on average, 8 person-hours (*i.e.,* 25 percent × 1 fully supported FTE × (2 travel days + 2 onsite days)) would be spent on an onsite evaluation of an AB as part of FDA's review of an AB's renewal of recognition application. In addition, 41.25 person-hours would be spent on report preparation. For activities FDA employees are likely to perform at their worksites (*i.e.,* the application review and report preparation), we use the fully supported FTE hourly rate excluding travel, of $202/hour, while for activities FDA employees are likely to need to travel to foreign countries to perform (*i.e.,* the onsite audit), we use the fully supported FTE hourly rate for work requiring inspection travel, of $305/hour. The estimated average cost of the work FDA performs in reviewing and evaluating an application for renewal of recognition for an AB would be $16,413 ($202/hour × (40 hours + 41.25 hours)) plus $2,440 ($305/hour × 8 hours), which is $18,853 total. As previously mentioned, the hourly rate used would be adjusted each year for changes in FDA's costs using an inflation adjustment factor, and we expect the estimates of the number of hours each activity takes will be revised in the RIA of the Accreditation of Third-Party Auditors final rule. More generally, we expect that these estimates will be informed by FDA's experience with the third-party accreditation program, once that program begins.

Similar to the alternative approach we discussed for initial application fees, we are considering billing each applicant for the actual amount of time FDA takes to review and evaluate the particular applicant's renewal application, using the fully supported FTE hourly rates calculated by the Agency for the applicable fiscal year. We see the same policy considerations as discussed for the analogous alternative approach for the initial application fees discussed above. We request comment on the proposal and alternative approach for renewal application fees. We also request comment on whether we should adopt the alternative approach for a portion of the renewal application review process, *e.g.,* the onsite audit portion, while maintaining a flat fee for other portions, *e.g.,* the paper application review.

3. Application Fee for CBs Applying for Direct Accreditation

Under proposed § 1.705(a)(3), CBs applying for direct accreditation would be subject to an application fee for the estimated average cost of the work FDA performs in reviewing and evaluating applications for direct accreditation. As with the two proposed application fees for ABs, the average cost of the work FDA performs in reviewing and evaluating applications for direct accreditation of CBs would be estimated by: (1) Estimating the number of hours, on average, it would take an FTE to review and evaluate an application for direct accreditation and (2) multiplying that estimate by the fully supported FTE hourly rates calculated by the Agency for the applicable fiscal year.

Again, to provide a sense of the fee we are proposing, we calculate an estimated fee here using estimates that represent FDA's current thinking of the number of hours it would take FDA to perform relevant activities and the fully supported FTE hourly rates described above. For activities FDA employees are likely to perform at their worksites, we use the fully supported FTE hourly rate excluding travel, of $202/hour, while for activities FDA employees are likely to need to travel to foreign countries to perform, we use the fully supported FTE hourly rate for work requiring inspection travel, of $305/hour. We tentatively estimate that it would take, on average, 60 person-hours to review a CB's application for direct accreditation, 48 person-hours to conduct an onsite performance evaluation of the applicant CB, including travel and other steps necessary for a fully supported FTE to complete an onsite performance evaluation, and 45 person-hours to prepare a written report documenting the onsite performance evaluation. Given that FDA employees are likely to conduct application review and report preparation at their worksites, the estimated average cost of the work FDA performs for those activities would be $202/hour × (60 hours + 45 hours) = $21,210. FDA employees will likely travel to foreign countries for the onsite performance evaluations, so the estimated average cost of the work FDA performs for those activities would be $305 × 48 hours (*i.e.,* 2 fully supported FTEs × (2 travel days + 1 day onsite)) = $14,640. Therefore, the estimated average cost of the work FDA performs in reviewing and evaluating an application for direct accreditation for a CB would be $21,210 + $14,640 = $35,850. As previously mentioned, the hourly rate used would be adjusted each year for changes in FDA's costs using an inflation adjustment factor, we expect the estimates of the number of hours each activity takes will be revised in the RIA for the Accreditation of Third-Party

Auditors final rule based on comments to that proposed rulemaking, and we expect our estimates used to calculate actual user fees will be informed by FDA's experience with the third-party accreditation program, once that program begins.

Similar to the alternative approach we discussed for initial application fees for AB recognition, we considered an alternative approach for direct accreditation applications where FDA would bill each applicant for the actual amount of time FDA takes to review and/or evaluate the particular applicant's application, using the fully supported FTE hourly rate calculated by the Agency for the applicable fiscal year. This would likely have the same policy considerations as discussed for the analogous alternative approach discussed in section III.B.1. We request comment on this alternative. We also request comment on whether we should adopt the alternative approach for a portion of the application review process, *e.g.,* the onsite audit portion, while maintaining a flat fee for other portions, *e.g.,* the paper application review.

4. Application Fee for CBs Applying for Renewal of Direct Accreditation

Under proposed § 1.705(a)(4), CBs applying for renewal of direct accreditation would be subject to an application fee for the estimated average cost of the work FDA performs in reviewing and evaluating renewal applications for direct accreditation. The average cost of the work FDA performs in reviewing and evaluating renewal applications for directly accredited CBs would be estimated by: (1) Estimating the number of hours it would take an FTE to review and evaluate a renewal application, on average and (2) multiplying that estimate by the fully supported FTE hourly rates calculated by the Agency for the applicable fiscal year.

The review and evaluation of renewal applications submitted by directly accredited CBs, including the onsite assessments, is expected to be less burdensome than the review and evaluation required for initial applications for direct accreditation. As above, to provide a sense of the fee we are proposing, we calculate an estimated fee here using estimates that represent FDA's current thinking of the number of hours it would take FDA to perform relevant activities and the fully supported FTE hourly rates described above. We estimate that it would take, on average, 40 person-hours to review a CB's renewal application, including review of reports prepared by FDA detailing the records review from the FDA performance evaluations, which include FDA's onsite assessments of the CB, review of the CB's annual self-assessment reports submitted to FDA, and review of relevant records maintained by the CB. In addition, we estimate that 32 person-hours (*i.e.,* 1 fully supported FTE × (2 travel days + 2 onsite days)) would be spent on onsite audits and 45 person-hours would be spent on report preparation. For activities FDA employees are likely to perform at their worksites (*i.e.,* the application review and report preparation), we use the fully supported FTE hourly rate excluding travel, of $202/hour, while for activities FDA employees are likely to need to travel to foreign countries to perform (*i.e.,* the onsite audit), we use the fully supported FTE hourly rate for work requiring inspection travel, of $305/hour. The estimated average cost of the work FDA performs in reviewing and evaluating a renewal application for direct accreditation for a CB would be $17,170 ($202/hour × (40 hours + 45 hours)) plus $9,760 ($305/hour × 32 hours), which is $26,930 total.

As previously mentioned, the hourly rate used would be adjusted each year for changes in FDA's costs using an inflation adjustment factor, and we expect the estimates of the number of hours each activity takes will be revised in the RIA for the Accreditation of Third-Party Auditors final rule. More generally, we expect that these estimates will be informed by FDA's experience with the third-party accreditation program, once that program begins.

Similar to the approach we discussed for renewal application fees for AB recognition, we considered an alternative approach to renewal applications for direct accreditation of CBs where FDA would bill each applicant for the actual amount of time FDA takes to review and evaluate the particular applicant's renewal application, using the fully supported FTE hourly rates calculated by the Agency for the applicable fiscal year. We see the same policy considerations as discussed for the analogous alternative approach for renewal application fees for ABs discussed above. We request comment on the proposal and alternative approach for these renewal application fees. We also request comment on whether we should adopt the alternative approach for a portion of the renewal application process, *e.g.,* the onsite audit portion, while maintaining a flat fee for other portions, *e.g.,* the paper application review.

5. Annual Fees for Recognized ABs

Proposed § 1.633(a) of the Accreditation of Third-Party Auditors proposed rule states that FDA would periodically evaluate the performance of each recognized AB to determine its compliance with the applicable requirements of that proposed rule. Such evaluation would occur by at least 4 years after the date of recognition for a 5-year term of recognition, or by no later than the mid-term point for recognition granted for less than 5 years. FDA may conduct additional performance evaluations of a recognized AB at any time.

Proposed § 1.705(b)(1) would require recognized ABs to pay an annual fee for the estimated average cost of the work FDA performs to monitor performance of recognized ABs under proposed § 1.633. The average cost of the work FDA performs to monitor performance of a recognized AB would be estimated by: (1) Estimating the number of hours, on average, it would take an FTE to monitor the performance of a recognized AB and (2) multiplying that estimate by the fully supported FTE hourly rates calculated by the Agency for the applicable fiscal year.

To calculate the annual fee for each recognized AB, FDA would take the estimated average cost of work FDA performs to monitor performance of a single recognized AB and annualize that over the average term of recognition. For the calculations in this document, we assume an average term of recognition of 5 years. We also assume that FDA would monitor 10 percent of recognized ABs onsite. Terms of recognition may initially be shorter than 5 years during the first few years of the program, but we anticipate that 5 years is likely to be the most common term of recognition as the program continues. We estimate that for one performance evaluation of a recognized AB, it would take, on average (taking into account that not all recognized ABs would be monitored onsite), 24 hours for FDA to conduct records review, 4.8 hours of onsite performance evaluation (*i.e.,* 10 percent × 2 fully supported FTEs × (2 travel days + 1 day onsite)), and 8 hours to prepare a report detailing the records review and onsite performance evaluation. Using the fully supported FTE hourly rates described above, the estimated average cost of the work FDA performs to monitor performance of a single recognized AB would be $6,464 ($202/hour × (24 hours + 8 hours)) plus $1,464 ($305/hour × 4.8 hours), which is $7,928. Annualizing this amount over 5 years would lead to an annual fee of

roughly $1,585 to $1,878, depending on inflation.

The proposed approach is relatively simple and consistent with industry models. However, if a recognized AB leaves the program, either voluntarily or because FDA revokes such AB's recognition, before FDA conducts its monitoring activities, such AB will have paid an annual fee for monitoring that never occurs. If a recognized AB leaves the program after FDA conducts its monitoring activities, but before the term of recognition ends, such AB's annual fees will not fully compensate FDA for monitoring. In addition, if an AB completes its term of recognition in the program but its term of recognition is less than the average term of recognition used to calculate the annual fee, the proposed approach will not fully reimburse FDA for monitoring of that AB.

We request comment on the proposed approach and whether another approach would resolve some of these issues. For example, each AB could pay in full for monitoring in the year that FDA conducts it. FDA could calculate the fee using the same method applied under the proposed approach (*i.e.,* by estimating the number of hours, on average, it would take an FTE to monitor the performance of a recognized AB and multiplying that estimate by the fully supported FTE hourly rates calculated by the Agency for the applicable fiscal year). Or, FDA could track the number of hours spent monitoring that particular AB and multiply the fully supported FTE hourly rate by that number of hours. Either way, in general, FDA would receive the money as costs are incurred. However, a large fee for each instance that FDA conducts a performance evaluation that may or may not be charged in any given year may be financially impractical for ABs who would otherwise participate in the program. They may prefer a smaller fee collected annually, rather than a much larger fee due at one time.

Under another alternative, FDA would calculate the annual monitoring fee using the same method applied by the proposed approach, adjusted for inflation, but the fee would be annualized based on the term of recognition for each recognized AB. So if an AB is only recognized for a term of 3 years, the fee would be annualized over 3 years, while an AB that is recognized for a 5-year term would have its fee annualized over 5 years. As a result, an AB with a shorter term of recognition would have a higher annual fee than an AB with a longer term of recognition. Under this alternative, FDA would need to calculate a different annual fee for each possible term length, and FDA would have to ensure that ABs are billed an annual fee consistent with their particular term lengths.

6. Annual Fees for CBs Directly Accredited by FDA

Similarly, proposed § 1.662 of the Accreditation of Third-Party Auditors proposed rule states that FDA would periodically evaluate the performance of each accredited CB to determine whether the accredited CB continues to comply with the requirements and whether there are deficiencies in the performance of the accredited CB that, if not corrected, would warrant withdrawal of its accreditation. FDA would evaluate each directly accredited CB annually. FDA may conduct additional performance evaluations of an accredited CB at any time.

Proposed § 1.705(b)(2) would require directly accredited CBs to pay an annual fee for the estimated average cost of the work FDA performs to monitor directly accredited CBs under proposed § 1.662. The average cost of the work FDA performs to monitor directly accredited CBs would be estimated by: (1) Estimating the number of hours, on average, it would take an FTE to monitor the performance of a directly accredited CB and (2) multiplying that estimate by the fully supported FTE hourly rates calculated by the Agency for the applicable fiscal year. We estimate that it would take FDA about the same amount of time to conduct records review (24 hours) and to prepare a report detailing the records review and onsite performance evaluation (8 hours) as it would for FDA to perform these activities for a recognized AB. However, we expect to conduct onsite performance evaluations for 100 percent of directly accredited CBs (48 hours per directly accredited CB, including travel and other steps necessary for a fully supported FTE to complete an onsite performance evaluation). In addition, because FDA would be conducting these activities annually for each directly accredited CB, the annual fee for a directly accredited CB would cover the full cost of performance evaluation, approximately $21,104. We request comment on this proposal.

7. Annual Fees for CBs That Are Accredited by a Recognized AB

Proposed § 1.662(a) of the Accreditation of Third-Party Auditors proposed rule states that FDA would evaluate an accredited CB annually evaluated by a recognized accreditation body by not later than 3 years after the date of accreditation for a 4-year term of accreditation, or by no later than the mid-term point for accreditation granted for less than 4 years. FDA may conduct additional performance evaluations of an accredited CB at any time.

Under proposed § 1.705(b)(3), CBs accredited by recognized ABs would be subject to an annual fee for the estimated average cost of the work FDA performs to monitor CBs under proposed § 1.662 that are accredited by a recognized AB. The average cost of the work FDA performs to monitor performance of a CB accredited by a recognized AB would be estimated by: (1) Estimating the number of hours, on average, it would take an FTE to monitor the performance of a CB accredited by a recognized AB and (2) multiplying that estimate by the fully supported FTE hourly rates calculated by the Agency for the applicable fiscal year.

To calculate the annual fee for each CB accredited by a recognized AB, FDA would take the estimated average cost of work FDA performs to monitor performance of a single CB accredited by a recognized AB and annualize that over 4 years, assuming that 4 years would be the most common term of accreditation. We estimate that FDA would conduct, on average, the same activities for the same amount of time to monitor CBs accredited by a recognized AB as we would to monitor an AB recognized by FDA, costing approximately $7,928. Annualizing this over 4 years would generate an annual fee of approximately $1,982 to $2,250, depending on inflation.

The proposed provision is analogous to proposed § 1.705(b)(1), which would establish the annual fee for recognized accreditation bodies. As discussed for that provision, the proposed approach is relatively simple and consistent with industry models. But if an accredited CB leaves the program, either voluntarily or because of a decision from its AB or FDA, before FDA conducts its monitoring activities, such CB will have paid an annual fee for monitoring that never occurs. If the CB leaves the program after FDA conducts its monitoring activities, but before the term ends, the CB's annual fees will not fully compensate FDA for monitoring. In addition, if a CB completes its term of accreditation in the program but its term is less than 4 years, the proposed approach will not fully reimburse FDA for monitoring of that CB. We request comment on the proposed approach and any possible alternatives. For example, each CB could pay in full for monitoring in the year that FDA conducts it. FDA could calculate the fee using the same method applied under the proposed approach (*i.e.,* estimating the number of

hours, on average, it would take an FTE to monitor the performance of a CB accredited by a recognized AB and multiplying that estimate by the fully supported FTE hourly rates calculated by the Agency for the applicable fiscal year). Or, FDA could track the number of hours spent monitoring that particular CB and multiply the fully supported FTE hourly rate by that number of hours. Either way, in general, FDA would receive the money as we incur the costs. However, a large fee for each instance that FDA conducts a performance evaluation that may or may not be charged in any given year may be impractical for CBs who would otherwise participate in the program.

Under another alternative, FDA would calculate the annual monitoring fee using the same method applied under the proposed approach, adjusted for inflation, but the fee would be annualized based on the term of accreditation for each CB. So if a CB is only accredited for a term of 2 years, the fee would be annualized over 2 years, while a CB that is accredited for a 4-year term would have its fee annualized over 4 years. As a result, a CB with a shorter term of accreditation would have a higher annual fee than a CB with a longer term of accreditation. FDA would need to calculate a different annual fee for each possible term length, and FDA would have to ensure that CBs are billed an annual fee consistent with their particular term lengths.

8. General Fee Structure and Alternatives

Having an application fee that is separate from the annual monitoring fee would allow FDA to recover costs of work performed to review applications that are ultimately denied because the applicants do not meet the eligibility criteria for the program. In addition, we understand that it is common for ABs to charge an application fee to CBs that apply for accreditation and an annual fee to accredited CBs; our proposed fee structure is consistent with this industry model.

The application fee would likely be significantly higher than the annual monitoring fee, as can be seen by the examples above. We are wary that a high application fee could deter participation in the program. We considered alternative fee structures to address this potential issue. For example, we considered annualizing the cost of application review over the length of the term of recognition (*e.g.,* 5 years) or accreditation (*e.g.,* 4 years), adjusting for inflation. The annualized application fee could be added to the annual fee funding FDA's monitoring costs to generate a single annual fee. Under this alternative, the total fee paid each year by participants in the program would be consistent, adjusting for inflation, over the term of the recognition or accreditation. In an application year, the total fee charged for that year would be lower under this alternative than under the proposed fee structure, but the total fee charged in each subsequent year of the term of recognition or accreditation would be higher than under the proposed fee structure.

We decided against this alternative approach for several reasons. First, if an application is not accepted into the program or an applicant leaves the program before the end of the term of recognition or accreditation, *e.g.,* because FDA revokes an AB's recognition under proposed § 1.634, FDA would not recover the total cost of reviewing the application. Second, while an excessively large application fee could deter participation in a way that would negatively affect program participation, an application fee that is appropriately high, and not annualized over the length of the term of recognition or accreditation, could serve as a barrier for lower quality applicants that may not have sufficient resources to meet the program criteria and carry out the duties of program participants as prescribed in proposed 21 CFR part 1, subpart M.

Third, as described above, the cost to FDA of reviewing a renewal application is expected to be less than the cost to FDA of reviewing an initial application. Therefore, to avoid overcharging ABs and directly accredited CBs in their second or third terms of recognition or direct accreditation, we would need to establish two different annual fees for ABs and two different annual fees for directly accredited CBs; one for those in their first term and one for those who are in a subsequent term, with the latter reduced to account for the lower annualized cost to FDA of reviewing renewal applications. For proper billing, FDA would need to keep track of which term each participant was in as well as the length of the term, adding another layer of complexity. Moreover, FDA would continue to need to establish a separate annual fee that does not include an application surcharge for those CBs that are accredited by ABs. For these reasons, FDA tentatively concludes that the alternative fee structure could potentially reimburse FDA less for work performed and could lead to more lower-quality applications.

We request comment on the proposed fee structure, the alternative discussed here, and any other alternative fee structures that may be simpler or more consistent with industry practice.

*C. How will FDA notify the public about the fee schedule?*

In general, FDA publishes notices in the **Federal Register** in late summer announcing the fee rates of its user fee programs for the upcoming fiscal year (*e.g.,* Generic Drug User Fee Rates for Fiscal Year 2015 (79 FR 44797, August 1, 2014) and Medical Device User Fee Rates for Fiscal Year 2015 (79 FR 44178, July 30, 2014)). Therefore, under proposed § 1.710, FDA would notify the public of the fee schedule annually prior to the beginning of the fiscal year for which the fees apply. Each new fee schedule would be calculated based on the parameters in this proposed rulemaking, adjusting for improvements in the estimates of the cost to FDA of performing relevant work for the upcoming year and inflation. For example, after experience with the program, FDA is likely to have more accurate estimates of the costs of performing certain activities to carry out the program than it does now. FDA would use these revised estimates to calculate the fee.

*D. When must the user fee be submitted?*

Under proposed § 1.715(a), ABs applying for recognition and CBs applying for direct accreditation would be required to submit a fee concurrently with submitting their applications or renewal applications. FDA would not review an application until the fee has been submitted (see proposed § 1.725(a)). This approach would require applicants to pay the user fee in a timely manner and would maximize the extent to which work FDA performs to review applications is user fee funded.

Under proposed § 1.715(b), ABs and CBs subject to an annual fee must submit payment within 30 days of receiving billing for the fee. We understand 30 days to be a generally accepted norm in financial transactions and consistent with FDA's practice for its other user fee programs. We request comment on these proposed timeframes.

*E. Are user fees refundable?*

Under proposed § 1.720, user fees submitted under this subpart would not be refundable. We tentatively conclude that this is the simplest approach and is most likely to encourage higher quality applications and to encourage ABs and CBs to make thoughtful decisions about whether to remain in the program for subsequent years. In addition, we are wary of creating additional costs to administer the program—which would then need to be paid for either through

raising user fees or through appropriated funds—as a result of disagreements between FDA and industry about whether a particular refund would be granted. However, we note that FDA may refund other user fees in a few very limited specific circumstances (see, *e.g.,* User Fees and Refunds for Premarket Approval Applications and Device Biologics License Applications; Guidance for Industry and FDA Staff).

We request comment on whether we should consider refund requests under this program and, if so, under what circumstances.

*F. What are the consequences of not paying a user fee on time?*

Under proposed § 1.725(a), applications would not be considered complete until FDA receives the application fee. In practice, this means that FDA would not review an application until it is informed by the receiving bank that the application fee payment is received. This is consistent with FDA's practices for its other user fee programs with application fees. In addition, this approach would require applicants to pay the user fee in a timely manner and would maximize the extent to which work FDA performs to review applications is user fee funded.

As of the date of this publication, the two receiving banks that FDA uses for user fee payment are the Federal Reserve Bank of New York, for wire transfer, and U.S. Bank, for check payment. For FDA's user fee programs currently in place, these banks generally notify FDA within 24 hours of the receipt of fee payments. We expect the same for the user fee proposed here. FDA intends to publish payment instructions with the addresses for sending payments (by mail, courier, or wire) at the time that the fee payment schedules are published, before the start of the fiscal year. Again, this is consistent with FDA's practice for its other user fee programs.

Under proposed § 1.725(b), a recognized AB that fails to submit its annual user fee within 30 days of the due date would have its recognition suspended. FDA would notify the AB that its recognition is suspended electronically, in English. FDA would notify the public of the suspension on the Web site that lists the recognized ABs (described in previously proposed § 1.690 of the Accreditation of Third-Party Auditors proposed rule). During the period that an AB's recognition is suspended, the AB would not be permitted to accredit additional CBs for participation in FDA's program. However, any CB accredited by such AB prior to the suspension would be unaffected by the suspension, as would any food or facility certification issued by such CB.

Unlike the grounds for revocation listed in proposed § 1.634 of the Accreditation of Third-Party Auditors proposed rule, failure to pay a user fee within 30 days does not necessarily indicate that the AB no longer meets the substantive standards of the program. We tentatively conclude that there should be some significant consequence to the AB for not paying the user fee in a timely manner, but the consequence should be easily reversible once the fee is paid. Therefore, we decided to propose a middle ground, suspension, during which an AB suffers some consequences for not paying the fee, but those consequences are not as significant as the consequences of revocation.

Our proposal to notify the AB electronically in English of suspension is consistent with the provision in proposed § 1.634(c)(1) that FDA would notify the AB electronically in English of revocation. Our proposal to notify the public of the suspension on our Web site is consistent with the provision in proposed § 1.634(f) of the Accreditation of Third-Party Auditors proposed rule that FDA would provide notice on its Web site of the revocation of recognition of an AB. We tentatively conclude that there is no reason for the process of notifying the AB and the public of suspension to differ from the process of notifying the AB and the public of revocation in these respects. We request comment on these tentative conclusions. We also request comment on whether FDA should notify a CB if the recognition of its AB has been suspended.

At some point, an AB that does not pay its annual fee should not be allowed to continue to participate in the program. Therefore, under proposed § 1.725(b)(3), if payment is not received within 90 days of the payment due date, FDA would revoke the AB's recognition under proposed § 1.634(a)(4), and provide notice of such revocation in accordance with the procedures in proposed § 1.634. We are proposing to amend proposed § 1.634(a)(4) by adding a new proposed § 1.634(a)(4)(iii), which would explicitly include failure to pay the annual user fee within 90 days of the payment due date, as specified in § 1.725(b)(3), as a basis for revoking an AB's recognition. We request comment on whether 90 days is an appropriate timeframe and whether all of the consequences of revocation (see proposed § 1.634(d) and (e)) should apply here. Please note that we are no longer soliciting comment on the consequences of revocation generally proposed in § 1.634; we are only requesting comment on the appropriate consequences in the narrow circumstance of failure to pay a user fee.

Under proposed § 1.725(c), an accredited CB that fails to submit its annual user fee within 30 days of the due date would have its accreditation suspended. FDA would notify the CB that its accreditation is suspended electronically, in English. FDA would notify a recognized AB as well, electronically and in English, if the accreditation of one of its CBs is suspended. FDA would notify the public of the suspension on the Web site that lists the recognized ABs and accredited CBs (described in proposed § 1.690). While a CB's accreditation is suspended, it would not be allowed to issue food or facility certifications as part of FDA's third-party accreditation program. However, food or facility certifications issued by a CB prior to the suspension of the CB's accreditation would remain in effect. If payment is not received within 90 days of the payment due date, FDA would withdraw the CB's accreditation under proposed § 1.664(a), and provide notice of such withdrawal in accordance with the procedures in proposed § 1.664. We propose this process to be analogous to the process for suspending recognition of a recognized AB that is delinquent on its fee payment. We are also proposing to amend proposed § 1.664(a) of the Accreditation of Third-Party Auditors proposed rule to add a new proposed § 1.664(a)(4), which would explicitly include failure to pay the annual user fee within 90 days of the payment due date, as specified in § 1.725(c)(3), as a basis for withdrawing a CB's accreditation. We request comment on whether the consequences of a CB failing to pay a user fee by the due date are appropriate. Please note that we are no longer soliciting comment on the consequences of withdrawal of accreditation generally proposed in § 1.664(a); we are only requesting comment on the appropriate consequences in the narrow circumstance of failure to pay a user fee.

*G. Possible Exemptions*

Under the proposed rule, there would be no exemption or reduced fee for small businesses or entities. Under other (non-food) FDA user fee programs, some exemptions or reductions for small businesses are specified by the authorizing legislation (Refs. 2 and 3). For the user fees proposed here, no such statutory exemption, reduction, or requirement for consideration exists in

section 808 of the FD&C Act. While we are not proposing a small business exemption or reduction here, we believe that some of the proposed approaches and alternative approaches we discussed above could be more amenable to small businesses than others. For example, an annualized fee may be more affordable for a small business than a larger lump sum payment. We seek comment on whether we should account for small businesses in other ways, including whether an exemption or fee reduction would be appropriate. We request that comments that state that FDA should provide an exemption or fee reduction for small businesses state who should be eligible for an exemption or fee reduction; if recommending a fee reduction, how much of a reduction should be granted; and why.

Under the proposed rule, FDA would charge user fees to government entities that are applying to and participating in the program as either an AB or a CB. FDA is requesting comment on the impact of charging a user fee to foreign governments applying to and participating in the program, and whether, for trade or other reasons, we should consider a different approach.

## IV. Preliminary Regulatory Impact Analysis

### *A. Introduction*

FDA has examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all 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, and other advantages; distributive impacts; and equity). The Agency believes that this proposed rule is not a significant regulatory action as defined by Executive Order 12866.

### *B. Regulatory Flexibility Act*

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The proposed rule demonstrates how user fees will be calculated for different activities FDA conducts under FDA's third-party accreditation program. The proposed rule does not require action by entities affected by the forthcoming Accreditation of Third-Party Auditors final rule; it merely provides additional information so that affected entities can make an informed decision on whether to participate in FDA's third-party accreditation program. FDA plans to analyze the costs and benefits of FDA's third-party accreditation program including imposition of user fees resulting from participating in the third-party accreditation program in the regulatory impact analysis of the Accreditation of Third-Party Auditors final rule. Hence, for the purpose of this rule, the Agency proposes to certify that the resulting final rule will not have a significant economic impact on a substantial number of small entities.

### *C. Unfunded Mandates Reform Act of 1995*

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $144 million, using the most current (2014) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

### *D. Need for This Regulation*

The need for the proposed regulation is under the authority of section 808(c)(8) of the FD&C Act, established by FSMA, which requires FDA to establish by regulation a reimbursement (user fee) program by which we assess fees and require reimbursement for the work we perform to establish and administer the third-party accreditation program under section 808 of the FD&C Act.

## V. Paperwork Reduction Act of 1995

This proposed rule contains no collection of information. Therefore, clearance by OMB under the Paperwork Reduction Act of 1995 is not required.

## VI. Analysis of Environmental Impact

We have carefully considered the potential environmental effects of this action. We have concluded, under 21 CFR 25.30(h), that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required (Ref. 4).

## VII. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that the proposed rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we have tentatively concluded that the proposed rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

## VIII. 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.*

## IX. References

The following references have been placed on display in FDA's Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.* (FDA has verified the Web site addresses, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register.**)

1. FDA, ''Preliminary Regulatory Impact Analysis for the proposed rules on Foreign Supplier Verification Programs (Docket No. FDA–2011–N–0143) and Accreditation of Third-Party Auditors/Certification Bodies to Conduct Food Safety Audits and to Issue Certifications (Docket No. FDA–2011–N–0146) under Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520),'' (*http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/UCM363286.pdf*), 2013. Accessed and printed on June 23, 2015.
2. FDA, ''FY 2015 Medical Device User Fee Small Business Qualification and

Certification: Guidance for Industry, Food and Drug Administration Staff and Foreign Governments,'' (*http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/Overview/MDUFAIII/UCM314389.pdf*), August 1, 2014. Accessed and printed on June 23, 2015.
3. FDA, ''Guidance for Industry: User Fee Waivers, Reductions, and Refunds for Drug and Biological Products,'' (*http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm079298.pdf*), September 2011. Accessed and printed on June 23, 2015.
4. FDA, ''Memorandum: Proposed Rule: User Fees for FDA's Third Party Accreditation Program for Food and Feed,'' March 3, 2015.

**List of Subjects in 21 CFR Part 1**

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 1, as proposed to be amended on July 29, 2013 (78 FR 45782), be further amended as follows:

## PART 1—GENERAL ENFORCEMENT REGULATIONS

■ 1. The authority citation for 21 CFR part 1 is revised to read as follows:

**Authority:** 15 U.S.C. 1453, 1454, 1455; 19 U.S.C. 1490, 1491; 21 U.S.C. 321, 331, 332, 333, 334, 335a, 343, 350c, 350d, 350k, 352, 355, 360b, 362, 371, 374, 381, 382, 384a, 384b, 384d, 393; 42 U.S.C. 216, 241, 243, 262, 264.

■ 2. In § 1.634, add paragraph (a)(4)(iii) to read as follows:

### § 1.634 When will FDA revoke recognition?

* * * * *

(iii) Failure to pay the annual user fee within 90 days of the payment due date, as specified in § 1.725(b)(3).

* * * * *

■ 3. In § 1.664, add paragraph (a)(4) to read as follows:

### § 1.664 When can FDA withdraw accreditation?

* * * * *

■ (4) If payment of the auditor/certification body's annual fee is not received within 90 days of the payment due date, as specified in § 1.725(c)(3).

* * * * *

■ 4. In subpart M, add §§ 1.700 through 1.725 to read as follows:

Sec.
1.700 Who is subject to a user fee under this subpart?
1.705 What user fees are established under this subpart?
1.710 How will FDA notify the public about the fee schedule?
1.715 When must a user fee required by this subpart be submitted?
1.720 Are user fees under this subpart refundable?
1.725 What are the consequences of not paying a user fee under this subpart on time?

### § 1.700 Who is subject to a user fee under this subpart?

(a) Accreditation bodies submitting applications or renewal applications for recognition in the third-party accreditation program;

(b) Recognized accreditation bodies participating in the third-party accreditation program;

(c) Auditors/certification bodies submitting applications or renewal applications for direct accreditation; and

(d) Accredited auditors/certification bodies (whether accredited by recognized accreditation bodies or by FDA through direct accreditation) participating in the third-party accreditation program.

### § 1.705 What user fees are established under this subpart?

(a) The following application fees:

(1) Accreditation bodies applying for recognition are subject to an application fee for the estimated average cost of the work FDA performs in reviewing and evaluating applications for recognition of accreditation bodies.

(2) Recognized accreditation bodies submitting renewal applications are subject to a renewal application fee for the estimated average cost of the work FDA performs in reviewing and evaluating renewal applications for recognition of accreditation bodies.

(3) Auditors/certification bodies applying for direct accreditation are subject to an application fee for the estimated average cost of the work FDA performs in reviewing and evaluating applications for direct accreditation.

(4) Accredited auditors/certification bodies applying for renewal of direct accreditation are subject to an application fee for the estimated average cost of the work FDA performs in reviewing and evaluating renewal applications for direct accreditation.

(b) The following annual fees:

(1) Recognized accreditation bodies are subject to an annual fee for the estimated average cost of the work FDA performs to monitor performance of recognized accreditation bodies under § 1.633.

(2) Auditors/certification bodies directly accredited by FDA are subject to an annual fee for the estimated average cost of the work FDA performs to monitor directly accredited auditors/certification bodies under § 1.662.

(3) Auditors/certification bodies accredited by recognized accreditation bodies are subject to an annual fee for the estimated average cost of the work FDA performs to monitor auditors/certification bodies that are accredited by a recognized accreditation body under § 1.662.

### § 1.710 How will FDA notify the public about the fee schedule?

FDA will notify the public of the fee schedule annually prior to the beginning of the fiscal year for which the fees apply. Each new fee schedule will be adjusted for inflation and improvements in the estimates of the cost to FDA of performing relevant work for the upcoming year.

### § 1.715 When must a user fee required by this subpart be submitted?

(a) Accreditation bodies applying for recognition and auditors/certification bodies applying for direct accreditation must submit a fee concurrently with submitting an application or a renewal application.

(b) Accreditation bodies and auditors/certification bodies subject to an annual fee must submit payment within 30 days of receiving billing for the fee.

### § 1.720 Are user fees under this subpart refundable?

No. User fees submitted under this subpart are not refundable.

### § 1.725 What are the consequences of not paying a user fee under this subpart on time?

(a) An application for recognition or renewal of recognition will not be considered complete for the purposes of § 1.631(a) until the date that FDA receives the application fee. An application for direct accreditation or for renewal of direct accreditation will not be considered complete for the purposes of § 1.671(a) until FDA receives the application fee.

(b) A recognized accreditation body that fails to submit its annual user fee within 30 days of the due date will have its recognition suspended.

(1) FDA will notify the accreditation body electronically that its recognition is suspended. FDA will notify the public of the suspension on the Web site described in § 1.690.

(2) While an accreditation body's recognition is suspended, the accreditation body will not be able to accredit additional auditors/certification bodies. The accreditation of auditors/certification bodies that occurred prior to an accreditation body's suspension, as well as food or facility certifications

issued by such auditors/certification bodies, would remain in effect.

(3) If payment is not received within 90 days of the payment due date, FDA will revoke the accreditation body's recognition under § 1.634(a)(4)(iii), and provide notice of such revocation in accordance with § 1.634.

(c) An accredited auditor/certification body that fails to submit its annual fee within 30 days of the due date will have its accreditation suspended.

(1) FDA will notify the auditor/certification body that its accreditation is suspended, electronically and in English. FDA will notify a recognized accreditation body, electronically and in English, if the accreditation of one if its auditors/certification bodies is suspended. FDA will notify the public of the suspension on the Web site described in § 1.690.

(2) While an auditor/certification body's accreditation is suspended, the auditor/certification body will not be able to issue food or facility certifications. A food or facility certification issued by an auditor/certification body prior to the suspension of the auditor/certification body accreditation will remain in effect.

(3) If payment is not received within 90 days of the payment due date, FDA will withdraw the auditor/certification body's accreditation under § 1.664(a)(4), and provide notice of such withdrawal in accordance with § 1.664.

Dated: July 20, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–18141 Filed 7–23–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 147

**[Docket No. USCG–2015–0320]**

**RIN 1625–AA00**

## Safety Zone; Titan SPAR, Mississippi Canyon 941, Outer Continental Shelf on the Gulf of Mexico

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes a safety zone around the Titan SPAR system, located in Mississippi Canyon Block 941 on the Outer Continental Shelf (OCS) in the Gulf of Mexico. The purpose of the safety zone is to protect the facility from all vessels operating outside the normal shipping channels and fairways that are not providing services to or working with the facility. Placing a safety zone around the facility will significantly reduce the threat of allisions, collisions, security breaches, oil spills, releases of natural gas, and thereby protect the safety of life, property, and the environment.

**DATES:** Comments and related material must be received by the Coast Guard on or before August 24, 2015.

**ADDRESSES:** You may submit comments identified by docket number USCG–2015–0320 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail or 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. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. To avoid duplication, please use only one of these four methods.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Mr. Rusty Wright, U.S. Coast Guard, District Eight Waterways Management Branch; telephone 504–671–2138, *rusty.h.wright@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
OCS Outer Continental Shelf
SPAR A large diameter, vertical cylinder supporting a deck
USCG United States Coast Guard

### A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

*1. Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking, 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 at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2015–0320] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

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 the rule based on your comments.

*2. Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2015–0320) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*3. Privacy Act*

Anyone can search the electronic form of comments received into any of

our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

*4. Public Meeting*

We do not now plan to hold a public meeting. But you may submit a request for one by using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**B. Basis and Purpose**

The authority provided in 14 U.S.C. 85, 43 U.S.C. 1333, and Department of Homeland Security Delegation No. 0170.1, Title 33 CFR part 147 permits the establishment of safety zones for facilities located on the OCS for the purpose of protecting life, property and the marine environment. Bennu Oil and Gas requested that the Coast Guard establish a safety zone around its facility located in the deepwater area of the Gulf of Mexico on the OCS. Placing a safety zone around the facility will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

For the purpose of safety zones established under 33 CFR part 147, the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the vicinity of the safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows, and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways.

**C. Discussion of Proposed Rule**

Bennu Oil and Gas requested that the Coast Guard establish a safety zone extending 500 meters (1640.4 feet) from each point on the Titan SPAR facility structure's outermost edge. The request for the safety zone was made due to safety concerns for both the personnel aboard the facility and the environment. Bennu Oil and Gas indicated that it is highly likely that any allision with the facility would result in a catastrophic event. In evaluating this request, the Coast Guard explored relevant safety factors and considered several criteria, including but not limited to, (1) the level of shipping activity around the facility, (2) safety concerns for personnel aboard the facility, (3) concerns for the environment, (4) the probability that an allision would result in a catastrophic event based on proximity to shipping fairways, offloading operations, production levels, and size of the crew, (5) the volume of traffic in the vicinity of the proposed area, (6) the types of vessels navigating in the vicinity of the proposed area, and (7) the structural configuration of the facility.

Results from a thorough and comprehensive examination of the criteria, IMO guidelines, and existing regulations warrant the establishment of a safety zone of 500 meters (1640.4 feet) around the facility. The proposed safety zone would reduce significantly the threat of allisions, oil spills, and releases of natural gas and increase the safety of life, property, and the environment in the Gulf of Mexico by prohibiting entry into the zone unless specifically authorized by the Commander, Eighth Coast Guard District or a designated representative.

**D. Regulatory Analyses**

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

*1. Regulatory Planning and Review*

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

This rule is not a significant regulatory action due to the location of the Titan SPAR—on the Outer Continental Shelf—and its distance from both land and safety fairways. Vessels traversing waters near the proposed safety zone will be able to safely travel around the zone using alternate routes. Exceptions to this proposed rule include vessels measuring less than 100 feet in length overall and not engaged in towing. Deviation to transit through the proposed safety zone may be requested. Such requests will be considered on a case-by-case basis and may be authorized by the Commander, Eighth Coast Guard District or a designated representative.

*2. Impact on Small Entities*

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

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor within the area extending 500 meters (1640.4 feet) from the outermost edges of the Titan SPAR located in Mississippi Canyon 941 on the OCS.

This safety zone will not have a significant economic impact or a substantial number of small entities for the following reasons: Vessel traffic can pass safely around the safety zone using alternate routes. Based on the limited scope of the safety zone, any delay resulting from using an alternate route is expected to be minimal depending on vessel traffic and speed in the area. Deviation to transit through the proposed safety zone may be requested. Such requests will be considered on a case-by-case basis and may be authorized by the Commander, Eighth Coast Guard District or a designated representative.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

*3. Assistance for Small Entities*

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

compliance, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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.

*4. Collection of Information*

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

*5. Federalism*

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

*6. Protest Activities*

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

*7. Unfunded Mandates Reform Act*

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

*8. Taking of Private Property*

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

*9. Civil Justice Reform*

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

*10. Protection of Children From Environmental Health Risks*

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

*11. Indian Tribal Governments*

This proposed rule does not have tribal implications under Executive Order 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.

*12. Energy Effects*

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

*13. Technical Standards*

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

*14. Environment*

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

**List of Subjects in 33 CFR Part 147**

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 147 as follows:

## PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

**Authority:** 14 U.S.C. 85; 43 U.S.C. 1333; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.865 to read as follows:

**§ 147.865 Titan SPAR Facility Safety Zone.**

(a) *Description.* The Titan SPAR system is in the deepwater area of the Gulf of Mexico at Mississippi Canyon 941. The facility is located at 28°02′02″ N. 89°06′04″ W. and the area within 500 meters (1640.4 feet) from each point on the facility structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: June 7, 2015.

**David R. Callahan,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 2015–18202 Filed 7–23–15; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R06–OAR–2015–0172; FRL–9931–08–Region 6]**

## Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Electronic Reporting Consistent With the Cross Media Electronic Reporting Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of New Mexico. The revision pertains primarily

to electronic reporting and would require electronic reporting of documents submitted for compliance with Clean Air Act (CAA) requirements. The revision also includes other changes which are non-substantive and primarily address updates to New Mexico Environment Department (NMED) document viewing locations.

**DATES:** Written comments should be received on or before August 24, 2015.

**ADDRESSES:** Comments may be mailed to Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Sherry Fuerst, 214–665–6454, *fuerst.sherry@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct rule without prior proposal because the Agency views this as noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action no further activity is contemplated. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: July 10, 2015.

**Ron Curry,**

*Regional Administrator, Region 6.*

[FR Doc. 2015–18097 Filed 7–23–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R09–OAR–2015–0257; FRL–9931–04–Region 9]**

## Approval of Air Plans; California; Multiple Districts; Prevention of Significant Deterioration

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing approval of five permitting rules submitted for inclusion in the California State Implementation Plan (SIP). The State of California (State) is required under the Clean Air Act (CAA or Act) to adopt and implement a SIP-approved Prevention of Significant Deterioration (PSD) permit program. This SIP revision proposes to incorporate PSD rules for five local California air districts into the SIP to establish a PSD permit program for pre-construction review of certain new and modified major stationary sources in attainment and unclassifiable areas. The local air districts with PSD rules that are the subject of this proposal are the Feather River Air Quality Management District (Feather River or FRAQMD), Great Basin Unified Air Pollution Control District (Great Basin or GBUAPCD), Butte County Air Quality Management District (Butte or BCAQMD), Santa Barbara County Air Pollution Control District (Santa Barbara or SBAPCD), and San Luis Obispo County Air Pollution Control District (San Luis Obispo or SLOAPCD)—collectively, the Districts. We are soliciting public comment on this proposal and plan to follow with a final action after consideration of comments received.

**DATES:** Any comments must be submitted no later than August 24, 2015.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2015–0257, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the online instructions.
2. *Email: R9airpermits@epa.gov.*
3. *Mail or deliver:* Lisa Beckham (Air–3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to the EPA, your email address will be automatically captured and included as part of the public comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment.

*Docket:* The index to the docket for this proposed action is available electronically at *www.regulations.gov,* docket number EPA–R09–OAR–2015–0257, and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below. Due to building security procedures, appointments must be scheduled at least 48 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Lisa Beckham, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 972–3811, *beckham.lisa@epa.gov.*

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

### Table of Contents

I. The State's Submittal
A. What rules did the State submit?
B. Are there other versions of these rules?
C. What is the purpose of the submitted rules?
II. The EPA's Evaluation and Action
A. How is the EPA evaluating these rules?
B. Do the rules meet the evaluation criteria?
C. Significant impact levels and significant monitoring concentrations for $PM_{2.5}$.
D. Greenhouse Gases
E. Transfer of existing permits issued by the EPA
F. Public comment and proposed action
III. Incorporation by Reference
IV. Statutory and Executive Order Reviews

## I. The State's Submittal

*A. What rules did the State submit?*

Table 1 identifies the rules on which we are proposing action along with the dates on which each rule was adopted by the local air district and submitted to the EPA by the California Air Resources Board (CARB). On June 1, 2015, CARB requested the withdrawal from its earlier SIP submittals of these local air district rules the portion of each rule that incorporates a specific federal PSD rule provision—40 CFR 52.21(b)(49)(v). As such, our proposed approval of these local air district rules does not include the rules' incorporation by reference of 40 CFR 52.21(b)(49)(v).

TABLE 1—SUBMITTED RULES

| Local agency | Rule No. | Rule title | Adopted | Submitted |
|---|---|---|---|---|
| FRAQMD | 10.10 | Prevention of Significant Deterioration | 8/1/2011 | 4/22/2013 |
| GBUAPCD | 221 | Prevention of Significant Deterioration (PSD) Permit Requirements for New Major Facilities or Major Modifications in Attainment or Unclassifiable Areas. | 9/5/2012 | 2/6/2013 |
| BCAQMD | 1107 | Prevention of Significant Deterioration (PSD) Permits | 6/28/2012 | 2/6/2013 |
| SBAPCD | 810 | Federal Prevention of Significant Deterioration (PSD) | 6/20/2013 | 2/10/2014 |
| SLOAPCD | 220 | Federal Prevention of Significant Deterioration | 1/22/2014 | 5/13/2014 |

The submitted rules were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal review by the EPA.

*B. Are there other versions of these rules?*

There are no previous versions of the rules in Table 1 in the California SIP.

*C. What is the purpose of the submitted rules?*

Section 110(a) of the CAA requires states to adopt and submit regulations for the implementation, maintenance and enforcement of the primary and secondary NAAQS. Specifically, sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J) of the Act require such state plans to meet the applicable requirements of section 165 relating to a pre-construction permit program for the prevention of significant deterioration of air quality and visibility protection. The rules reviewed for this action are intended to implement a pre-construction PSD permit program as required by section 165 of the CAA for certain new and modified major stationary sources located in attainment and unclassifiable areas. Because the State does not currently have a SIP-approved PSD program within the Districts, the EPA is currently the PSD permitting authority within these Districts. Approval of the Districts' PSD rules into the SIP will transfer PSD permitting authority from the EPA to the Districts. The EPA would then assume the role of overseeing the Districts' PSD permitting programs, as intended by the CAA.

## II. The EPA's Evaluation and Action

*A. How is the EPA evaluating these rules?*

The relevant statutory provisions for our review of the submitted rules include CAA sections 110(a), 110(l), and 165 and part 51, § 51.166 of title 40 of the Code of Federal Regulations (40 CFR 51.166). Section 110(a) requires, among other things, that SIP rules be enforceable, while section 110(l) precludes the EPA's approval of SIP revisions that would interfere with any applicable requirements concerning attainment and reasonable further progress. Section 165 of the CAA requires states to adopt a pre-construction permitting program for certain new and modified major stationary sources located in attainment areas and unclassifiable areas. 40 CFR 51.166 establishes the specific requirements for SIP-approved PSD permit programs that must be met to satisfy the requirements of section 165 of the CAA.

*B. Do the rules meet the evaluation criteria?*

With some exclusions and revisions, the Districts' PSD rules incorporate by reference the EPA's PSD permit program requirements at 40 CFR 52.21, as of particular dates. We generally consider the EPA's PSD permit program requirements at 40 CFR 52.21 to be consistent with the criteria for SIP-approved PSD permit programs in 40 CFR 51.166. However, we conducted a review of each District PSD rule to ensure that all requirements of 40 CFR 51.166 were met by each such rule. Our detailed evaluation is available as an attachment to the technical support document (TSD) for this proposed rulemaking action. We also reviewed the revisions that the Districts made to the provisions of 40 CFR 52.21 that were incorporated by reference into each rule, such as revising certain terms and definitions to reflect that the Districts, rather than the EPA, will be the PSD permitting authority. In addition, we reviewed revisions made to 40 CFR 51.166 and 40 CFR 52.21 after each District adopted its PSD rule. Please see the TSD for additional information. Based on our review of these rules, the underlying statutes and regulations, and clarifying information that the Districts provided in letters dated November 13, 2014, November 25, 2014, December 16, 2014, December 18, 2014, April 8, 2015, and April 15, 2015, we are proposing to find the SIP revision for the Districts' PSD rules acceptable under CAA sections 110(a), 110(l) and 165 and 40 CFR 51.166.

The EPA's TSD for this rulemaking action has more information about these rules, including our evaluation and recommendation to approve them into the SIP.

*C. Significant Impact Levels and Significant Monitoring Concentrations for $PM_{2.5}$*

On January 22, 2013, the U.S. Court of Appeals for the District of Columbia (D.C. Circuit or Court) in *Sierra Club* v. *EPA,* 705 F.3d 458, granted a request from the EPA to vacate and remand to the EPA the portions of two PSD rules (40 CFR 51.166(k)(2) and 40 CFR 52.21(k)(2)) addressing the significant impact levels (SILs) for $PM_{2.5}$ so that the EPA could voluntarily correct an error in these provisions. The D.C. Circuit also vacated the parts of these two PSD rules (40 CFR 51.166(i)(5)(i)(*c*) and 40 CFR 52.21(i)(5)(i)(*c*)) establishing a $PM_{2.5}$ significant monitoring concentration (SMC), finding that the EPA was precluded from using the $PM_{2.5}$ SMC to exempt permit applicants from the statutory requirement to compile and submit preconstruction monitoring data as part of a complete PSD application. On December 9, 2013, revisions to 40 CFR 51.166 and 52.21 were published in the **Federal Register** to remove the affected provisions from the PSD regulations, effective as of that date. 78 FR 73698.

As Feather River Rule 10.10 incorporates 40 CFR 52.21 by reference as in effect prior to the D.C. Circuit's decision, the rule incorporates by reference an earlier version of 40 CFR 52.21 that contains the $PM_{2.5}$ SILs [1] and SMC provisions that were later vacated by the D.C. Circuit and removed from 40 CFR 52.21 by the EPA. Accordingly, the EPA requested clarification from Feather River concerning its interpretation of Rule 10.10 to the extent that it incorporates by reference these provisions.

Great Basin Rule 221 and Butte Rule 1107 also incorporate 40 CFR 52.21 by reference as in effect prior to January 22, 2013. While these two District PSD rules specifically exclude the $PM_{2.5}$ SILs provisions that were vacated by the D.C. Circuit, they do contain the $PM_{2.5}$ SMC provisions that were vacated by the Court and removed from 40 CFR 52.21 by the EPA.[2] Accordingly, the EPA requested clarification from Great Basin and Butte concerning their interpretation of Rules 221 and 1107, respectively, to the extent they incorporate by reference these $PM_{2.5}$ SMC provisions.

With respect to the $PM_{2.5}$ SILs, Feather River Rule 10.10 incorporates by reference an earlier version of 40 CFR 52.21 that contained the $PM_{2.5}$ SILs provisions that were later vacated by the D.C. Circuit and removed from 40 CFR 52.21 by the EPA. 40 CFR 52.21(k)(1) requires that a source applying for a new PSD permit demonstrate that any allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions, will not cause or contribute to a violation of any NAAQS or any applicable increment. In the preamble to the 2010 final rule adding the 40 CFR 52.21(k)(2) provision, the EPA advised that, ''notwithstanding the existence of a SIL, permitting authorities should determine when it may be appropriate to conclude that even a de minimis impact will 'cause or contribute' to an air quality problem and to seek remedial action from the proposed new source or modification.'' Prevention of Significant Deterioration (PSD) for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact levels (SILs) and Significant Monitoring Concentration (SMC), 75 FR 64,864, 64,892 (Oct. 20, 2010). In another passage of the preamble, the EPA also observed that ''the use of a SIL may not be appropriate when a substantial portion of any NAAQS or increment is known to be consumed.'' Id. at 64,894. The D.C. Circuit's decision in *Sierra Club* v. *EPA* held that, contrary to these statements in the preamble, the text of the (k)(2) provision ''does not give permitting authorities sufficient discretion to require a cumulative air quality analysis'' under such circumstances. 705 F.3d at 464.

Consistent with the Court's decision in *Sierra Club* v. *EPA* and the statements by the EPA in the preamble to the 2010 final rule that are discussed above, Feather River affirmed in a letter dated December 18, 2014 that it does not interpret § 52.21(k)(2), as incorporated by reference in Rule 10.10, to preclude FRAQMD from exercising discretion to determine when it may be appropriate to conclude that an impact below the $PM_{2.5}$ SIL values in § 52.21(k)(2) will cause or contribute to an air quality problem and to seek remedial action from the proposed new source or modification. Such discretion is necessary to ensure adherence to the requirement of the Clean Air Act that a PSD project not cause or contribute to a violation of any NAAQS or any applicable increment. Based on this interpretation, the District affirmed in the December 18, 2014 letter that it will not read § 52.21(k)(2), as incorporated by reference in District Rule 10.10, as an absolute ''safe harbor,'' but will exercise discretion to determine whether a particular application of the $PM_{2.5}$ SIL values is appropriate when a substantial portion of the $PM_{2.5}$ NAAQS or increment is known to be consumed. The District confirmed that it retains the discretion to require additional information from a permit applicant as needed to assure that the source will not cause or contribute to a violation of any NAAQS or applicable increment pursuant to § 52.21(k)(1).

As noted above, Feather River Rule 10.10, Great Basin Rule 221, and Butte Rule 1107 also incorporated by reference an earlier version of the federal regulation at § 52.21(i)(5)(i) that contains the $PM_{2.5}$ SMC, which provides that each District may exempt a proposed major stationary source or major modification from the requirements of paragraph (m) of this section, with respect to monitoring for a particular pollutant, if the emissions increase or net emissions increase is below the applicable SMC. Feather River, Butte, and Great Basin confirmed in their letters dated December 18, 2014, April 8, 2015, and April 15, 2015 that this provision, specifically at § 52.21(i)(5)(i)(*c*), as incorporated into each rule, provides the Districts with the discretion to determine whether it is appropriate to apply the SMC for $PM_{2.5}$ to exempt a permit applicant from the requirement to compile and submit preconstruction ambient monitoring data for $PM_{2.5}$ as part of a complete PSD application. Consistent with the D.C. Circuit's decision in *Sierra Club* v. *EPA* vacating the $PM_{2.5}$ SMC, the Districts affirmed in their letters dated December 18, 2014, April 8, 2015, and April 15, 2015 that they will not exercise their discretionary authority to use the $PM_{2.5}$ SMC in order to exempt PSD permit applicants from the requirement in Clean Air Act section 165(e)(2) that ambient monitoring data for $PM_{2.5}$ be included in applications subject to the PSD program for $PM_{2.5}$. Accordingly, the Districts' APCOs will require all applicants requesting a PSD permit from the District to submit ambient $PM_{2.5}$ monitoring data in accordance with Clean Air Act requirements when proposed increases of direct $PM_{2.5}$ emissions or any emissions of a $PM_{2.5}$ precursor equal or exceed a significant amount.

In summary, Feather River has clarified and confirmed that it intends to implement its PSD program with respect to the $PM_{2.5}$ SILs consistent with the *Sierra Club* Court's decision. In addition, Feather River, Great Basin, and Butte have clarified and confirmed that they intend to implement their PSD programs with respect to the $PM_{2.5}$ SMC consistent with the *Sierra Club* Court's decision. Upon review of the Districts' PSD rules and the clarifications provided by the Districts, we find that the PSD SIP submittals including the $PM_{2.5}$ SILs and SMC language are approvable and consistent with the Act and the requirements for a PSD program.

*D. Greenhouse Gases*

The PSD permitting requirements applied to greenhouse gases (GHGs) for the first time on January 2, 2011. 75 FR 17004 (Apr. 2, 2010). On June 3, 2010, the EPA issued a final rule, known as the Tailoring Rule, which phased in permitting requirements for GHG emissions from stationary sources under the CAA PSD and title V permitting programs. 75 FR 31514. Under its understanding of the CAA at the time, the EPA believed the Tailoring Rule was

[1] The PSD rules submitted by Great Basin, Butte, and San Luis Obispo specifically excluded the $PM_{2.5}$ SILs from their incorporation by reference of 40 CFR 52.21. Santa Barbara's PSD rule incorporated by reference 40 CFR 52.21 as in effect after the $PM_{2.5}$ SILs were vacated by the Court and no longer in effect, and thus does not include the $PM_{2.5}$ SILs.

[2] San Luis Obispo's PSD rule specifically revised its rule language concerning the $PM_{2.5}$ SMC to be consistent with the Court's decision. Santa Barbara's PSD rule incorporated by reference 40 CFR 52.21 as in effect after the $PM_{2.5}$ SMC was vacated by the Court and no longer in effect, and thus does not include the $PM_{2.5}$ SMC.

necessary to avoid a sudden and unmanageable increase in the number of sources that would be required to obtain PSD and Title V permits under the CAA because the sources emitted GHG emissions over applicable major source and major modification thresholds. In Step 1 of the Tailoring Rule, which began on January 2, 2011, the EPA limited application of PSD requirements to sources of GHG emissions only if the sources were subject to PSD ''anyway'' due to their emissions of pollutants other than GHGs. These sources are referred to as ''anyway sources.'' In Step 2 of the Tailoring Rule, which began on July 1, 2011, the EPA applied the PSD requirements under the CAA to sources that were then-classified as major, and, thus, required to obtain a permit, based solely on their potential GHG emissions and to modifications of otherwise major sources that required a PSD permit because they increased only GHG emissions above applicable levels in the EPA regulations.

On June 23, 2014, the Supreme Court issued a decision in *Utility Air Regulatory Group (UARG)* v. *Environmental Protection Agency,* 134 S. Ct. 2427, 189 L. Ed. 2d 372 (2014), holding that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source (or a modification thereof) required to obtain a PSD permit. The Supreme Court's decision also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of BACT. The Supreme Court decision effectively upheld PSD permitting requirements for GHG emissions under Step 1 of the Tailoring Rule for ''anyway sources'' and invalidated PSD permitting requirements for GHG emissions for Step 2 sources. In accordance with the Supreme Court decision, on April 10, 2015, the D.C. Circuit issued an amended judgment vacating the regulations that implemented Step 2 of the Tailoring Rule, including 40 CFR 52.21(b)(49)(v), but not the regulations that implement Step 1 of the Tailoring Rule. *Coalition for Responsible Regulation, Inc.* v. *EPA,* No. 09–1322, (D.C. Cir. April 10, 2015) (Amended Judgment).

In light of the Supreme Court's *UARG* decision, and consistent with the D.C. Circuit's amended judgment, each of the five Districts with PSD rules under consideration in this action requested that CARB notify the EPA that CARB and the respective Districts would like to withdraw from the respective Districts' PSD rule SIP submittals the portion of each District PSD rule that incorporates by reference 40 CFR 52.21(b)(49)(v). CARB sent a letter to the EPA dated June 1, 2015 making this withdrawal request for the five District PSD submittals. These withdrawals were designed to ensure that the EPA can act on the District's SIP submittals consistent with the Supreme Court's *UARG* decision concerning Step 2 of the GHG Tailoring Rule and the D.C. Circuit's amended judgment.[3] With this withdrawal request from CARB, the EPA's action on these PSD SIP submittals will not include the provisions of 40 CFR 52.21(b)(49)(v) as incorporated by reference into the five PSD rules. This approach will ensure that the EPA's action is consistent with the Supreme Court's *UARG* decision and the D.C. Circuit Court's April 10, 2015 amended judgment.

The EPA intends to revise the PSD rules at 40 CFR 52.21 and 40 CFR 51.166 as a result of the *UARG* decision and the D.C. Circuit's amended judgment. However, in the meantime, the EPA and the states will need to ensure that ''anyway'' sources obtain PSD permits meeting the requirements of the CAA. The CAA continues to require that PSD permits issued to ''anyway sources'' satisfy the BACT requirement for GHGs. Based on the language that remains applicable under 52.21(b)(49)(iv), the EPA will continue to limit the application of BACT to GHG emissions to those circumstances where a source emits GHGs in the amount of 75,000 tons per year on a $CO_2e$ basis. The EPA's intention is for this to serve as an interim approach until the EPA can complete revisions to its PSD rules consistent with the Supreme Court decision. Each of the five Districts has confirmed that it intends to apply 40 CFR 52.21 as incorporated by reference into its PSD rule in a manner consistent with the EPA's interpretation of the Supreme Court's *UARG* decision and the EPA guidance and policy with respect to application of section 52.21 while revisions to the PSD regulations are pending.[4] Although the Districts provided this information to the EPA prior to the D.C. Circuit's amended judgment vacating the relevant rule provisions, this confirmation is consistent with that amended judgment.

[3] See letter to EPA dated June 1, 2015 from Richard Corey, Executive Officer, California Air Resources Board.

[4] See letters dated November 13, 2014 from Butte, November 13, 2014 from Great Basin, November 25, 2014 from Santa Barbara, December 16, 2014 from San Luis Obispo, and December 18, 2014 from Feather River.

*E. Transfer of existing permits issued by the EPA*

With the exception of San Luis Obispo, the Districts requested approval to exercise their authority to administer the PSD program with respect to those sources located in the Districts that have existing PSD permits issued by the EPA or by the Districts as part of a delegation agreement under 40 CFR 52.21(u).[5] This would include authority to conduct general administration of these existing permits, authority to process and issue any and all subsequent PSD permit actions relating to such permits (*e.g.,* modifications, amendments, or revisions of any nature), and authority to enforce such permits.

Consistent with section 110(a)(2)(E)(i) of the Act, the SIP submittals and additional information provided by the Districts make clear that each District has the authority under State statute and rule to administer the PSD permit program, including but not limited to the authority to administer, process and issue any and all permit decisions, and enforce PSD permit requirements within each District. This applies to PSD permits that the Districts will issue and to existing PSD permits issued by the EPA that are to be transferred to the Districts upon the effective date of the EPA's approval of the PSD SIP submittals.

*F. Public comment and proposed action*

Because the EPA believes the submitted rules fulfill all relevant CAA requirements, we are proposing to fully approve them as a revision to the California SIP pursuant to section 110(k)(3) of the Act. Specifically, we are proposing to approve the rules listed in Table 1, except for Step 2 of the GHG Tailoring Rule found at 40 CFR 52.21(b)(49)(v) as incorporated by reference into each rule, which was subsequently withdrawn from CARB's request for SIP approval. Our determination is based, in part, on the clarifications provided by the Districts related to the implementation of the PSD program, including the clarifications related to $PM_{2.5}$ SILs and SMC, in letters dated November 13, 2014, November 25, 2014, December 16, 2014, December 18, 2014, April 8, 2015, and April 15, 2015. We intend to include these clarification letters as additional material in the SIP.

We will accept comments from the public on this proposal until August 24, 2015.

[5] There are no such active permits in San Luis Obispo, thus San Luis Obispo is not requesting such approval.

### III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the rules listed in Table 1 of this preamble, except for the portion of each rule that incorporates Step 2 of the GHG Tailoring Rule at 40 CFR 52.21(b)(49)(v). The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate office of the EPA (see the **ADDRESSES** section of this preamble for more information).

### IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 7, 2015.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2015–18081 Filed 7–23–15; 8:45 am]

BILLING CODE 6560–50–P

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R04–OAR–2014–0442; FRL–9931–14-Region 4]**

## Approval and Promulgation of Implementation Plans; Georgia; Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the March 6, 2012, State Implementation Plan (SIP) revision, submitted by the State of Georgia, through the Georgia Department of Natural Resources' Environmental Protection Division (EPD), demonstrating that the State meets the requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or the Act) for the 2008 lead national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. EPD certified that the Georgia SIP contains provisions that ensure the 2008 Lead NAAQS is implemented, enforced, and maintained in Georgia. With the exception of provisions pertaining to prevention of significant deterioration (PSD) permitting, EPA is proposing to determine that Georgia's infrastructure SIP submission, provided to EPA on March 6, 2012, addresses the required infrastructure elements for the 2008 Lead NAAQS.

**DATES:** Written comments must be received on or before August 24, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2014–0442, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-ARMS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2014–0442,'' Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R04–OAR–2014–0442. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI

or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Zuri Farngalo, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9152. Mr. Farngalo can be reached via electronic mail at *farngalo.zuri@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Table of Contents

I. Background
II. What elements are required under sections 110(a)(1) and (2)?
III. What is EPA's approach to the review of infrastructure SIP submissions?
IV. What is EPA's analysis of how Georgia addressed the elements of sections 110(a)(1) and (2) ''infrastructure'' provisions?
V. Proposed Action
VI. Statutory and Executive Order Reviews

## I. Background

On October 5, 1978, EPA promulgated a primary and secondary NAAQS for lead under section 109 of the Act. *See* 43 FR 46246. Both the primary and secondary standards were set at a level of 1.5 micrograms per cubic meter (μg/m$^3$), measured as lead in total suspended particulate matter (Pb-TSP), not to be exceeded by the maximum arithmetic mean concentration averaged over a calendar quarter. This standard was based on the 1977 Air Quality Criteria for Lead (USEPA, August 7, 1977). On November 12, 2008 (75 FR 81126), EPA issued a final rule to revise the primary and secondary lead NAAQS. The revised primary and secondary lead NAAQS were revised to 0.15 μg/m$^3$. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs to EPA no later than October 15, 2011, for the 2008 Lead NAAQS.[1]

Today's action is proposing to approve Georgia's infrastructure submission for the applicable requirements of the Lead NAAQS, with the exception of preconstruction PSD permitting requirements for major sources of section 110(a)(2)(C), prong 3 of D(i), and (J). On March 18, 2015, EPA approved Georgia's March 6, 2012, infrastructure SIP submission regarding the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i) and (J) for the 2008 Lead NAAQS. *See* 80 FR 14019. This action is not approving any specific rule, but rather proposing that Georgia's already approved SIP meets certain CAA requirements.

## II. What elements are required under sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 2008 Lead NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with the 1978 lead NAAQS.

Section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this proposed rulemaking are listed below[2] and in EPA's October 14, 2011, memorandum entitled ''Guidance on

[1] In these infrastructure SIP submissions states generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the federally-approved SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2). Unless otherwise indicated, the Georgia Rules for Air Quality cited throughout this rulemaking have been approved into Georgia's federally-approved SIP. The Georgia Air Quality Act Article 1cited throughout this rulemaking, however, are not approved into the Georgia SIP unless otherwise indicated.

[2] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 lead (Pb) National Ambient Air Quality Standards (NAAQS)'' (2011 Lead Infrastructure SIP Guidance.)

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement, Prevention of Significant Deterioration (PSD) and new source review (NSR).[3]
- 110(a)(2)(D): Interstate and international transport provisions.
- 110(a)(2)(E): Adequate personnel, funding, and authority.
- 110(a)(2)(F): Stationary source monitoring and reporting.
- 110(a)(2)(G): Emergency episodes.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

## III. What is EPA's approach to the review of infrastructure SIP submissions?

EPA is acting upon the SIP submission from Georgia that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 Lead NAAQS. Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''each such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[4] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP requirements.[5] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[6] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[7] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent

[3] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[4] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[5] *See, e.g.,* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NOx SIP Call; Final Rule,'' 70 FR 25162, at 25163–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[6] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, *e.g.,* that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

[7] *See, e.g.,* ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339 (January 22, 2013) (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' (78 FR 4337) (January 22, 2013) (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[8]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[9]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[10] EPA issued the Lead Infrastructure SIP Guidance on October 14, 2011.[11] EPA developed this document to provide states with up-to-date guidance for the 2008 Lead infrastructure SIPs. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions. The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.[12]

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the

[8] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

[9] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

[10] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

[11] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements Required under Clean Air Act Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS),'' Memorandum from Stephen D. Page, October 14, 2001.

[12] Although not intended to provide guidance for purposes of infrastructure SIP submissions for the 2008 Lead NAAQS, EPA notes, that following the 2011 Lead Infrastructure SIP Guidance, EPA issued the ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).'' Memorandum from Stephen D. Page, September 13, 2013. This 2013 guidance provides recommendations for air agencies' development and the EPA's review of infrastructure SIPs for the 2008 ozone primary and secondary NAAQS, the 2010 primary nitrogen dioxide ($NO_2$) NAAQS, the 2010 primary sulfur dioxide ($SO_2$) NAAQS, and the 2012 primary fine particulate matter ($PM_{2.5}$) NAAQS, as well as infrastructure SIPs for new or revised NAAQS promulgated in the future.

nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[13] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[14] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[15]

## IV. What is EPA's analysis of how Georgia addressed the elements of sections 110(a)(1) and (2) ''infrastructure'' provisions?

The Georgia infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A): *Emission limits and other control measures:* There are several rules and regulations within Georgia's SIP that are relevant to air quality control regulations. The regulations described below have been federally approved into the Georgia SIP and include enforceable emission limitations and other control measures. Georgia Rules for Air Quality 391–3–1–.01—*Definitions. Amended,* 391–3–1–.02—*Provisions. Amended,* and 391–3–1–.03—*Permits. Amended,* establish emission limits for lead and address the required control measures, means, and techniques for compliance with the 2008 Lead NAAQS. EPA has made the preliminary determination that the provisions contained in these rules are adequate to protect the 2008 Lead NAAQS in the State.

In this action, EPA is not proposing to approve or disapprove any existing State provisions with regard to excess emissions during startup, shutdown and malfunction (SSM) of operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown'' (September 20, 1999), and the Agency plans to address such state regulations in a separate action.[16] In the meantime, EPA encourages any state having a deficient SSM provision to take steps to correct it as soon as possible.

Additionally, in this action, EPA is not proposing to approve or disapprove any existing State rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take a separate action to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B) *Ambient air quality monitoring/data system:* SIPs are required to provide for the establishment and operation of ambient air quality monitors; the compilation and analysis of ambient air quality data; and the submission of these data to EPA upon request. the Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12–9–6 (b)(13)), along with the Georgia Network Description and Ambient Air Monitoring Network Plan provides for an ambient air quality monitoring system in the State. Annually, States develop and submit to EPA for approval statewide ambient monitoring network plans consistent with the requirements of 40 CFR parts 50, 53, and 58. The annual network plan involves an evaluation of any proposed changes to the monitoring network, includes the annual ambient monitoring network design plan and a certified evaluation of the agency's ambient monitors and auxiliary support equipment.[17] On June 1, 2014, Georgia submitted its plan to EPA. On November 7, 2014, EPA approved Georgia's monitoring network plan as related to lead. Georgia's approved monitoring network plan can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2014–0442. EPA has made the preliminary determination that Georgia's SIP and practices are adequate for the ambient air quality monitoring and data system related to the 2008 Lead NAAQS.

3. 110(a)(2)(C) Program for enforcement, prevention of significant deterioration (PSD) and new source review (NSR): This element consists of three sub-elements; enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources; and preconstruction permitting of major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by CAA title I part C (*i.e.,* the major source PSD program). In this action EPA is proposing to approve Georgia's infrastructure SIP submission for the 2008 Lead NAAQS with respect to the general requirement of 110(a)(2)(C) to include a program in the SIP that provides for enforcement of emission limits and control measures and regulation of minor sources and minor modifications as well as the enforcement of lead emission limits to assist in the protection of air quality in nonattainment, attainment or unclassifiable areas. This is established in Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12–9, *et seq.* Georgia Rule 391–3–1-.07—*Inspections and Investigations. Amended,* and Georgia Rule 391–3–1–.09—*Enforcement. Amended.* EPA's analysis of each sub-element is provided below.

*Enforcement:* Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section

[13] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639 (April 18, 2011).

[14] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, *e.g.,* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[15] *See, e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). *See, e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (Jan. 26, 2011) (final disapproval of such provisions).

[16] On May 22, 2015, the EPA Administrator signed a final action entitled, ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction.'' The prepublication version of this rule is available at *http://www.epa.gov/airquality/urbanair/sipstatus/emissions.html.*

[17] On occasion, proposed changes to the monitoring network are evaluated outside of the network plan approval process in accordance with 40 CFR part 58.

12–9, *et seq.* Georgia Rule 391–3–1–.07—*Inspections and Investigations. Amended,* and Georgia Rule 391–3–1–.09—*Enforcement. Amended* in Georgia's SIP approved regulations provide for enforcement of lead emission limits and control measures and construction permitting for new or modified stationary lead sources.

*Preconstruction PSD Permitting for Major Sources:* With respect to Georgia's infrastructure SIP submission related to the preconstruction PSD permitting requirements for major sources of section 110(a)(2)(C), prong 3, EPA approved this sub-element on March 18, 2015, and thus is not proposing any action today regarding these requirements. *See* 80 FR 14019.

*Regulation of minor sources and modifications:* Section 110(a)(2)(C) also requires the SIP to include the regulation of new and modified minor sources and minor modifications provisions that govern the minor source pre-construction program. Georgia has a SIP-approved minor NSR permitting program at Georgia Air Quality Act Article 1: *Air Quality (O.C.G.A. Section 12–9–7 and 12–9–13, et seq.*), Georgia Rules for Air Quality 391–3–1–.02.—*Provisions. Amended,* Georgia Rules for Air Quality 391–3–1–.03(1).—*Construction Permit,* that regulates the preconstruction of modifications and construction of minor stationary sources.

EPA has made the preliminary determination that Georgia's SIP and practices are adequate for enforcement of control measures and regulation of minor sources and modifications related to the 2008 Lead NAAQS.

4. 110(a)(2)(D)(i)(I) and (II), and 110(a)(2)(D)(ii)—Interstate and International transport provisions: Section 110(a)(2)(D)(i) has two components; 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II). Each of these components have two subparts resulting in four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1''), and interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3''), or to protect visibility in another state (''prong 4''). Section 110(a)(2)(D)(ii) Intestate and International transport provisions requires SIPs to include provisions insuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

110(a)(2)(D)(i)and (ii)— Interstate and International transport provisions: Section 110(a)(2)(D)(i) provides for infrastructure SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state. The preceding requirements, from subsection 110(a)(2)(D)(i)(I), respectively refer to what may be called prongs 1 and 2.

The physical properties of lead prevent lead emission from experiencing that same travel or formation phenomena as $PM_{2.5}$ and ozone for interstate transport as outlined in prongs 1 and 2. More specifically, there is a sharp decrease in the lead concentrations, at least in the coarse fraction, as the distance from a lead source increases. EPA believes that the requirements of prongs 1 and 2 can be satisfied through a state's assessment as to whether a lead source located within its State in close proximity to a state border has emissions that contribute significantly to the nonattainment or interfere with maintenance of the NAAQS in the neighboring state. For example, EPA's experience with the initial lead designations suggests that sources that emit less than 0.5 tons per year (tpy) generally appear unlikely to contribute significantly to the nonattainment in another state. EPA's experience also suggests that sources located more than two miles from the state border generally appear unlikely to contribute significantly to the nonattainment in another state. Georgia has three lead sources that have emissions of lead over 0.5 tpy. The sources are located beyond two miles from the State border.[18] Thus, EPA concludes that sources in Georgia are unlikely to contribute significantly to nonattainment or interfere with maintenance of the NAAQS in neighboring states. Therefore, EPA has made the preliminary determination that Georgia's SIP meets the requirements of section 110(a)(2)(D)(i)(I) for the 2008 Lead NAAQS.

*110(a)(2)(D)(i)(II)—prong 3:* With respect to Georgia's infrastructure SIP submission related to the interstate transport requirements of section 110(a)(2)(D)(i)(II) prong 3, EPA approved this sub-element on March 18, 2015, (*See* 80 FR 14019), and thus is not proposing any action today regarding these requirements.

*110(a)(2)(D)(i)(II)—prong 4:* With regard to section 110(a)(2)(D)(i)(II), the visibility sub-element, referred to as prong 4, significant visibility impacts from stationary source lead emissions are expected to be limited to short distances from the source. *See* the 2011 Lead Infrastructure SIP Guidance. Lead stationary sources in Georgia are located at distances from Class I areas such that visibility impacts are negligible. Georgia has 3 Class 1 areas, Cohutta Wilderness Area, Okefenokee Wilderness Area, and Wolf Island Wilderness Area and none of these are within 2 miles of a lead source that emits more than .5 tons per year. EPA has preliminarily determined that the Georgia SIP meets the relevant visibility requirements.

*110(a)(2)(D)(ii)—Interstate and International transport provisions:* EPA is unaware of any pending obligations for the State of Georgia pursuant to sections 115 and 126. Georgia's SIP-approved PSD requirements under Georgia Rules for Air Quality 391–3–1–.02(7).—Prevention of Significant Deterioration provides how Georgia will notify neighboring states of potential impacts from new or modified sources proposed to locate in attainment or unclassifiable areas. EPA has made the preliminary determination that Georgia's SIP and practices are adequate for insuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 2008 Lead NAAQS

5. 110(a)(2)(E)—Adequate personnel, funding, and authority. Section 110(a)(2)(E) requires that each implementation plan provide (i) necessary assurances that the State will have adequate personnel, funding, and authority under state law to carry out its implementation plan, (ii) that the State comply with the requirements respecting State Boards pursuant to

[18] There are three facilities in Georgia that have lead emissions greater than 0.5 tpy. The facilities are Gerdau Ameristeel Cartersville Steel Mill, Georgia Power Plant Bowen (both in Cartersville, Bartow County), and Exide Technologies in Columbus, Muscogee County. Gerdau Ameristeel (1.41 tpy) is located at least 37 miles from the state border. Plant Bowen (0.77 tpy) is located at least 35 miles from the state border. Exide Technologies located in the Columbus Area which is in Muscogee County, Georgia, and is about three miles from the Alabama-Georgia border. Exide owns and operates a lead-acid battery and lead oxide manufacturing facility co-located with a lead recycling plant. The facility-wide actual emissions are 0.66 tpy, which is above the 0.5 tpy threshold, requiring that a source-oriented Pb monitor be placed near the facility.

section 128 of the Act, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provisions. EPA is proposing to approve Georgia's SIP as meeting the requirements of sub-elements 110(a)(2)(E)(i),(ii), and (iii). EPA's rationale for today's proposals respecting each sub-element is described in turn below.

In support of EPA's proposal to approve sub-elements 110(a)(2)(E)(i) and (iii), EPA notes that EPD is responsible for promulgating rules and regulations for the NAAQS, emissions standards general policies, a system of permits, and fee schedules for the review of plans, and other planning needs. As evidence of the adequacy of EPD's resources, EPA submitted a letter to Georgia on March 26, 2014, outlining 105 grant commitments and the current status of these commitments for fiscal year 2013. The letter EPA submitted to Georgia can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2014–0442. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. Georgia satisfactorily met all commitments agreed to in the Air Planning Agreement for fiscal year 2013, therefore Georgia's grants were finalized and closed out. Additionally, to satisfy the requirements of section 110(a)(2)(E), Georgia's infrastructure SIP submission cites Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Sections 12–9–10 and Rule 391–3–1–.03(9) ''Georgia Air Permit Fee System'' which provides the State's adequate funding and authority and rules for permit fees.

Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12–9–5) provides the powers and duties of the Board of Natural Resources as to air quality and provides that at least a majority of members of this board represent the public interest and not derive any significant portion of income from persons subject to permits or enforcement orders and that potential conflicts of interest will be adequately disclosed. This provision has been incorporated into Georgia's federally approved SIP. Collectively, these rules and commitments provide evidence that GA EPD has adequate personnel, funding, and legal authority under state law to carry out the state's implementation plan and related issues. EPA has made the preliminary determination that Georgia has adequate resources and authority to satisfy sections 110(a)(2)(E)(i), (ii), and (iii) of the 2008 Lead NAAQS.

6. 110(a)(2)(F)—Stationary source monitoring and reporting: Georgia's infrastructure submission describes how the State establishes requirements for emissions compliance testing and utilizes emissions sampling and analysis. It further describes how the State ensures the quality of its data through observing emissions and monitoring operations. EPD uses these data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements. These requirements are provided in the Georgia Air Quality Act: [19] Article 1: Air Quality (O.C.G.A. Section 12–9–5(b)(6)), Georgia Rule for Air Quality 391–3–1–.02(3)—*Sampling,* Georgia Rule for Air Quality 391–3–1–.02(6)(b) *General Monitoring and Reporting Requirements,* Georgia Rule for Air Quality 391–3–1–.02(6)—*Source Monitoring,* Georgia Rule for Air Quality 391–3–1–.02(7)—*Prevention of Significant Deterioration of Air Quality,* Georgia Rule for Air Quality 391–3–1–.02(8)—*New Source Performance Standards,* Georgia Rule for Air Quality 391–3–1–.02(9)—*Emission Standards for Hazardous Air Pollutants,* Georgia Rule for Air Quality 391–3–1–.02(11)—*Compliance Assurance Monitoring,* and, Georgia Rule for Air Quality 391–3–1–.03—*Permits. Amended.*

Additionally, Georgia is required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI). The NEI is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and the precursors that form them—nitrogen oxides, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. Georgia made its latest update to the 2011 NEI on June 10, 2014. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html.* EPA has made the preliminary determination that Georgia's SIP and practices are adequate for the stationary source monitoring systems related to the 2008 Lead NAAQS. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(F).

7. 110(a)(2)(G)—Emergency episodes: This section requires that states demonstrate authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority. Georgia's infrastructure SIP submission cites air pollution emergency episodes and preplanned abatement strategies in the Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Sections 12–9–2 *Declaration of public policy,* 12–9–6 *Powers and duties of director as to air quality generally,* 12–9–12 *Injunctive relief,* 12–9–13 *Proceedings for enforcement,* and 12–9–14 *Powers of director in situations involving imminent and substantial danger to public health*), and Rule 391–3–1–.04 ''Air Pollution Episodes.'' O.C.G.A. Section 12–9–2 provides ''it is declared to be the public policy of the state of Georgia to preserve, protect, and improve air quality to attain and maintain ambient air quality standards so as to safeguard the public health, safety, and welfare.'' O.C.G.A. Section 12–9–6(b)(10) provides the Director of EPD authority to ''issue orders as may be necessary to enforce compliance with the Georgia Air Quality Act Article 1: Air Quality (O.C.G.A) and all rules and regulations of this article.'' O.C.G.A. Section 12–9–12 provides that ''whenever in the judgment of the director any person has engaged in or is about to engage in any act or practice which constitutes or will constitute an unlawful action under the Georgia Air Quality Act Article 1: Air Quality (O.C.G.A), he may make application to the superior court of the county in which the unlawful act or practice has been or is about to be engaged in, or in which jurisdiction is appropriate, for an order enjoining such act or practice or for an order requiring compliance with this article. Upon a showing by the director that such person has engaged in or is about to engage in any such act or

[19] When ''Georgia Air Quality Act'' is referenced it refers to rules that the state relies on but are not in the federally approved SIP. While on the other hand when ''Georgia Rule for Air Quality'' is used refers to rules that are in the federally-approved SIP.

practice, a permanent or temporary injunction, restraining order, or other order shall be granted without the necessity of showing lack of an adequate remedy of law.'' O.C.G.A. Section 12–19–13 specifically pertains to enforcement proceedings when the Director of EPD has reason to believe that a violation of any provision of the Georgia Air Quality Act Article 1: Air Quality (O.C.G.A), or environmental rules, regulations or orders have occurred. O.C.G.A. Section 12–9–14 also provides that the Governor, may issue orders as necessary to protect the health of persons who are, or may be, affected by a pollution source or facility after ''consultation with local authorities in order to confirm the correctness of the information on which action proposed to be taken is based and to ascertain the action which such authorities are or will be taking.''

Rule 391–3–1–.04 ''Air Pollution Episodes'' provides that the Director of EPD ''will proclaim that an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency exists when the meteorological conditions are such that an air stagnation condition is in existence and/or the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons in the specific area affected.'' Collectively the cited provisions provide that Georgia EPD demonstrate authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority in the State. EPA has made the preliminary determination that Georgia's SIP and practices are adequate for emergency powers related to the 2008 Lead NAAQS.

8. 110(a)(2)(H)—Future SIP revisions: EPD is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS in Georgia. Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Section 12–9, and EPD is required by 12–9–6(b)(12) and (13) grants EPD the broad authority to implement the CAA, which authorizes EPD to adopt a comprehensive program for the prevention, control, and abatement of pollution of the air of the state, and from time to time review and modify such programs as necessary. EPD has the ability and authority to respond to calls for SIP revisions, and has provided a number of SIP revisions over the years for implementation of the NAAQS. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(H) for the 2008 Lead NAAQS.

9. 110(a)(2)(J): EPA is proposing to approve Georgia's infrastructure SIP for the 2008 Lead NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that provides for meeting the applicable consultation requirements of section 121, the public notification requirements of section 127; and the PSD and visibility protection requirements of part C of the Act. With respect to Georgia's infrastructure SIP submission related to the preconstruction PSD permitting requirements, EPA approved this sub-element of 110(a)(2)(J) on March 18, 2015, and thus is not proposing any action today regarding these requirements. *See* 80 FR 14019. EPA's rationale for applicable consultation requirements of section 121, the public notification requirements of section 127, and visibility is described below.

*110(a)(2)(J) (121 consultation) Consultation with government officials:* Section 110(a)(2)(J) of the CAA requires states to provide a process for consultation with local governments, designated organizations and federal land managers (FLMs) carrying out NAAQS implementation requirements pursuant to section 121 relative to consultation. The Georgia Air Quality Act: Article I: Air Quality (O.C.G.A. Section 12–9(b)(17)), Georgia Administrative Procedures Act (O.C.G.A. § 50–13–4), and Georgia Rule 391–3–1–.02(7) as it relates to Class I areas provide for consultation with government officials whose jurisdictions might be affected by SIP development activities. EPA has made the preliminary determination that Georgia's SIP and practices adequately demonstrate consultation with government officials related to the 2008 Lead NAAQS, when necessary. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(J) consultation with government officials.

*110(a)(2)(J) (127 public notification) Public notification:* Georgia Air Quality Act: Article I: Air Quality (O.C.G.A. Section 12–9), Georgia Administrative Procedures Act (O.C.G.A. § 50–13–4), and Georgia Rule 391–3–1–.02(7) as it relates to Class I areas also include public notice requirements. Additionally, notification to the public of instances or areas exceeding the NAAQS and associated health effects is provided through implementation of the Air Quality Index reporting system in all required areas. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(J) public notification.

*110(a)(2)(J) (PSD)—PSD:* With respect to Georgia's infrastructure SIP submission related to the PSD requirements of section 110(a)(2)(J), EPA addressed this requirement in a separate action. Specifically, on March 18, 2015, EPA approved Georgia's March 6, 2012, infrastructure SIP submission regarding the PSD permitting requirements for section 110(a)(2) (J) for the 2008 Lead NAAQS. *See* 80 FR 14019.

*110(a)(2)(J)—Visibility Protection:* The 2011 Lead Infrastructure SIP Guidance notes that EPA does not generally treat the visibility protection aspects of section 110(a)(2)(J) as applicable for purposes of the infrastructure SIP approval process. EPA recognizes that states are subject to visibility protection and regional haze program requirements under Part C of the Act (which includes sections 169A and 169B). However, in the event of the establishment of a new primary NAAQS, the visibility protection and regional haze program requirements under part C do not change. Thus, EPA concludes there are no new applicable visibility protection obligations under section 110(a)(2)(J) as a result of the 2008 Lead NAAQS, and as such, EPA is proposing to approve section 110(a)(2)(J) of Georgia's infrastructure SIP submission as it relates to visibility protection.

10. 110(a)(2)(K)—Air quality and modeling/data: Section 110(a)(2)(K) of the CAA requires that SIPs provide for performing air quality modeling so that effects on air quality of emissions from NAAQS pollutants can be predicted and submission of such data to the EPA can be made. Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Section 12–9), specifies that air modeling be conducted in accordance with 40 CFR part 51, Appendix W ''Guideline on Air Quality Models.'' These regulations demonstrate that Georgia has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2008 Lead NAAQS. Additionally, Georgia supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 2008 Lead NAAQS, for the Southeastern states. Taken as a whole, Georgia's air quality regulations demonstrate that EPD has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2008 Lead NAAQS. EPA has made the preliminary determination that Georgia's SIP and practices adequately demonstrate the State's ability to provide for air quality and

modeling, along with analysis of the associated data, related to the 2008 Lead NAAQS when necessary. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(K).

11. 110(a)(2)(L)—Permitting fees: This element necessitates that the SIP require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a fee sufficient to cover (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V.

Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Section 12–9–10, and Georgia Rule for Air Quality 391–3–1–.03(9)—*Permit Fees* requires the collection of permitting fees through the title V Fee Program, which EPD ensures is sufficient for the reasonable cost of reviewing and acting upon PSD and NNSR permits. Additionally, Georgia has a fully approved title V operating permit program at Georgia Rule for Air Quality 391–3–1–.03(9)—*Permit Fees* that covers the cost of implementation and enforcement of PSD and NNSR permits after they have been issued. EPA has made the preliminary determination that Georgia's SIP and practices adequately provide for permitting fees related to the 2008 Lead NAAQS, when necessary. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(L).

12. 110(a)(2)(M)—Consultation/participation by affected local entities: This element requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. Georgia Air Quality Act: Article I: Air Quality (O.C.G.A. Section 12–9) authorizes EPD to advise, consult, cooperate and enter into agreements with other agencies of the state, the Federal Government, other states, interstate agencies, groups, political subdivisions, and industries affected by the provisions of this act, rules, or policies of the department. EPA has made the preliminary determination that Georgia's SIP and practices adequately demonstrate consultation with affected local entities related to the 22008 Lead NAAQS, when necessary. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(M).

## V. Proposed Action

With the exception of the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of (D)(i), and (J), EPA is proposing to approve Georgia's March 6, 2012, SIP submittal to address infrastructure requirements for the 2008 Lead NAAQS. EPA is proposing to take this action because the Agency has made the preliminary determination that Georgia's infrastructure SIP revision is consistent with section 110 and EPA's 2011 Lead Infrastructure SIP Guidance.

## VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting Federal requirements and would not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, and Recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 14, 2015.

**Heather McTeer Toney,**

*Regional Administrator, Region 4.*

[FR Doc. 2015–18096 Filed 7–23–15; 8:45 am]

BILLING CODE 6560–50–P

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R01–OAR–2014–0842; A–1–FRL–9927–33–Region 1]**

## Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Prevention of Significant Deterioration and Nonattainment New Source Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve certain revisions to the State of Connecticut State Implementation Plan (SIP) relating to regulation of fine particulate matter ($PM_{2.5}$) emissions within the context of EPA's Prevention of Significant Deterioration (PSD) regulations. EPA is also proposing to approve clarifications to the applicability section of Connecticut's Nonattainment New Source Review (NNSR) regulations. These revisions

will be part of Connecticut's major stationary source preconstruction permitting programs, and are intended to align Connecticut's regulations with the federal PSD and NNSR regulations. This action is being taken in accordance with the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before August 24, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R01–OAR–2014–0842 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: dahl.donald@epa.gov*
3. *Fax:* (617) 918–01657.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2014–0842'', Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier.* Deliver your comments to: Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100 (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule which is located in the *Rules and Regulations* section of this issue of the **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100, (mail code OEP05–2), Boston, MA 02109–3912. Mr. Dahl's telephone number is (617) 918–1657; email address: *dahl.donald@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In the *Rules and Regulations* section of this issue of the **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the *Rules and Regulations* section of this issue of the **Federal Register**.

Dated: April 20, 2015.

**H. Curtis Spalding,**

*Regional Administrator, EPA New England.*

[FR Doc. 2015–17665 Filed 7–23–15; 8:45 am]

**BILLING CODE 6560–50–P**

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R04–OAR–2015–0114; FRL–9931–03–Region 4]**

## Approval and Promulgation of Implementation Plans; Georgia; Removal of Clean Fuel Fleet Program

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve changes to the Georgia State Implementation Plan (SIP) that were submitted by the State of Georgia, through the Georgia Environmental Protection Division (GA EPD), on January 22, 2015, for the purpose of moving the Clean Fuel Fleet Program (CFFP) from the active portion of the Georgia SIP to the contingency measures portion of the maintenance plan for the Atlanta Area for the 1997 8-hour ozone national ambient air quality standards (NAAQS). EPA has preliminarily determined that Georgia's January 22, 2015, SIP revision regarding the CFFP is approvable because it is consistent with the Clean Air Act (CAA or Act).

**DATES:** Written comments must be received on or before August 24, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2015–0114, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-ARMS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2015–0114'' Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R04–OAR–2015–0114. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or

viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information may not be publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Sheckler's phone number is (404) 562–9222. She can also be reached via electronic mail at *sheckler.kelly@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background for Atlanta's Air Quality Status Related to the 1-Hour Ozone NAAQS

On November 6, 1991, EPA designated and classified the following counties in and around the Atlanta, Georgia metropolitan area as a serious ozone nonattainment area for the 1-hour ozone NAAQS (hereinafter referred to as the ''Atlanta 1-Hour Ozone Area''): Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale.[1] *See* 56 FR 56694. The nonattainment designation was based on the Atlanta 1-Hour Ozone Area's design value for the 1987–1989 three-year period. The ''serious'' classification triggered various statutory requirements for the Atlanta 1-Hour Ozone Area, including the requirement pursuant to section 182(c)(4) of the CAA for the Area to adopt measures necessary to ensure the effectiveness of the applicable provisions of the CFFP described below in section II of this document. EPA redesignated the Atlanta 1-Hour Ozone Area to attainment for the 1-hour ozone NAAQS, effective June 14, 2005.[2] [3] *See* 70 FR 34660.

## II. Background for the CFFP

The CFFP is addressed in Title II, part C of the CAA. *See* CAA sections 241–250. Congress added Part C, entitled ''Clean Fuel Vehicles,'' to the CAA to establish two programs: A clean-fuel vehicle pilot program in the State of California (the California Pilot Test Program), and a CFFP in certain ozone and carbon monoxide (CO) nonattainment areas. EPA promulgated regulations for the CFFP at 40 CFR part 88, subpart C on March 1, 1993. *See* 58 FR 11888. Under section 246 of the CAA, certain states were required to adopt and submit to EPA a SIP revision containing a CFFP for ozone nonattainment areas with a 1980 population greater than 250,000 that were classified as serious, severe, or extreme.

A state's CFFP SIP revision must require fleet operators with 10 or more centrally-fueled vehicles or vehicles capable of being centrally-fueled to include a specified percentage of clean-fuel vehicles in their purchases each year and to meet additional CAA requirements, including the requirement that covered fleet operators must operate the Clean Fuel Vehicles (CFVs) in covered nonattainment areas on a clean alternative fuel, defined as a fuel on which the vehicle meets EPA's CFV standards. EPA promulgated emission standards for CFVs on September 30, 1994. *See* 59 FR 50042.

On May 2, 1994, the State of Georgia submitted a SIP revision to address the CFFP requirements for the Atlanta 1-Hour Ozone Area. EPA approved that SIP revision, containing Georgia's CFFP rules (Georgia Rules 391–3–22–.01 through .11, ''Clean Fleet Rules'') in a document published on May 2, 1994. *See* 60 FR 66149. Georgia's rules require fleets of 10 or more vehicles that are centrally fueled or capable of being centrally fueled and operated in the Atlanta 1-Hour Ozone Area to include in their vehicle purchases a certain percentage of CFVs. A CFV is one which meets any one of the exhaust emission standards for the following vehicle categories: Low emission vehicles (LEV), ultra low emission vehicles (ULEV), and zero emission vehicles (ZEV).

Under the CAA and Federal CFFP regulations, vehicles weighing 26,000 pounds (lbs) or less count towards the requirement, and the CFFP purchase requirements started with 1998 model year vehicles under the following phase-in schedule for light-duty vehicles and trucks under 6,000 lbs. Gross Vehicle Weight Rating (GVWR) and light-duty trucks between 6,000 and 8,500 lbs. GVWR: 30 percent CFV in Model Year 1998, 50 percent CFV in Model Year 1999, and 70 percent CFV in Model Year 2000 and after. The phase-in schedule for heavy-duty vehicles weighing above 8,500 lbs but less than 26,001 lbs. GVWR was: 50 percent CFV in Model Year 1998, 50 percent CFV in Model Year 1999, and 50 percent CFV in Model Year 2000 and after. The following vehicles are exempted from these requirements: Motor vehicles for lease or rental to the general public, dealer demonstration vehicles that are used solely for the purpose of promoting motor vehicle sales, emergency vehicles, law enforcement vehicles, nonroad vehicles (farm and construction vehicles), vehicles garaged at a personal residence and not being centrally fueled, and vehicles used for motor vehicle manufacturer product evaluations and tests.

## III. Analysis of the State's Submittal

On January 22, 2015, GA EPD submitted a SIP revision to EPA with a request to move Georgia's CFFP rules (Georgia Rules 391–3–22–.01 through .11) from the active portion of the Georgia SIP to the contingency measure portion of the ozone maintenance plan for the Atlanta Area for the 1997 8-hour

[1] On September 26, 2003 (effective January 1, 2004), the Atlanta 1-Hour Ozone Area was reclassified to ''severe'' for the 1-hour ozone NAAQS because the Area failed to attain the 1-hour ozone NAAQS by its attainment date of November 15, 1999. *See* 68 FR 55469.

[2] On April 30, 2004, EPA designated the following 20 counties in and around metropolitan Atlanta as a marginal nonattainment area for the 1997 8-hour ozone NAAQS (hereinafter referred to as the ''Atlanta 1997 8-Hour Ozone Area''): Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding, and Walton. *See* 69 FR 23858. Subsequently, EPA reclassified this same area as a moderate nonattainment area on March 6, 2008, because the Area failed to attain the 1997 8-hour ozone NAAQS by the required attainment date of June 15, 2007. *See* 73 FR 12013. Subsequently, the area attained the 1997 8-hour ozone standard, and on December 2, 2013, EPA redesignated the area to attainment for the 1997 8-hour ozone NAAQS. *See* 78 FR 72040.

[3] On May 21, 2012, EPA published a final rule designating the following 15 counties in and around metropolitan Atlanta as a marginal nonattainment area for the 2008 8-hour ozone NAAQS: Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale.

ozone NAAQS.[4] EPA incorporated this maintenance plan into the SIP in a final action published on December 2, 2013. *See* 78 FR 72040. In order for EPA to approve Georgia's January 22, 2015, SIP revision, the revision must satisfy the anti-backsliding requirements of EPA's implementation rules for the 2008 8-hour ozone NAAQS [5] and CAA section 110(l). More discussion on EPA's evaluation of these requirements in relation to Georgia's January 22, 2015, SIP revision is provided below.

*A. Consideration of Anti-Backsliding Requirements*

To support Georgia's request for EPA to move the CFFP from the active portion of the Georgia SIP to the contingency measure portion of the SIP, the State must demonstrate that the requested change is in compliance with EPA's anti-backsliding requirements for ozone. The anti-backsliding requirements for the revoked 1-hour ozone NAAQS were originally promulgated at 40 CFR part 51, subpart X. However, with the promulgation of the implementation rules for the 2008 8-hour ozone NAAQS, EPA moved these requirements to 40 CFR part 50, subpart AA and expanded the provisions to address anti-backsliding requirements for the revoked 1997 8-hour ozone NAAQS and the revoked 1-hour ozone NAAQS in relation to compliance with the 2008 8-hour ozone NAAQS.

The CFFP is one of the ''applicable requirements'' for anti-backsliding purposes under EPA's implementation rules for the 2008 8-hour ozone NAAQS ''to the extent such requirements apply to the area pursuant to its classification under CAA section 181(a)(1) for the 1-hour NAAQS or 40 CFR 51.902 for the 1997 8-hour ozone NAAQS at the time of revocation of the 1997 8-hour ozone NAAQS.'' *See* 40 CFR 51.1100(o). The 1997 8-hour ozone NAAQS was revoked on April 6, 2015. As mentioned above, the Atlanta 1-Hour Ozone Area was redesignated to attainment effective June 14, 2005, the CFFP requirements apply to the Atlanta 1-Hour Ozone Area given its former status as a serious nonattainment area, the 1997 Atlanta 8-hour Ozone Area was redesignated to attainment effective January 2, 2014, and fifteen counties in and around metropolitan Atlanta are currently in nonattainment for the 2008 8-hour ozone NAAQS.[6] Thus, the CFFP is an applicable requirement, and the anti-backsliding requirements under 40 CFR 51.1105(a)(2) in EPA's implementation rules for the 2008 8-hour ozone NAAQS apply to the Atlanta Area. Pursuant to 40 CFR 51.1105(a)(2), a state may request that an applicable requirement under § 51.1100(o) be moved to the list of maintenance plan contingency measures for the area in the state's implementation plan so long as compliance with CAA section 110(l) and CAA section 193 (if applicable) is demonstrated.[7]

Today, EPA is proposing to determine that Georgia's January 22, 2014, SIP revision satisfies the anti-backsliding requirements of EPA's ozone implementation rules and the CAA section 110(l) requirements (discussed in detail below) and to move Georgia Rules 391–3–22–.01 through .11 from the active portion of the Georgia SIP to the contingency measures portion of Georgia's maintenance plan in the SIP for the 1997 Atlanta 8-hour Ozone Area.

*B. Consideration of Section 110(l) Requirements*

As noted above, the State must demonstrate that the requested change will satisfy section 110(l) of the CAA. Section 110(l) requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act.

EPA evaluates each section 110(l) noninterference demonstration on a case-by-case basis considering the circumstances of each SIP revision. EPA interprets 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated but for which the EPA has not yet made designations. The degree of analysis focused on any particular NAAQS in a noninterference demonstration varies depending on the nature of the emissions associated with the proposed SIP revision. EPA's analysis of Georgia's January 22, 2015, SIP revision pursuant to section 110(l) is provided below.

In 2000, EPA promulgated new tailpipe emissions standards (commonly referred to as the ''Tier 2 Rule'') for all passenger vehicles, including sport utility vehicles (SUVs), minivans, vans, and pick-up trucks. *See* 65 FR 6698 (February 10, 2000). This regulation marked the first time that SUVs and other light-duty trucks—even the largest passenger vehicles—were subject to the same national pollution standards as cars. The new tailpipe standards were set at an average standard of 0.07 grams per mile (gpm) for nitrogen oxides ($NO_X$) for all classes of passenger vehicles beginning in 2004–2007. For the heaviest light-duty trucks, the program provided a three step approach to reducing emissions. First, in 2004, EPA implemented standards not to exceed 0.6 gpm—a more than 60 percent reduction from current standards. Second, to ensure further progress, these vehicles were required to achieve an interim standard of 0.2 gpm phased-in between 2004–2007, an 80 percent reduction from current standards. Third, in the final step, half of these vehicles were required to meet the 0.07 standard in 2008, and the remaining were required to comply in 2009. Vehicles weighing between 8,500 and 10,000 pounds had the option to take advantage of additional flexibilities during the 2004 to 2008 interim period.

In 2001, EPA promulgated new tailpipe emissions standards (commonly referred to as the ''Heavy Duty Vehicle Rule'') for heavy duty trucks and buses.[8] *See* 66 FR 5002 (January 18, 2001). In this regulation, EPA finalized a PM emissions standard for new heavy-duty engines of 0.01 grams per brake-horsepower-hour (g/bhp-hr), to take full effect for diesels in the 2007 model year. EPA also finalized standards for $NO_X$ and non-methane hydrocarbons (NMHC) of 0.20 g/bhp-hr and 0.14 g/bhp-hr, respectively. These $NO_X$ and NMHC standards were phased in together between 2007 and 2010, for diesel engines. The phase-in was based on a percent-of-sales: 50 percent from 2007 to 2009 and 100 percent in 2010. Gasoline engines were subject to these standards based on a phase-in requiring 50 percent compliance in the 2008 model year and 100 percent compliance in the 2009 model year. Both of the standards discussed above (Tier 2 Rule and Heavy Duty Vehicle Rule) reduce tailpipe emission significantly over the LEV standards.

EPA issued a memorandum on April 17, 2006, noting that after the CFFP requirement became law, EPA promulgated new vehicle emission standards (*e.g.,* Tier 2 Rule and heavy-duty engine standards) that are generally more stringent, or equivalent to, the CFV emission standards for light-duty vehicles, light-duty trucks, and

[4] See footnote 2 for a description of this Area.

[5] *See* 80 FR 12264 (March 6, 2015).

[6] See footnotes 2 and 3 for descriptions of the 1997 and 2008 ozone nonattainment areas, respectively.

[7] Section 193 is a general savings clause pertaining to regulations, standards, rules, notices, orders, and guidance promulgated or issued prior to November 15, 1990. The CFFP was effective on May 22, 1994. Therefore, section 193 is not relevant to this action.

[8] The Heavy Duty Vehicle Rule builds upon the ''phase 1 program'' finalized on October 6, 2000 (65 FR 59896), that affirmed the 50 percent reduction in $NO_X$ emissions from 2004 model year highway diesel engines set in 1997 (62 FR 54693, October 21, 1997) and set new emission standards for heavy-duty gasoline fueled engines and vehicles for 2005.

heavy-duty vehicles and engines.[9] The memorandum also stated that ''[t]o meet the requirements of the Clean Fuel Fleet Program fleet managers can be assured that vehicles and engines certified to current Part 86 emission standards, which EPA has determined to be as or more stringent than corresponding CFV emission standards per the attached EPA Dear Manufacturer Letter meet the CFV emission standards and the CFFP requirements as defined in CFR part 88.'' Further reductions from these same vehicles will be achieved by EPA's newly promulgated Tier 3 emission standards.[10]

In its SIP submission, GA EPD provided an independent analysis of the expected emission benefits of Tier 2 and heavy-duty engine standards over LEV standards.[11] According to GA EPD's analysis, Tier 2 $NO_X$ standards have a benefit over LEV ranging from 0.09 gpm to 0.99 gpm on a per vehicle basis. With regard to the heavy-duty engine standards, GA EPD indicates that there is a benefit of 1.4 grams/brake-horse power per hour for the combination of non-methane hydrocarbons and $NO_X$ on a per vehicle basis.

EPA has preliminarily determined that the removal of the Georgia CFFP will not interfere with attainment or reasonable further progress, or any other applicable requirement of the Act because the emission reductions that were generated by Georgia's CFFP have been overtaken by EPA's Tier 2 Rule and heavy-duty emissions standards. As discussed above, the vehicle emissions standards referenced in EPA's April 17, 2006 memorandum have been fully implemented, thus ensuring that all new vehicle fleet purchases meet CFV standards.[12]

[9] Memorandum from Leila H. Cook, EPA Transportation & Regional Programs Division, to Air Program Managers re: Clean Fuel Fleet Program Requirements (April 17, 2006). This memorandum superseded a July 2, 2004, memorandum from Leila H. Cook noting that the Tier 2 standards are equivalent to or cleaner than earlier emission levels mandated by the CFFP. These memoranda are included with the State's SIP revision in the docket for this proposed action.

[10] ''Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards.'' *See* 79 FR 23414 (April 28, 2014).

[11] See Table 1 of the Georgia's January 22, 2015, SIP revision.

[12] In its January 22, 2015, SIP revision, GA EPD analyzed the annual reports submitted by the fleets for the model years 2001–2004 and 2006 to determine the number of used vehicles purchased and the range of the model years. GA EPD determined that 98 percent of the vehicles purchased are new. Only 2 percent of vehicles are purchased as used. Out of the used vehicles purchased, 80 percent are 2004 and newer models. As a result, only 0.4 percent of vehicles purchased are older than the 2004 model year.

## IV. Proposed Action

EPA is proposing to approve Georgia's January 22, 2015, SIP revision and move Georgia's CFFP rules (Georgia Rules 391–3–22–.01 through .11) from the active portion of Georgia SIP to the contingency measures portion of Georgia's maintenance plan in the SIP for the 1997 Atlanta 8-hour Ozone Area. EPA is proposing this approval because the Agency has made the preliminarily determination that Georgia's January 22, 2015, SIP revision is consistent with the CAA and EPA's regulations and guidance.

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves State law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 14, 2015.

**Heather McTeer Toney,**

*Regional Administrator, Region 4.*

[FR Doc. 2015–18079 Filed 7–23–15; 8:45 am]

BILLING CODE 6560–50–P

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R05–OAR–2015–0407; FRL–9930–80–Region 5]**

## Air Plan Approval; MI, Belding; 2008 Lead Clean Data Determination

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** On May 13, 2015, the Michigan Department of Environmental Quality (MDEQ) submitted a request to the Environmental Protection Agency (EPA) to make a determination under the Clean Air Act (CAA) that the Belding nonattainment area has attained the 2008 lead (Pb) national ambient air quality standard (NAAQS). In this action, EPA is proposing to determine that the Belding nonattainment area (area) has attained the 2008 Pb NAAQS. This clean data determination is based upon complete, quality-assured and certified ambient air monitoring data for the 2012–2014 design period showing that the area has monitored attainment of the 2008 Pb NAAQS. Additionally, as a result of this proposed determination, EPA is proposing to suspend the

requirements for the area to submit an attainment demonstration, together with reasonably available control measures, a reasonable further progress (RFP) plan, and contingency measures for failure to meet the RFP plan and attainment deadlines for as long as the area continues to attain the 2008 Pb NAAQS.

**DATES:** Comments must be received on or before August 24, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2015–0407, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: aburano.douglas@epa.gov.*
3. *Fax:* (312) 408–2279.
4. *Mail:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–9401, *arra.sarah@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In the Final Rules section of this **Federal Register**, EPA is making a clean data determination as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the action is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: July 14, 2015.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2015–18100 Filed 7–23–15; 8:45 am]

BILLING CODE 6560–50–P

# Notices

Federal Register
Vol. 80, No. 142
Friday, July 24, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

### Notice of Intent To Request an Extension and Revision of a Currently Approved Information Collection

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act and Office of Management and Budget (OMB) regulations, this notice announces the Agricultural Research Service's (ARS) intention to seek approval to collect information in support of research and related activities.

**DATES:** Comments on this notice must be received on or before September 22, 2015 to be assured of consideration.

**ADDRESSES:** Address all comments concerning this notice to Jill Lake, ARS Webmaster, 5601 Sunnyside Avenue, Beltsville, Maryland 20705.

**FOR FURTHER INFORMATION CONTACT:** Contact Jill Lake, ARS Webmaster, (301) 504–5683.

**SUPPLEMENTARY INFORMATION:**

*Title:* Web Forms for Research Data, Models, Materials, and Publications as well as Study and Event Registration.

*Type of Request:* Extension and Revision of a Currently Approved Information Collection.

*OMB Number:* 0518–0032.

*Expiration Date:* December 31, 2015.

*Abstract:* Sections 1703 and 1705 of the Government Paperwork Elimination Act (GPEA), Public Law 105–277, Title XVII, require agencies, by October 21, 2003, to provide for the option of electronic submission of information by the public. To advance GPEA goals, online forms are needed to allow the public to request from ARS research data, models, materials, and publications as well as registration for scientific studies and events. For the convenience of the public, the forms itemize the information we need to provide a timely response. Information from forms will only be used by the Agency for the purposes identified.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 3 minutes per response (range: 1–5 minutes).

*Respondents:* Agricultural researchers, students and teachers, business people, members of service organizations, community groups, other Federal and local Government agencies, and the general public.

*Estimated Number Respondents:* 5,000. This is a reduction from the 15,000 estimated number of respondents in the previous Approved Information Collection due to less actual annual respondents than originally estimated from 2012–2015.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 250 hours.

Copies of forms used in this information collection can be obtained from Jill Lake, ARS Webmaster, at (301) 504–5683.

The information collection extension requested by ARS is for a period of 3 years.

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 will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: July 14, 2015.

**Chavonda Jacobs-Young,**

*Administrator, ARS.*

[FR Doc. 2015–18180 Filed 7–23–15; 8:45 am]

BILLING CODE 3410–03–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

**RIN 0596–AD15**

### Proposed Directives on American Indian and Alaska Native Relations Forest Service Manual 1500, Chapter 1560 and Forest Service Handbook 1509.13, Chapter 10

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Proposed Directives; request for comment.

**SUMMARY:** The Forest Service proposes to revise its internal Agency directives for American Indian and Alaska Native Relations to establish better direction for the Agency to work effectively with Indian tribes. Specifically, the proposed directives modify Forest Service staff roles and responsibilities, establish staff training standards, describe authorities for working with Indian tribes, delineate consultation procedures, explain the historical trust and treaty responsibility underlying the government-to-government relationship, and outline Dispute Resolution options within the Forest Service. The proposed directives cross reference to other Forest Service directives, including those detailing aspects of Business Operations, National Forest System Management, State and Private Forestry, and Research and Development. The proposed directives were reorganized and revised to be consistent with the 2013 U.S. Department of Agriculture (USDA) Departmental Regulation No. 1350–002 ''Tribal Consultation, Coordination, and Collaboration''; *Report to the Secretary, USDA Policy and Procedures Review and Recommendations: Indian Sacred Sites (2012),* legislation (including the Culture and Heritage Cooperation Authority provisions of the Food, Conservation, and Energy Act of 2008 [Public Law 110–246; the Farm Bill]), and input from Forest Service Field staff. The directives were last revised in 2004, with an Interim Directive issued in 2012. These proposed directives have tribal implications as defined by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' The 120-day consultation with Tribes was conducted from June 6, 2013, to November 27, 2013, consistent with the Executive Order and the current Forest Service directives. Tribal consultation

continued after October 6, 2013, and will end at the same time as the public comment period. All comments received so far have been supportive of the revised directives. Tribal consultation and public comment are invited and will be considered by the Agency in determining the scope of the final directives.

**DATES:** Comments must be received in writing by September 22, 2015.

**ADDRESSES:** Send comments electronically by following the instructions at the Federal eRulemaking portal at *http://www.regulations.gov.* Comments also may be submitted by email to *otr@fs.fed.us* or by mail to Tribal Relations Directives Comments, USDA Forest Service, Attn: Fred Clark—OTR, 201 14th Street SW., Washington, DC 20024. Hand-delivered comments will not be accepted, and receipt of comments cannot be confirmed. If comments are sent electronically, do not send duplicate comments by mail. Please confine comments to issues pertinent to the proposed directives. Explain the reasons for any recommended changes. Where possible, refer to the specific wording being addressed. All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The public may inspect the comments received at 201 14th Street SW., Washington, DC between 8:30 a.m. and 4:30 p.m., Eastern Standard Time, Monday through Friday. Those wishing to inspect comments are encouraged to call ahead at 202–205–1514 to facilitate entry to the building.

**FOR FURTHER INFORMATION CONTACT:** Fred Clark, Director of the Office of Tribal Relations, 202–205–1514. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

Additional information concerning these documents may be obtained on the Internet at *http://www.fs.fed.us/spf/tribalrelations/bundledconsultation.shtml.*

**SUPPLEMENTARY INFORMATION:**

## Background and Need for the Proposed Directives

The Forest Service and federally recognized American Indian and Alaska Native tribes (Indian tribes) share the value of restoring, sustaining, and enhancing the nation's forests and grasslands, providing and sustaining benefits to the American people. In many instances, Indian tribes continue their traditional uses of the nation's forests and grasslands to sustain their cultural identity and continuity. The Government's trust responsibilities and treaty obligations make it essential that the Forest Service engages with Indian tribes in a timely and meaningful consultation on policies that may affect one or more Indian tribes. However, consultation alone is not sufficient. In addition to consultation, coordination and collaboration together lead to information exchange, common understanding, informed decision-making, and mutual benefit. The importance of consultation and coordination with Indian tribes was affirmed through Presidential Memoranda in 1994, 2004, and 2009, in Executive Orders in 1998 and 2000, as well as in numerous statutes and policies. The value of collaboration is fully recognized within the Forest Service for all of its constituents, including Indian tribes. The proposed directives would implement a tribal relations framework that fosters more effective and efficient consultation with Indian tribes and Alaska Native Corporations, and better collaboration with individual American Indians and Alaska Natives, across the Agency.

Every part of the Forest Service involves Tribal relations; every Forest Service employee shares in that responsibility. The proposed directives will help Forest Service employees improve their understanding of the requirements, complexities, and opportunities of Tribal relations. The purpose in revising the directives is to affect changes in behavior that will lead to enhanced relationships with Indian tribes, which in turn will enable the Forest Service to better accomplish its mission. The proposed directives will, therefore, result in more effective and efficient protection of tribal rights and interests, as well as better information for the Agency in its planning, decision making, and program delivery.

Finally, the proposed directives will ensure the Forest Service is in compliance with and is held accountable to several recently enacted authorities, policies, and agreements. Authorities such as the Tribal Forest Protection Act of 2004 (Public Law 108–278) and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246; the Farm Bill) include provisions that will be incorporated into the directives. In addition, the USDA promulgated a new regulation (DR1350–002, January 18, 2013) on Tribal Consultation, Coordination, and Collaboration, with which the Forest Service must comply. The Secretary has also directed the USDA to implement the recommendations from the 2012 *Report to the Secretary, USDA Policy and Procedures Review and Recommendations: Indian Sacred Sites.* The recommendations require updates to the Forest Service directives. Finally, the Departments of Defense, Interior, Agriculture, and Energy, and the Advisory Council on Historic Preservation entered into a Memorandum of Understanding (MOU) on December 6, 2012, to improve the protection of and tribal access to Indian sacred sites through enhanced and improved interdepartmental coordination and collaboration. Elements of the Action Plan implementing that MOU which pertain to the Forest Service will be reflected in the revised directives.

## Summary of Proposed Changes

Under the proposed directives:

- Forest Service staff roles and responsibilities would be modified to emphasize working with Indian tribes. Delegation of the authority to serve as a Consultation Official passes through Line Officers, and the Forest Service Chief would be able to delegate consultation authority to non-line staff on a case-by-case basis as ''Chief's representatives''.
- The requirement for a minimum 120-day tribal consultation period for national consultations from the Interim Directive on Tribal Consultation would continue.
- Guidance would be provided on who in the Forest Service may consult, processes, steps, and monitoring and evaluation measures to increase accountability.
- Authorities would be provided regarding State and Private Forestry, National Forest System, Research, and Business Operations opportunities to enable Forest Service staff to partner and contract with Indian tribes for mutual interest and/or benefit.
- Tribal history and sovereignty and the Forest Service treaty and trust responsibilities would be clarified.
- Training goals and core competencies would be established based on the 2013 USDA Departmental Regulation on Consultation training and the Sacred Sites Report to guide future training.
- Key definitions would be provided for applying the Tribal Relations directives and fulfilling the Federal trust and treaty resposibility to Indian tribes.
- A Dispute Resolution option for Indian tribes would be explained.
- New sections on closures, forest products, and confidentiality would be added in accordance with the Cultural

Heritage Cooperation Act (25 U.S.C. 3054–3056).

• A new section including policy on reburial of tribal remains on National Forest System lands would provide guidance.

• Cross-referencing to other Forest Service directives for topic-specific guidance would be added to faciliate use of the directives.

**Section-by-Section Analysis**

*1. Forest Service Manual 1560*

1563—Tribal Relations

This proposed section outlines the Forest Service Tribal Relations policy generally. First, it defines Indian tribes per 25 U.S.C. 479a. It also emphasizes that Tribal Relations should go beyond consultation to include coordination and collaboration, recognizing the value of collaboration. The section encourages engagement with Alaska Native Corporations, non-federally recognized Tribes, Native Hawaiians, along with American Indian and Alaska Native individuals, communities, intertribal organizations, enterprises, and institutions.

1563.01—Authorities

This proposed section emphasizes developing capacity of Agency personnel in fostering effective partnerships and protecting tribal rights, and seeking opportunities to enter into contracts, grants, and agreements. Furthermore, it encourages tribal participation in contracting and agreements as part of the Agency's trust responsibility.

The proposed subsection on the U.S. constitution was revised to reflect the correct Articles corresponding to Indian tribes.

The proposed subsection on treaty rights and the Federal trust responsibility was expanded to include specific citation of all relevant authorities.

The proposed subsection on consultation and coordination listed additional authorities, including for cooperative land use planning on National Forest System lands. The subsection mandates consultation with Alaska Native Corporations under PL 108–199 and PL 108–177. It also emphasizes consultation with Alaska Native Corporations under EO 13175, the Federal Subsistence Board's Tribal Consultation Policy, and the Draft Alaska Native Claims Settlement Act Consultation Policy.

The proposed subsection on cultural resources was expanded to specifically include consideration of Indian sacred sites per the 2012 *Report to the Secretary, USDA Policy and Procedures Review and Recommendations: Indian Sacred Sites.* It also identifies the Forest Service Heritage Program as lead staff for cultural resources, and the Tribal Relations Program as lead staff for sacred sites, while recognizing overlap between the two categories. It also recognizes that actions protective of cultural resources, watersheds, animal or biological communities, and other natural resources that also protect an American Indian or Alaska Native sacred site may serve a secular purpose, as well as accommodate Tribal religion.

Proposed subsections on National Forest System authorities were added, including one on the Tribal Forest Protection Act of 2004 (25 U.S.C. 3115a) and the Cultural and Heritage Cooperation Authority (25 U.S.C. 32A).

The proposed subsection on Business Operations, Grants, and Agreements, Contracts, and Procurement with Indian tribes was significantly enhanced to include partnering authorities from the Forest Service Deputy Areas including the National Forest System, State and Private Forestry, and Research and Development. For example, it lists additional authorities for research support, emphasizing opportunities for Joint Venture Agreements with any entity or individual. In addition, numerous additional authorities for support under State and Private Forestry programs were listed, including forest health, fire assistance, and law enforcement.

A proposed subsection on the coordination of law enforcement with authorities for self-determination and self-governance was added.

The proposed subsection for supporting Tribal Colleges and Universities was enhanced and added to as well.

1563.02—Objectives

This proposed section significantly expands the objectives of the Forest Service in meeting its trust responsibility. It also adds support for the UN Declaration on the Rights of Indigenous Peoples.

1563.03—Policy

This proposed section expands Forest Service policy to consult with Indian tribes in a meaningful way, adding emphasis on tribal sovereignty. It also increases employee accountability through detailed reporting processes, up-front statements of potential impact on agency activities and proposed policies on Indian tribes (in ''Tribal Summary Impact Statements''), and certifications of compliance. The section recommends the use of negotiated rulemaking, mandates Departmental training in tribal relations for all Forest Service staff, and emphasizes the importance of keeping tribal culturally-sensitive and proprietary information confidential, especially regarding repatriation and reburial.

1563.04—Responsibility

Proposed section 1563.04a expands reserved authority of the Forest Service Chief to delegate consultation authority.

Proposed section 1563.04b expands responsibilities of all Deputy Chiefs to implement the Tribal Relations Program.

Proposed section 1563.04c expands responsibilities and authorities of the Director of the Washington Office of Tribal Relations.

Proposed section 1563.04d expands responsibilities of the Regional Tribal Relations Program Managers to include staff training at the regional and local level, annual reporting, and periodic compliance review.

Proposed section 1563.04j expands responsibilities of Forest/Grasslands Supervisors in fulfilling the trust responsibility mandate and consultation reporting.

Proposed section 1563.04k expands responsibilities of District Rangers in fulfilling the trust responsibility and consultation mandate.

Proposed section 1563.04j is new, expanding responsibilities of Forest/Grasslands Tribal Liaisons in fulfilling the trust responsibility and consultation mandate, including accountability (maintenance of consultation data).

Proposed section 1563.04m is new, expanding responsibilities of Research and Development Tribal Liaisons in fulfilling the trust responsibility and consultation mandate related to research programs and activities, tribal data requests, traditional knowledge, and reporting.

The final proposed section 1563.04n is new, expanding responsibilities of State and Private Forestry Tribal Liaisons in fulfilling the trust responsibility and consultation mandate related to research programs and activities, tribal data requests, traditional knowledge, and reporting.

1563.05—Definitions

This proposed section includes definitions of terms used in the proposed directive. Several of the material definitions follow.

Indian Tribe is defined as any Indian or Alaska Native tribe, band, nation, pueblo, village, or other community, the name of which is included on a list published by the Secretary of the Interior pursuant to section 104 of the

Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1).

Alaska Native Corporations are described as follows: created under the Alaska Native Claims Settlement Act, these corporations manage lands and resources for Alaska Natives. While not federally-recognized Indian tribes, consultation is required with these organizations in some instances as if they were Indian tribes pursuant to Public Law (Pub. L.) 108–199 and 108–477 directing all Federal agencies to consult with Alaska Native Corporations on the same basis as Indian tribes under E.O. 13175. This type of consultation is considered government-to-corporation, rather than government-to-government.

Trust responsibility is explained as arising from the United States' unique legal and political relationship with Indian tribes. It derives from the Federal Government's consistent promise, in the treaties that it signed, to protect the safety and well-being of the Indian tribes and tribal members in return for their willingness to give up their lands.

Government-to-Government Consultation, or ''Tribal Consultation,'' is the timely, meaningful, and substantive dialogue between Forest Service Officials who have delegated authority to consult, and the official leadership of federally recognized Indian tribes, or their designated representative(s), pertaining to decisions or actions that may have tribal implications.

As defined per Executive Order 13007, a sacred site is any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the Agency of the existence of such a site.

1563.10—Consultation With Indian Tribes and Alaska Native Corporations

This proposed section simplifies steps in the consultation process generally, with details outlined in the following sections.

1563.11—General Consultation Requirements

This proposed section clarifies protocols for meaningful consultation. It also expands and amends the table of authorities for consultation and coordination.

1563.12—Consultation, Monitoring, and Evaluation—Consulting Officials

This proposed section substantially clarifies formal roles and responsibilities in consultation while emphasizing the value of informal staff communication in effective tribal relations.

1563.13—Consultation Timelines

This proposed section substantially clarifies timelines for meaningful consultation.

1563.14—Consultation, Monitoring, and Evaluation

This proposed section mandates accountability through use and management of a consultation database.

1563.15—Additional Consultation Considerations

This proposed section addresses additional issues such as where to find additional guidance, compensation, and emergency situations.

1563.2—Dispute Resolution

This proposed section expands on dispute resolution and appeal procedures for Indian tribes.

1563.3—Reburial of American Indian and Alaska Native Ancestral Remains and Cultural Items

This proposed section expands guidance on repatriation and reburials, including general considerations as well as reviews.

1563.4—Closures for Traditional and Cultural Purposes

This proposed new section covers closures for temporary and cultural purposes per 25 U.S.C. 32A § 3054.

1563.5—Forest Products for Traditional and Cultural Purposes

This proposed new section covers forest products for traditional and cultural purposes per 25 U.S.C. 32A § 3055.

1563.6—Prohibition on Disclosure

This proposed new section covers prohibition against disclosure per 25 U.S.C. 32A § 3056.

1563.7—Information and Technology Sharing

This proposed new section emphasizes that the maintenance of traditional gathering, hunting, fishing, and other activities; and use of certain landscapes, sites, and locations that contain important natural and cultural resources should be considered in Forest Service land management planning and research activities. It also recommends that the Forest Service seek to identify traditional knowledge that tribal citizens hold regarding ecosystems that may be helpful in meeting management objectives of both the Forest Service and Tribes.

1563.8—References

This proposed new section contains further explanatory information regarding authorities identified in section 1563.01—Authorities. Overall, it elaborates on treaty rights and the trust responsibility; cooperative land management and planning with Indian tribes; subsistence rights; tribal cultural resources and sacred sites within the National Forest System, including reburial; the Tribal Forest Protection Act; the Cultural and Heritage Cooperation Authority; grants, agreements, and contracts with Tribes across all Deputy areas; coordination of law enforcement with Tribes; and support of and engagement with Tribal Colleges and Universities.

*2. Forest Service Handbook 1509.13*

10.01—Authorities

This proposed section refers the reader to FSM 1563 for relevant laws, Executive Orders, and regulations that govern Federal agencies' relationship with Indian tribes.

11—Consultation With Tribes

This section expands on consultation roles and responsibilities, timelines, and processes while also encouraging collaboration prior to or concurrent with formal consultation.

Proposed section 11.1 mandates consultation with Alaska Native Corporations in Alaska and clarifies consultation representatives.

Proposed section 11.2 clarifies consultation timelines, including the fact that tribal consultation for National policies includes a minimum of 120 days.

Proposed section 11.3 substantially expands and clarifies consultation process (type, modes, leveraging meetings) and steps for establishing consultation protocol and procedure with Indian tribes.

Proposed section 11.5 outlines monitoring and evaluation of consultation, adding responsibilities for reporting to include maintenance of a consultation database, outcomes reporting, and compliance monitoring. It further requires that consultation input and outcomes be addressed in resulting policy, plan, project, or action. Finally, it adds additional responsibilities for monitoring and evaluation to include sustainability of

cultural resources and sacred sites, successes and additional opportunities for partnerships, socio-economic impacts, and customer (tribal) satisfaction.

12—Compensation

This proposed section adds additional funding authorities for compensation for consultation, historic preservation.

13—Training

This proposed section encourages mandated training, including alignment with recommendations in the 2012 *Report to the Secretary, USDA Policy and Procedures*

*Review and Recommendations: Indian Sacred Sites*

13.3—Core Competencies

This proposed section establishes core competencies in Tribal relations.

14—Exhibits

This proposed section provide copies of additional authorities for management of Indian sacred sites.

**Regulatory Certifications**

*Environmental Impact*

These proposed directives would establish direction for Forest Service staff in working with Indian tribes and American Indian and Alaska Native individuals. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180, September 18, 1992) excludes from documentation in an environmental assessment or environmental impact statement rules, regulations, or policies to establish service-wide administrative procedures, program processes, or instructions. The Agency's assessment for these proposed directives falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

*Regulatory Impact*

These proposed directives have been reviewed under USDA procedures and Executive Order 12866, Regulatory Planning and Review. It has been determined that this is not a significant action. These proposed directives will not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. These proposed directives would not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, these proposed directives would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs.

Moreover, these proposed directives have been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that these proposed directives would not have a significant economic impact on a substantial number of small entities as defined by the act because they will not impose recordkeeping requirements on them; it would not affect their competitive position in relation to large entities; and it would not affect their cash flow, liquidity, or ability to remain in the market.

*Federalism and Consultation and Coordination With Indian Tribal Governments*

The Agency has considered these proposed directives under the requirements of Executive Order 13132, Federalism, and has made an assessment that these proposed directives conform with the federalism principles set out in this Executive Order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Agency has determined that no further assessment of federalism implications is necessary at this time.

These proposed directives have tribal implications as defined by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' and the 120-day consultation with Indian tribes and Alaska Native Corporations was conducted from June 6, 2013 to October 6, 2013, as required.

*No Takings Implications*

These proposed directives have been analyzed in accordance with the principles and criteria contained in Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that these proposed directives do not pose the risk of a taking of Constitutionally protected private property.

*Civil Justice Reform*

These proposed directives have been reviewed under Executive Order 12988, Civil Justice Reform. If these proposed directives were adopted, (1) all State and local laws and regulations that are in conflict with these proposed directives or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to these proposed directives; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

*Unfunded Mandates*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Agency has assessed the effects of these proposed directives on State, local, and Indian tribal governments and the private sector. These proposed directives would not compel the expenditure of $100 million or more by any State, local, or Indian tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

*Energy Effects*

These proposed directives have been reviewed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that these proposed directives do not constitute a significant energy action as defined in the Executive Order.

*Controlling Paperwork Burdens on the Public*

These proposed directives do not contain any additional recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: July 6, 2015.

**Thomas L. Tidwell,**

*Chief, Forest Service.*

[FR Doc. 2015–17911 Filed 7–23–15; 8:45 am]

BILLING CODE 3411–15–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Newspapers of Record for the Pacific Southwest Region: California

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice lists the newspapers that will be used by all Ranger Districts, Forests, and the Regional Office of the Pacific Southwest Region to publish legal notices required under 36 CFR 214, 218, and 219. The intended effect of this action is to inform interested members of the public which newspapers the Forest Service will use to publish notices of proposed actions, notices of decision, and notices of opportunity to file an appeal/objection. This will provide the public with constructive notice of Forest Service proposals and decisions, provide information on the procedures to comment, appeal, or object and establish the date that the Forest Service will use to determine if comments, appeals, or objections were timely.

**DATES:** Publication of legal notices in the listed newspapers will begin on the date of this publication and remain in effect until another notice is published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Theresa Corless, Regional Appeals/Objections Coordinator, Forest Service, Pacific Southwest Regional Office, 1323 Club Drive, Vallejo, CA 94592, (707) 562–8768.

**SUPPLEMENTARY INFORMATION:** In addition to the primary newspaper listed for each unit, some Forest Supervisors and District Rangers have listed newspapers providing additional notice of their decisions. The timeframe for filing comment, appeal or an objection shall be based on the date of publication of the notice in the first (primary) newspaper listed for each unit.

The newspapers to be used are as follows:

**Pacific Southwest Regional Office**

Regional Forester Decisions:
Sacramento Bee, published daily in Sacramento, Sacramento County, California, for decisions affecting National Forest System lands and for any decision of Region-wide impact.

**Angeles National Forest, California**

Forest Supervisor Decisions:
Los Angeles Times, published daily in Los Angeles, Los Angeles County, California.
District Rangers Decisions:
Los Angeles Ranger District:
Daily News, published daily in Los Angeles, Los Angeles County, California.
Newspapers providing additional notice of Los Angeles District Ranger decisions:
Pasadena Star News, published in Pasadena, California; and Foothill Leader, published in Glendale, California.
San Gabriel River Ranger District:
Inland Valley Bulletin, published daily in Los Angeles, Los Angeles County, California.
Newspaper providing additional notice of San Gabriel River District Ranger decisions:
San Gabriel Valley Tribune published in the eastern San Gabriel Valley, West Covina, Los Angeles County, California.
Santa Clara/Mojave Rivers Ranger District:
Daily News, published daily in Los Angeles, Los Angeles County, California.
Newspapers providing additional notice of Santa Clara/Mojave Rivers District Ranger decisions:
Antelope Valley Press, published in Palmdale, Los Angeles County, California; and
Mountaineer Progress, published in Wrightwood, California.

**Cleveland National Forest, California**

Forest Supervisor Decisions:
San Diego Union-Tribune, published daily in San Diego, San Diego County, California.
District Rangers Decisions:
Descanso Ranger District:
San Diego Union-Tribune, published daily in San Diego, San Diego County, California.
Palomar Ranger District:
San Diego Union-Tribune, published daily in San Diego, San Diego County, California.
Newspaper providing additional notice of Palomar District Ranger decisions:
Riverside Press Enterprise, published daily in Riverside, Riverside County, California.
Trabuco Ranger District:
Riverside Press Enterprise, published daily in Riverside, Riverside County, California.
Newspaper providing additional notice of Trabuco District Ranger decisions:
Orange County Register, published daily in Santa Ana, Orange County, California.

**Eldorado National Forest, California**

Forest Supervisor Decisions:
Mountain Democrat published three-times weekly in Placerville, El Dorado County, California.
District Rangers Decisions:
Mountain Democrat published three-times weekly in Placerville, El Dorado County, California.

**lnyo National Forest, California**

Forest Supervisor Decisions:
Inyo Register published three-times weekly in Bishop, lnyo County, California.
District Rangers Decisions:
Inyo Register published three-times weekly in Bishop, lnyo County, California.

**Klamath National Forest, California**

Forest Supervisor Decisions:
Siskiyou Daily News, published daily in Yreka, Siskiyou County, California.
District Rangers Decisions:
Siskiyou Daily News, published daily in Yreka, Siskiyou County, California.

**Lake Tahoe Basin Management Unit, California and Nevada**

Forest Supervisor Decisions:
Tahoe Daily Tribune, published three-times weekly in South Lake Tahoe, El Dorado County, California.

**Lassen National Forest, California**

Forest Supervisor Decisions:
Lassen County Times, published weekly in Susanville, Lassen County, California.
District Rangers Decisions:
Eagle Lake Ranger District:
Lassen County Times, published weekly in Susanville, Lassen County, California.
Almanor Ranger District:
Chester Progressive, published weekly in Chester, Plumes County, California.
Hat Creek Ranger District:
Intermountain News, published weekly in Burney, Shasta County, California.

**Los Padres National Forest, California**

Forest Supervisor Decisions:
Santa Barbara News Press, published daily in Santa Barbara, Santa Barbara County, California.
District Rangers Decisions:
Monterey Ranger District:
Monterey County Herald, published daily in Monterey, Monterey County, California.
Santa Lucia Ranger District:
The Tribune, published daily in San Luis Obispo, San Luis Obispo County, California.
Santa Barbara Ranger District:
Santa Barbara News Press, published daily in Santa Barbara, Santa Barbara County, California.
Ojai Ranger District:
Ventura County Star, published daily in Ventura, Ventura County, California.
Mt. Pinos Ranger District:
The Mountain Enterprise, published weekly in Frazier Park, Kern

County, California.

**Mendocino National Forest, California**

Forest Supervisor Decisions:
Chico Enterprise-Record, published daily in Chico, Butte County, California.
District Rangers Decisions:
Grindstone Ranger District:
Chico Enterprise-Record, published daily in Chico, Butte County, California.
Upper Lake and Covelo Districts:
Ukiah Daily Journal, published daily in Ukiah, Mendocino County, California.

**Modoc National Forest, California**

Forest Supervisor Decisions:
The Modoc County Record, published weekly in Alturas, Modoc County, California.
District Rangers Decisions:
All districts:
The Modoc County Record, published weekly in Alturas, Modoc County, California.
Doublehead and Big Valley Districts:
Klamath Falls Herald and News, published daily (except Mondays) in Klamath Falls, Klamath County, Oregon.

**Plumas National Forest, California**

Forest Supervisor Decisions:
Feather River Bulletin, published weekly in Quincy, Plumas County, California.
Newspaper providing additional notice for Environmental Impact Statements:
Sacramento Bee published daily in Sacramento, Sacramento County, California.
District Rangers Decisions:
Beckwourth Ranger District:
Portola Reporter, published weekly in Portola, Plumas County, California.
Newspaper occasionally providing additional notice of Beckwourth District Ranger decisions:
Feather River Bulletin, published weekly in Quincy, Plumas County California.
Feather River Ranger District:
Oroville Mercury Register, published daily in Oroville, Butte County, California.
Newspaper occasionally providing additional notice of Feather River District Ranger decisions:
Feather River Bulletin, published weekly in Quincy, Plumas County, California.
Mt. Hough Ranger District:
Feather River Bulletin, published weekly in Quincy, Plumas County, California.
Newspaper occasionally providing additional notice of Mt. Hough District Ranger decisions:
Portola Reporter, published weekly in Portola, Plumas County, California.

**San Bernardino National Forest, California**

Forest Supervisor Decisions:
San Bernardino Sun, published daily in San Bernardino, San Bernardino County, California.
District Rangers Decisions:
Mountaintop Ranger District—Arrowhead Area:
Mountain News, published weekly in Blue Jay, San Bernardino County, California.
Mountaintop Ranger District—Big Bear Area:
Big Bear Life and Grizzly, published weekly in Big Bear, San Bernardino County, California.
Front Country Ranger District:
San Bernardino Sun, published daily in San Bernardino, San Bernardino County, California.
San Jacinto Ranger District:
Idyllwild Town Crier, published weekly in Idyllwild, Riverside County, California.

**Sequoia National Forest, California**

Forest Supervisor Decisions:
Porterville Recorder, published daily (except Sunday) in Porterville, Tulare County, California.
District Rangers Decisions:
Porterville Recorder, published daily (except Sunday) in Porterville, Tulare County, California.

**Shasta-Trinity National Forest, California**

Forest Supervisor Decisions:
Record Searchlight, published daily in Redding, Shasta County, California.
District Rangers Decisions:
Record Searchlight, published daily in Redding, Shasta County, California.

**Sierra National Forest, California**

Forest Supervisor Decisions:
Fresno Bee, published daily in Fresno, Fresno County, California.
District Rangers Decisions:
Fresno Bee published daily in Fresno, Fresno County, California.

**Six Rivers National Forest, California**

Forest Supervisor Decisions:
Times Standard, published daily in Eureka, Humboldt County, California.
District Rangers Decisions:
Smith River National Recreation Area:
Del Norte Triplicate, published daily in Crescent City, Del Norte County, California.
Orleans and Lower Trinity Districts:
The Two Rivers Tribune, published weekly in Hoopa, Humboldt County, California.
Mad River District:
Times Standard, published daily in Eureka, Humboldt County, California.

**Stanislaus National Forest, California**

Forest Supervisor Decisions:
The Union Democrat, published daily (five-times weekly) in Sonora, Tuolumne County, California.
District Rangers Decisions:
The Union Democrat, published daily (five-times weekly) in Sonora, Tuolumne County, California.

**Tahoe National Forest, California**

Forest Supervisor Decisions:
The Union, published daily (except Sunday) in Grass Valley, Nevada County, California.
District Rangers Decisions:
American River Ranger District:
Auburn Journal, published daily in Auburn, Placer County, California.
Sierraville Ranger District:
Mountain Messenger, published weekly in Downieville, Sierra County, California.
Newspapers providing additional notice of Sierraville District Ranger decisions:
Sierra Booster, published weekly in Loyalton, Sierra County, California; and
Portola Recorder, published weekly in Portola, Plumas County, California.
Truckee Ranger District:
Sierra Sun, published five times weekly in Truckee, Nevada County, California.
Yuba River Ranger District:
The Union, published daily (except Sunday) in Grass Valley, Nevada County, California.
Newspaper providing additional notice of Yuba River District Ranger decisions:
Mountain Messenger, published weekly in Downieville, Sierra County, California.

Dated: July 13, 2015.

**Barnie Gyant,**

*Deputy Regional Forester, Pacific Southwest Region.*

[FR Doc. 2015–18112 Filed 7–23–15; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### National Institute of Food and Agriculture

### Solicitation of Commodity Board Topics and Contribution of Funding Under the Agriculture and Food Research Initiative Competitive Grants Program, Implementation

**AGENCY:** National Institute of Food and Agriculture, USDA.

**ACTION:** Notice of opportunity for commodity boards to submit topics and contribute funding under the Agriculture and Food Research Initiative Competitive Grants Program.

**SUMMARY:** As part of the National Institute of Food and Agriculture's (NIFA) strategy to implement section 7404 of Public Law 113–79, the Agricultural Act of 2014, NIFA is soliciting topics from eligible commodity board entities (Federal and State-level commodity boards, as defined below) which they are willing to equally co-fund with NIFA. Such topics must relate to the established priority areas of the Agriculture and Food Research Initiative Competitive Grants Program (AFRI) to be considered for inclusion in future AFRI Requests for Applications (RFAs).

Commodity boards are those entities established under a commodity promotion law (as such term is defined under section 501(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401(a))) or a State commodity board (or other equivalent State entity). *See* the **SUPPLEMENTARY INFORMATION** section of this Notice under the heading ''Eligibility for Submitting Topics'' for further information.

If proposed topics are accepted for inclusion in an AFRI RFA after evaluation by NIFA, they will be incorporated into AFRI competitive grants program RFAs. As a condition of funding grants in a topic, NIFA will require an agreement with the commodity board to provide funds that are equal to the amount NIFA is contributing under the agreed upon topic.

This Notice invites topic submissions from commodity boards as defined above, outlines the process NIFA will use to evaluate the appropriateness of these topics for inclusion in AFRI RFAs, and describes the commitment commodity boards will be required to make in order for NIFA to jointly fund AFRI applications competitively selected for award within a topic area submitted by the commodity boards.

**DATES:** Topics may be submitted by commodity boards at any time; however, all topics to be considered for the fiscal year 2016 AFRI RFAs must be received by 5:00 p.m., EDT on September 22, 2015. Topics submitted by eligible commodity board entities after this date will be considered for RFAs to be issued in future years. NIFA will hold a webinar to respond to questions from commodity boards interested in submitting topics. Details including the date and time, and access information will be posted on the NIFA Web site (*http://nifa.usda.gov/commodity-boards/*).

**ADDRESSES:** You may submit topics, identified by NIFA–2015–0001, by any of the following methods:

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

*Email: commodityboards@nifa.usda.gov*. Include NIFA–2015–0001 in the subject line of the message.

*Instructions:* All topics received must include the agency name and reference to NIFA–2015–0001. All comments received will be posted to *http://www.regulations.gov,* including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Robert Hedberg; Phone: (202) 720–5384, or Mark Mirando; Phone: (202) 401–4336, or Email: *commodityboards@nifa.usda.gov*.

**SUPPLEMENTARY INFORMATION:**

### Background and Purpose

This Notice represents the second step in implementing section 7404 of the Agricultural Act of 2014, Public Law 113–79, which amends section 2(b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) to require that NIFA ''establish procedures, including timelines, under which an entity established under a commodity promotion law (as such term is defined under section 501(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401(a))) or a State commodity board (or other equivalent State entity) may directly submit to the Secretary [(NIFA)] for consideration proposals for requests for applications . . .'' within the AFRI Program.

In September of 2014, NIFA took the first step toward implementing section 7404 by publishing a **Federal Register** Notice, which solicited stakeholder feedback on implementing this provision. *See* 79 FR 58727 (Sept. 30, 2014) (*http://www.gpo.gov/fdsys/pkg/FR–2014-09-30/html/2014-23352.htm*).

Stakeholder feedback gathered as a result of the September 2014 Notice informed this second step toward implementing section 7404. This Notice invites entities established under a commodity promotion law or State commodity boards (or other equivalent State entities) to submit topics which they are proposing for inclusion in upcoming AFRI RFAs. Topics must relate to the established AFRI priority areas, which are plant health and production and plant products; animal health and production and animal products; food safety, nutrition, and health; renewable energy, natural resources, and environment; agriculture systems and technology; and agriculture economics and rural communities. A summary statement on AFRI is included below. To learn more about AFRI programs, including program priorities, go to: *http://nifa.usda.gov/program/agriculture-and-food-research-initiative*.

### AFRI Program Overview

The AFRI program is the largest agricultural competitive grants program in the United States and a primary funding source for research, education, and extension projects that bring practical solutions to some of today's most critical societal challenges. AFRI programs impact all components of agriculture, including farm and ranch efficiency and profitability, renewable energy, forestry, aquaculture, rural communities, human nutrition, food safety, biotechnology, and genetic improvement of plants and animals.

NIFA issues eight AFRI RFAs annually to solicit applications in the six statutory priority areas in AFRI (Plant health and production and plant products; Animal health and production and animal products; Food safety, nutrition, and health; Renewable energy, natural resources, and environment; Agriculture systems and technology; Agriculture economics and rural communities). These include six Challenge Area RFAs, which address the following major societal challenges: Sustainable Bioenergy; Climate Variability and Change; Water for Agriculture; Food Security; Childhood Obesity Prevention; and Food Safety. The Challenge Area RFAs solicit grant applications for focused problem-solving efforts and provide large awards (typically $1 million or more) for periods of up to 5 years to enable collaboration among multiple organizations and the integration of research with education and extension. The seventh RFA is the Foundational Program RFA issued annually which solicits grant applications that focus predominately, but not exclusively, on fundamental scientific research that addresses statutory priorities. The final RFA is the AFRI Food, Agriculture,

Natural Resources, and Human Sciences Education and Literacy Initiative (ELI) RFA which solicits grant applications for undergraduate research and extension experiential learning fellowships, and pre- and post-doctoral fellowships.

**Eligibility for Submitting Topics**

Eligible commodity board entities are those established under a commodity promotion law (as such term is defined under section 501(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401(a))) or a State commodity board (or other equivalent State entity). Language in 7 U.S.C. 7401(a) defines a ''commodity promotion law'' as ''a Federal law that provides for the establishment and operation of a promotion program regarding an agricultural commodity that includes a combination of promotion, research, industry information, or consumer information activities, is funded by mandatory assessments on producers or processors, and is designed to maintain or expand markets and uses for the commodity (as determined by the Secretary).'' Section 7401(a) includes a list of such Federal laws.

The following Federally recognized commodity boards are currently eligible to submit topics under this provision: Beef Board, Blueberry Council, Christmas Tree Board, Cotton Board, Dairy Board, Egg Board, Fluid Milk Board, Hass Avocado Board, Honey Board, Lamb Board, Mango Board, Mushroom Council, Paper and Paper-Based Packaging Board, Peanut Board, Popcorn Board, Pork Board, Potato Board, Processed Raspberry Council, Softwood Lumber Board, Sorghum Board, Soybean Board, and the Watermelon Board, as well as the following marketing order boards: Oregon/Washington pears (fresh and processed), California olives, Georgia Vidalia onions, SE Washington/NW Oregon Walla Walla Valley sweet onions, Idaho/Oregon onions, Florida tomatoes, California almonds, Oregon/Washington hazelnuts, Riverside County, California domestic dates, and California raisins.

Additionally, entities eligible to submit topics include a State commodity board (or other equivalent State entity). This includes commodity boards authorized by State law; commodity boards that are not authorized by State law but are organized and operate within a State and meet the requirements of their authorizing statute; and commodity boards that are authorized by a State and operate within the State for commodities that have no Federal program or oversight.

**Topic Submission Guidance and Procedures**

Topics may be submitted at any time and will be evaluated by NIFA on an annual basis. However, to be considered for the proposed fiscal year 2016 AFRI RFAs, topics must be received by COB (5 p.m. Eastern Daylight Time) on September 22, 2015.

Each topic proposed must be submitted as a separate PDF document that may not exceed 2 pages in length, using 12 point font. Submissions must include: A clear description of the proposed topic; the total matching contribution that will be made by the commodity board; and a justification that describes how the proposed topic supports a specific AFRI priority area. Commodity boards may propose support for multiple awards for each topic proposed. For each topic the commodity board proposes to support, the minimum amount they must provide is $150,000 and the maximum amount is $2.5 million total. NIFA does not intend to match funding from a single commodity board in excess of $10 million in any year. Commodity boards should only submit topics that have a strong economic impact on their industry and U.S. agriculture as a whole. Examples of topics typically supported by AFRI can be found at *http://nifa.usda.gov/program/agriculture-and-food-research-initiative.*

If topics are accepted for funding, they will be incorporated into AFRI RFAs, and grants supporting the topic area may be awarded to AFRI eligible entities based on a competitive peer review process. As a condition of funding grants in a topic, NIFA will require an agreement to provide funds by the commodity board that is equal to the amount NIFA is contributing under the agreed upon topic. If a topic is selected for inclusion in an RFA, the commodity board submitting the topic will be required to maintain the confidentiality of the topic until the RFA is issued by NIFA. Commodity board funds will need to be made available to NIFA no later than the time awards are selected for funding. Applications submitted under topics provided by commodity boards will be required to include a letter of support from the commodity board that proposed the topic.

**Evaluation and Notification Process**

NIFA will screen proposed research topics to ensure they were submitted by eligible commodity boards and consult with USDA's Agricultural Marketing Service (AMS) to determine that submissions and proposed financial contributions are consistent with commodity promotion laws and commodity boards' charters as applicable.

Commodity board topics will be reviewed by an internal panel based on evaluation criteria that were developed using stakeholder input from commodity boards and other stakeholders from government, industry, and academe. Each topic will be evaluated based on: Alignment with one or more of the statutory AFRI priority areas (six AFRI priority areas authorized in the Farm Bill and described in 7 CFR 3430.309); alignment with the President's budget proposal for NIFA, as identified in the Department of Agriculture's annual budget submission; and alignment with the priority areas in the AFRI RFAs to be released by NIFA during the fiscal year for which the commodity board is proposing a topic for funding (for example, within the AFRI Foundational Program RFA, the AFRI Animal Health and Production and Animal Product's ''Animal Reproduction'' priority area).

From those topics received by COB (5 p.m. Eastern Daylight Time) on September 22, 2015, NIFA will select the topic(s) that were evaluated the most favorably for inclusion in the appropriate FY 2016 AFRI RFA. NIFA will notify applicants whether their topics will be included by October 7, 2015. Based on the evaluation, NIFA reserves the right to negotiate with commodity boards should changes be required for topics and funding amounts to be accepted. Any changes to topics and funding amounts will be reviewed by USDA's AMS to determine if such changes are consistent with applicable commodity promotion laws.

NIFA will evaluate topics submitted after the September 22, 2015 deadline on an annual basis and notify commodity boards whether their topics will be included in subsequent RFAs within two weeks following the meeting of the internal evaluation panel, the date of which will be published on NIFA's Commodity Boards Web page at (*http://nifa.usda.gov/commodity-boards/*).

Done at Washington, DC this 17th day of July, 2015.

**Sonny Ramaswamy,**

*Director, National Institute of Food and Agriculture.*

[FR Doc. 2015–18120 Filed 7–23–15; 8:45 am]

BILLING CODE 3410–22–P

## DEPARTMENT OF AGRICULTURE

### National Institute of Food and Agriculture

### Notice of Intent To Extend and Revise a Currently Approved Information Collection

**AGENCY:** National Institute of Food and Agriculture, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the National Institute of Food and Agriculture's (NIFA) intention to extend a currently approved information collection entitled, ''Reporting Requirements for State Plans of Work for Agricultural Research and Extension Capacity Funds.''

**DATES:** Written comments on this notice must be received by September 22, 2015 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Written comments concerning this notice and requests for copies of the information collection may be submitted by any of the following methods: Email: *rmartin@nifa.usda.gov;* Fax: 202–720–0857; Mail: Office of Information Technology (OIT), NIFA, USDA, STOP 2216, 1400 Independence Avenue SW., Washington, DC 20250–2216.

**FOR FURTHER INFORMATION CONTACT:** Robert Martin, eGovernment Program Leader; Email: *rmartin@nifa.usda.gov*.

**SUPPLEMENTARY INFORMATION:** *Title:* Reporting Requirements for State Plans of Work for Agricultural Research and Extension Capacity Grants.

*Office of Management and Budget (OMB) Number:* 0524–0036.

*Expiration Date of Current Approval:* January 1, 2016.

*Type of Request:* Notice of intent to extend and revise the submission requirements for a currently approved information collection. The burden for this submission remains unchanged.

*Abstract: Type of Request:* Intent to seek approval for the extension of a currently approved information collection for three years.

*Abstract:* The purpose of this collection of information is to continue implementing the requirements of sections 202 and 225 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) which require that a plan of work must be submitted by each institution and approved by the National Institute of Food and Agriculture (NIFA) before capacity funds may be provided to the 1862 and 1890 land-grant institutions.

The capacity funds are authorized under the Hatch Act for agricultural research activities at the 1862 land-grant institutions, under the Smith-Lever Act for the extension activities at the 1862 land-grant institutions, and under sections 1444 and 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 for research and extension activities at the 1890 land-grant institutions. The plan of work must address critical agricultural issues in the State and describe the programs and projects targeted to address these issues using the NIFA capacity funds. The plan of work also must describe the institution's multistate activities as well as their integrated research and extension activities.

This collection of information also includes the reporting requirements of section 102(c) of AREERA for the 1862 and 1890 land-grant institutions. This section requires the 1862, 1890, and 1994 land-grant institutions receiving agricultural research, education, and extension capacity funds from NIFA of the Department of Agriculture (USDA) to establish and implement processes for obtaining input from persons who conduct or use agricultural research, extension, or education concerning the use of such funds by October 1, 1999.

Section 102(c) further requires that the Secretary of Agriculture promulgate regulations that prescribe what the institutions must do to meet this requirement and the consequences of not complying with this requirement. The Stakeholder Input Requirements for Recipients of Agricultural Research, Education, and Extension Capacity Funds (7 CFR part 3418) final rule (65 FR 5993, Feb. 8, 2000) applies not only to the land-grant institutions receiving capacity funds but also to the veterinary and forestry schools that are not land-grant institutions but receive forestry research funds under the McIntire-Stennis Act of 1962 and animal health and disease research funds under section 1433 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA). Failure to comply with the requirements of this rule may result in the withholding of a recipient institution's capacity funds and redistribution of its share of capacity funds to other eligible institutions. The institutions are required to annually report to NIFA: (1) The actions taken to seek stakeholder input to encourage their participation; (2) a brief statement of the process used by the recipient institution to identify individuals and groups who are stakeholders and to collect input from them; and (3) a statement of how collected input was considered. There is no legislatively prescribed form or format for this reporting requirement. However, the 1862 and 1890 land-grant institutions are required to report on their Stakeholder Input Process annually as part of their Annual Report of Accomplishments and Results.

Section 103(e) of AREERA requires that the 1862, 1890, and 1994 land-grant institutions establish a merit review process, prior to October 1, 1999, in order to obtain agricultural research and extension funds. Section 104 of AREERA also stipulated that a scientific peer review process be established for research programs funded under section 3(c)(3) of the Hatch Act (commonly referred to as Hatch Multistate Research Funds).

**I. Initial 5-Year Plan of Work**

*Estimate of Burden:* The Initial 5-Year Plan of Work was submitted for the FY 2007–2011 Plan of Work in 2006. Thus, this reporting burden has been satisfied and will no longer be collected. Consequently, the total reporting and record keeping requirements for the submission of the ''Initial 5-Year Plan of Work'' is estimated to average 0 hours per response.

**II. Annual Update to 5-Year Plan of Work**

*Estimate of the Burden:* The total reporting and record keeping requirements for the submission of the ''Annual Update to the 5-Year Plan of Work'' is estimated to average 64 hours per response. There are five components of this ''5-Year Plan of Work'': ''Planned Programs,'' ''Stakeholder Input Process,'' ''Program Review Process,'' ''Multi state Activities,'' and ''Integrated Activities.''

*Estimated Number of Respondents:* 75.

*Estimated Number of Responses:* 150.

*Estimated Total Annual Burden on Respondents:* 9,600 hours.

*Frequency of Responses:* Annually.

**III. Annual Report of Accomplishments and Results**

*Estimate of the Burden:* The total annual reporting and record keeping requirements of the ''Annual Report of Accomplishments and Results'' is estimated to average 260 hours per response.

*Estimated Number of Respondents:* 75.

*Estimated Number of Responses:* 150.

*Estimated Total Annual Burden on Respondents:* 39,000 hours.

*Frequency of Responses:* Annually.

*Comments:* Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request to OMB for approval. All comments will become a matter of public record.

Done in Washington, DC, this 10th day of July, 2015.

**Ann Bartuska,**

*Deputy Under Secretary, Research, Education, and Economics.*

[FR Doc. 2015–18058 Filed 7–23–15; 8:45 am]

**BILLING CODE 3410–22–P**

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Information Collection Activity; Comment Request

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

**DATES:** Comments on this notice must be received by September 22, 2015.

**FOR FURTHER INFORMATION CONTACT:** Thomas P. Dickson, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave. SW., STOP 1522, Room 5181, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. FAX: (202) 720–4120.

*Email: Thomas.Dickson@wdc.usda.gov.*

**SUPPLEMENTARY INFORMATION:** The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for reinstatement.

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 will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Thomas P. Dickson, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave. SW., Washington, DC 20250–1522. FAX: (202) 720–8435.

*Title:* Lien Accommodations and Subordinations, 7 CFR 1717, Subparts R & S.

*OMB Control Number:* 0572–0100.

*Type of Request:* Extension of a currently approved collection.

*Abstract:* The RE Act of 1936, as amended (7 U.S.C. 901 *et seq.*), authorizes and empowers the Administrator of RUS to make loans in the several United States and Territories of the United States for rural Electrification and the furnishing of electric energy to persons in rural areas who are not receiving central station service. The RE Act also authorizes and empowers the Administrator of RUS to provide financial assistance to borrowers for purposes provided in the RE Act by accommodating or subordinating loans made by the national Rural Utilities Cooperative Finance Corporation, the Federal Financing Bank, and other lending agencies. Title 7 CFR part 1717, subparts R & S sets forth policy and procedures to facilitate and support borrowers' efforts to obtain private sector financing of their capital needs, to allow borrowers greater flexibility in the management of their business affairs without compromising RUS loan security, and to reduce the cost to borrowers, in terms of time, expenses and paperwork, of obtaining lien accommodations and subordinations. The information required to be submitted is limited to necessary information that would allow the Agency to make a determination on the borrower's request to subordinate and accommodate their lien with other lenders.

*Estimate of Burden:* Public Reporting burden for this collection of information is estimated to average 19 hours per response.

*Respondents:* Not-for-profit institutions; Business or other for profit.

*Estimated Number of Respondents:* 21.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 290 hours.

Copies of this information collection can be obtained from MaryPat Daskal, Program Development and Regulatory Analysis, at (202) 720–7853. FAX: (202) 720–8435.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: July 16, 2015.

**Brandon McBride,**

*Administrator, Rural Utilities Service.*

[FR Doc. 2015–18111 Filed 7–23–15; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–970]**

### Multilayered Wood Flooring From the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Determination and Amended Final Determination of the Antidumping Duty Investigation

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

**SUMMARY:** On July 6, 2015, the United States Court of International Trade (''CIT'') issued *Changzhou Hawd Flooring Co.* v. *United States,* Ct. No. 12–20, Slip Op. 15–71 (CIT July 6, 2015), affirming the Department of Commerce's (the ''Department'') amended final determination of sales at less than fair value in the antidumping duty investigation on multilayered wood flooring from the People's Republic of China (*''Amended Final*

*Determination''*),[1] as modified by the Department's fourth remand redetermination pursuant to court order.

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (''CAFC'') in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*''Timken''*), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*''Diamond Sawblades''*), the Department is notifying the public that the Court's final judgment in this case is not in harmony with the *Amended Final Determination,* and that the Department is revising its *Amended Final Determination.*

**DATES:** *Effective Date:* July 16, 2015.

**FOR FURTHER INFORMATION CONTACT:** Robert Galantucci and Brandon Farlander, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2923 and (202) 482–0182, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

The litigation in this case relates to the Department's final determination in the antidumping duty investigation covering multilayered wood flooring from the People's Republic of China (''PRC''),[2] which was later amended.[3] Pursuant to a series of remand orders issued by the CIT[4] that resulted in four remand redeterminations,[5] the Department: (1) Revised its calculation of dumping margins for two mandatory respondents and the PRC-wide entity; and (2) the Department made certain findings regarding the dumping margins for eight separate rate respondents that were plaintiffs in the litigation, as summarized below.[6]

Regarding the dumping margins for two mandatory respondents in the investigation, on April 23, 2014, the CIT granted a consent motion for severance and entered final judgment in *Baroque Timber Industries (Zhongshan) Company, Limited* v. *United States* and *Zhejiang Layo Wood Industry Co., Ltd.* v. *United States* with respect to Layo Wood and the Samling Group.[7] The Department previously gave notice of this decision, as well as the amended dumping margins of zero percent calculated for Layo Wood and Samling Group, in accordance with the notice requirements of *Timken.*[8] Further, because we changed the surrogate values in our first remand redetermination for mandatory respondents Layo Wood and Samling Group, the highest calculated transaction-specific rate on the record became 25.62 percent, and we assigned that rate to the PRC-wide entity.[9]

Regarding the dumping margins for the eight separate rate respondents that were plaintiffs to this litigation, the CIT issued a series of a remand orders before affirming the Department's fourth remand redetermination.[10] As a result of the Department's second redetermination on remand, the Department assigned to seven of the eight separate rate respondents above *de minimis* antidumping duty rates for the investigation, but found that it was unnecessary to calculate an exact rate for those respondents because any rate assigned for the investigation stage of the proceeding would be superseded by the rates assigned to those companies in the first administrative review and would not be used for liquidation purposes. The CIT affirmed this portion of the Department's remand redetermination on January 23, 2015.[11] However, the eighth separate rate respondent, Changzhou Hawd Flooring Co. (''Changzhou Hawd''), did not have any shipments of subject merchandise during the first period of review and the Department did not assign Changzhou Hawd a separate rate from the first administrative review. Thus, in a fourth remand redetermination, the Department assigned Changzhou Hawd a margin of 3.30 percent (Changzhou Hawd's original rate from the Department's *Amended Final Determination* in the investigation),[12] effective for cash deposit purposes only, pending final establishment in the second administrative review of Changzhou Hawd's new cash deposit rate and assessment rate. On July 6, 2015, the CIT found that the Department's methodology in applying this rate was supported by substantial evidence and in accordance with law.[13] Subsequent to the CIT's entry of judgment, the Department published the final results of the second administrative review, which have superseded the cash deposit rate of 3.30 percent assigned to Changzhou Hawd for purposes of this litigation.[14]

## Timken Notice

In its decision in *Timken,* as clarified by *Diamond Sawblades,* the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (''the Act''), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend

[1] *See Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 76 FR 64318 (October 18, 2011) (*''Final Determination''*); Multilayered Wood Flooring From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 76 FR 76690 (December 8, 2011) (*''Amended Final Determination''*).

[2] *See Final Determination,* 76 FR at 64318.

[3] *See Amended Final Determination,* 76 FR at 76690.

[4] *See Baroque Timber Indus. (Zhongshan) Co., Ltd.* v. *United States,* 925 F. Supp. 2d 1332 (CIT July 31, 2013); *Baroque Timber Indus. (Zhongshan) Co., Ltd.* v. *United States,* 971 F. Supp. 2d 1333 (CIT March 31, 2014); *Changzhou Hawd Flooring Co.* v. *United States,* 44 F. Supp. 3d 1376 (CIT January 23, 2015).

[5] *See* Final Results of Redetermination Pursuant to Court Order, Court No. 12–00007, dated November 14, 2013; Final Results of Redetermination Pursuant to Court Order, Court No. 12–00007, dated May 29, 2014; Final Results of Redetermination Pursuant to Court Order, Court No. 12–00020, dated October 14, 2014; and Final Results of Redetermination Pursuant to Court Order, Court No. 12–00020, dated March 24, 2015.

[6] The eight separate rate respondents were cooperative respondents, but were not individually investigated in the antidumping duty investigation.

[7] The full names of those companies are Zhejiang Layo Wood Industry Co. Ltd. (''Layo Wood'') and Baroque Timber Industries (Zhongshan) Co., Ltd., Riverside Plywood Corporation, Samling Elegant Living Trading (Labuan) Limited, Samling Global USA, Inc., Samling Riverside Co., Ltd., and Suzhou Times Flooring Co., Ltd. (collectively, ''the Samling Group'').

[8] *See Multilayered Wood Flooring from the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Determination and Amended Final Determination of the Antidumping Duty Investigation,* 79 FR 25109 (May 2, 2014).

[9] *See* Final Results of Redetermination Pursuant to Court Order, Court No. 12–00007, dated November 14, 2013, at 27.

[10] *See Changzhou Hawd Flooring Co.* v. *United States,* Ct. No. 12–20, Slip Op. 15–71 (CIT July 6, 2015).

[11] *See Changzhou Hawd Flooring Co.* v. *United States,* 44 F. Supp. 3d 1376, 1387–88 (CIT January 23, 2015). The seven respondents to which the Department's determination applied were: Fine Furniture (Shanghai) Limited, Armstrong Wood Products (Kunshan) Co., Ltd., Dunhua City; Jisen Wood Industry Co., Ltd., Dunhua City Dexin Wood Industry Co., Ltd., Dalian Huilong Wooden Products Co., Ltd., Kunshan Yingyi-Nature Wood Industry Co., Ltd., and Karly Wood Product Limited.

[12] This cash deposit rate of 3.30 percent was the original rate applied to Changzhou Hawd in the *Amended Final Determination.* The rate was calculated by taking the simple average of the two non-*de minimis* rates calculated for Layo Wood and the Samling Group in the *Amended Final Determination.* Although Layo Wood's and the Samling Group's rates were subsequently changed on remand (thus altering the basis for Changzhou Hawd's 3.30 percent rate), the Department provided evidence that the rate was ''reasonably reflective'' of Changzhou Hawd's ''potential dumping margin,'' and the CIT sustained this determination. *See Changzhou Hawd,* Slip Op. 15–71 (CIT July 6, 2015), at 11.

[13] *See Changzhou Hawd,* Slip Op. 15–71 (CIT July 6, 2015), at 3–4.

[14] *See Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Results of New Shipper Review; 2012–2013,* 80 FR 41476 (July 15, 2015).

liquidation of entries pending a ''conclusive'' court decision.

The CIT's July 6, 2015 final judgment affirming the Department's redetermination constitutes a final decision of the Court that is not in harmony with the original *Amended Final Determination.* This notice is published in fulfillment of the publication requirements of *Timken.*

**Amended Final Determination**

There is now a final court decision with respect to the *Amended Final Determination* as it concerns the eight separate rate respondents and the PRC-wide entity in this matter. For the eight separate rate respondents, as of the date of this notice, all eight companies have received updated cash deposit rates, and their rates will not change as a result of this litigation. However, for the PRC-wide entity, the Department is amending the *Amended Final Determination* and the revised cash deposit rate for this entity is as follows:

| Exporter | Cash deposit rate (percent) |
|---|---|
| PRC-wide entity ..... | 25.62 |

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: July 20, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2015–18214 Filed 7–23–15; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Idaho National Laboratory, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscope

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

*Docket Number:* 15–005. *Applicant:* Idaho National Laboratory, Idaho Falls, ID 83415. *Instrument:* Electron Microscope. *Manufacturer:* FEI, Czech Republic. *Intended Use:* See notice at 80 FR 26896, May 11, 2015.

*Docket Number:* 15–010. *Applicant:* Howard Hughes Medical Institute, Chevy Chase, MD 20815. *Instrument:* Electron Microscope. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 80 FR 26896, May 11, 2015.

*Docket Number:* 15–011. *Applicant:* University of South Alabama, Mobile, AL 36688. *Instrument:* Electron Microscope. *Manufacturer:* FEI Czech Republic s.r.o., Czech Republic. *Intended Use:* See notice at 80 FR 26896, May 11, 2015.

*Docket Number:* 15–012. *Applicant:* Albert Einstein College of Medicine of Yeshiva University, Bronx, NY 10461. *Instrument:* Electron Microscope. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 80 FR 26896, May 11, 2015.

*Docket Number:* 15–014. *Applicant:* Johns Hopkins University, Baltimore, MD 21218. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* See notice at 80 FR 26896, May 11, 2015.

*Docket Number:* 15–016. *Applicant:* Rutgers University, New Brunswick, NJ 08901. *Instrument:* LN Microscope. *Manufacturer:* Luigs Neumann, Germany. *Intended Use:* See notice at 80 FR 26896, May 1, 2015.

*Docket Number:* 15–017. *Applicant:* City University of New York, New York, NY 10017. *Instrument:* Electron Microscope.

*Manufacturer:* FEI Company, Japan. *Intended Use:* See notice at 80 FR 26896, May 11, 2015.

*Docket Number:* 15–018. *Applicant:* City University of New York, New York, NY 10017. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, Japan. *Intended Use:* See notice at 80 FR 26896, May 11, 2015.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Dated: July 20, 2015.

**Gregory W. Campbell,**

*Director, Subsidies Enforcement Office, Enforcement and Compliance.*

[FR Doc. 2015–18212 Filed 7–23–15; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–933]**

### Frontseating Service Valves From the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2013–2014

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

**SUMMARY:** On April 8, 2015, the Department of Commerce (''the Department'') published the preliminary results of the administrative review of the antidumping duty on frontseating service valves from the People's Republic of China (''PRC'').[1] The period of review is April 1, 2013, through April 28, 2014. The review covers one exporter of the subject merchandise, Zhejiang Sanhua Co., Ltd. (''Sanhua''). We find that Sanhua made no sales in the United States at prices below normal value. None of the interested parties submitted case or rebuttal briefs. Therefore, we made no changes to our margin calculations for Sanhua. The final weighted-average dumping margin for this review is listed below in the section entitled ''Final Results of the Review.''

**DATES:** Effective date: July 24, 2015.

**FOR FURTHER INFORMATION CONTACT:** Laurel LaCivita, AD/CVD Operations, Office III, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4243.

**Background**

On April 8, 2015, the Department published the preliminary results of the subject administrative review of the order.[2] At that time, we invited interested parties to comment on our preliminary results.

Subsequent to the *Preliminary Results,* Sanhua placed comments on the record concerning the *Preliminary Results*[3] in lieu of a case brief. No other party provided comments on our *Preliminary Results.*

[1] *See Frontseating Service Valves from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 18811 (April 8, 2015) (''*Preliminary Results*'').

[2] *Id.*

[3] *See* letter from Sanhua, ''Frontseating Service Valves from the People's Republic of China; A–570–933; Comments by Zhejiang Sanhua Co., Ltd. Regarding the Preliminary Results,'' dated May 8, 2015 (''Sanhua's Comment Letter'').

**Scope of the Order**

The merchandise covered by this order is frontseating service valves, assembled or unassembled, complete or incomplete, and certain parts thereof. Frontseating service valves contain a sealing surface on the front side of the valve stem that allows the indoor unit or outdoor unit to be isolated from the refrigerant stream when the air conditioning or refrigeration unit is being serviced. Frontseating service valves rely on an elastomer seal when the stem cap is removed for servicing and the stem cap metal to metal seat to create this seal to the atmosphere during normal operation.

For purposes of the scope, the term ''unassembled'' frontseating service valve means a brazed subassembly requiring any one or more of the following processes: The insertion of a valve core pin, the insertion of a valve stem and/or O ring, the application or installation of a stem cap, charge port cap or tube dust cap. The term ''complete'' frontseating service valve means a product sold ready for installation into an air conditioning or refrigeration unit. The term ''incomplete'' frontseating service valve means a product that when sold is in multiple pieces, sections, subassemblies or components and is incapable of being installed into an air conditioning or refrigeration unit as a single, unified valve without further assembly.

The major parts or components of frontseating service valves intended to be covered by the scope under the term ''certain parts thereof'' are any brazed subassembly consisting of any two or more of the following components: A valve body, field connection tube, factory connection tube or valve charge port. The valve body is a rectangular block, or brass forging, machined to be hollow in the interior, with a generally square shaped seat (bottom of body). The field connection tube and factory connection tube consist of copper or other metallic tubing, cut to length, shaped and brazed to the valve body in order to create two ports, the factory connection tube and the field connection tube, each on opposite sides of the valve assembly body. The valve charge port is a service port via which a hose connection can be used to charge or evacuate the refrigerant medium or to monitor the system pressure for diagnostic purposes.

The scope includes frontseating service valves of any size, configuration, material composition or connection type. Frontseating service valves are classified under subheading 8481.80.1095, and also have been classified under subheading 8415.90.80.85, of the Harmonized Tariff Schedule of the United States (''HTSUS''). It is possible for frontseating service valves to be manufactured out of primary materials other than copper and brass, in which case they would be classified under HTSUS subheadings 8481.80.3040, 8481.80.3090, or 8481.80.5090. In addition, if unassembled or incomplete frontseating service valves are imported, the various parts or components would be classified under HTSUS subheadings 8481.90.1000, 8481.90.3000, or 8481.90.5000. The HTSUS subheadings are provided for convenience and customs purposes, but the written description of the scope of this proceeding is dispositive.

**Analysis of Comments Received**

Sanhua noted that the draft liquidation instructions issued subsequent to the *Preliminary Results* incorrectly identified the importer of record,[4] and requested that the Department correct its liquidation instructions accordingly.[5] We agree, and we will revise the final liquidation instructions to include the correct importer name.

**Final Results of the Review**

We determine that the following weighted-average dumping margin exists for the period April 1, 2013, through April 28, 2014:

| Exporter | Weighted-average margin (percent) |
|---|---|
| Zhejiang Sanhua Co., Ltd. ..... | 0.00 |

**Assessment Rates**

The Department shall determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b).[6] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review for each individual assessment rate calculated in the final results of this review that is above *de minimis* (*i.e.,* at or above 0.50 percent). Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.,* less than 0.50 percent).

Consistent with its assessment practice in non-market economy (''NME'') antidumping cases,[7] for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate. For a full discussion of this practice, *see NME Antidumping Proceedings.*

**Cash Deposit Requirements**

Because the antidumping duty order on frontseating service valves from the PRC has been revoked,[8] the Department will not issue cash deposit instructions at the conclusion of this administrative review.

**Notification to Importers**

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Notification to Interested Parties**

In accordance with 19 CFR 351.305(a)(3), this notice serves as a reminder to parties subject to

[4] *Id.,* at 2.

[5] *Id.,* at 5.

[6] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8103 (February 14, 2012).

[7] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) (''*NME Antidumping Proceedings*'').

[8] *See Frontseating Service Valves from the People's Republic of China: Final Results of Sunset Review and Revocation of Antidumping Duty Order,* 79 FR 27573 (May 14, 2014).

administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under the APO. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

These final results of review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 14, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2015–17838 Filed 7–23–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XE055**

### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Two Pier Maintenance Projects

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

**ACTION:** Notice; two proposed incidental harassment authorizations; request for comments.

**SUMMARY:** NMFS has received two requests from the U.S. Navy (Navy) for authorization to take marine mammals incidental to construction activities as part of two separate pier maintenance projects at Naval Base Kitsap Bremerton. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue incidental harassment authorizations (IHA) to the Navy to incidentally take marine mammals, by Level B Harassment only, during the specified activity.

**DATES:** Comments and information must be received no later than August 24, 2015.

**ADDRESSES:** Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Laws@noaa.gov.*

*Instructions:* NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted to the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:**

#### Availability

An electronic copy of the Navy's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

#### National Environmental Policy Act (NEPA)

*Pier 6 Maintenance Project*

The Navy prepared an Environmental Assessment (EA; 2013) for this project. We subsequently adopted the EA and signed our own Finding of No Significant Impact (FONSI) prior to issuing the first IHA for this project, in accordance with NEPA and the regulations published by the Council on Environmental Quality. Information in the Navy's application, the Navy's EA, and this notice collectively provide the environmental information related to proposed issuance of this IHA for public review and comment. All documents are available at the aforementioned Web site. We will review all comments submitted in response to this notice as we complete the NEPA process, including a decision of whether to reaffirm the existing FONSI, prior to a final decision on the incidental take authorization request.

*Pier 4 Maintenance Project*

The Navy prepared an EA to consider the direct, indirect and cumulative effects to the human environment resulting from the maintenance project. NMFS has reviewed the EA and believes it appropriate to adopt the EA in order to assess the impacts to the human environment of issuance of an IHA to the Navy and subsequently sign our own FONSI. Information in the Navy's application, the Navy's EA, and this notice collectively provide the environmental information related to proposed issuance of this IHA for public review and comment.

For both proposed IHAs, all documents are available at the aforementioned Web site. We will review all comments submitted in response to this notice as we complete the NEPA processes, including a final decision of whether to reaffirm the existing FONSI or adopt the Navy's EA and sign a FONSI (for the Pier 6 and Pier 4 IHAs, respectively), prior to a final decision on the incidental take authorization requests.

#### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified area, the incidental, but not intentional, taking of small numbers of marine mammals, providing that certain findings are made and the necessary prescriptions are established.

The incidental taking of small numbers of marine mammals may be allowed only if NMFS (through authority delegated by the Secretary) finds that the total taking by the specified activity during the specified time period will (i) have a negligible impact on the species or stock(s) and (ii) not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking must be set forth, either in specific regulations or in an authorization.

The allowance of such incidental taking under section 101(a)(5)(A), by harassment, serious injury, death, or a combination thereof, requires that regulations be established. Subsequently, a Letter of Authorization may be issued pursuant to the prescriptions established in such regulations, providing that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations. Under section 101(a)(5)(D), NMFS may authorize such incidental taking by harassment only, for periods of not more

than one year, pursuant to requirements and conditions contained within an IHA. The establishment of prescriptions through either specific regulations or an authorization requires notice and opportunity for public comment.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

**Summary of Requests**

On April 14, 2015, we received two requests from the Navy for authorization to take marine mammals incidental to pile driving and removal associated with the Pier 6 and Pier 4 maintenance projects at Naval Base Kitsap Bremerton, WA (NBKB). Hereafter, it may be assumed that use of the generic term ''pile driving'' refers to both pile driving and removal unless referring specifically to pile installation. The Navy submitted revised versions of the requests on May 20 and June 12, 2015, the latter of which we deemed adequate and complete. This is expected to be the third and final year of in-water work associated with the Pier 6 project. The Pier 4 project is expected to require only one year to complete in-water work. Each section of this notice is either separated into project-specific subsections or indicates whether the discussion to follow applies to both projects or applies to both projects except where indicated.

The use of both vibratory and impact pile driving is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals. Species with the expected potential to be present during all or a portion of the in-water work windows include the Steller sea lion (*Eumetopias jubatus monteriensis*), California sea lion (*Zalophus californianus*), and harbor seal (*Phoca vitulina richardii*). All of these species may be present during the proposed periods of validity for these IHAs.

For Pier 6, this would be the third such IHA, if issued, following the IHAs issued effective from December 1, 2013, through March 1, 2014 (78 FR 69825) and from October 1, 2014, through March 1, 2015 (79 FR 59238). Monitoring reports associated with these previous IHAs are available on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* and provide environmental information related to proposed issuance of these IHAs for public review and comment.

**Description of the Specified Activities**

In this section, we provide a mixed discussion with project-specific portions indicated.

*Overview*

NBKB serves as the homeport for a nuclear aircraft carrier and other Navy vessels and as a shipyard capable of overhauling and repairing all types and sizes of ships. Other significant capabilities include alteration, construction, deactivation, and dry-docking of naval vessels. Both Pier 6 and Pier 4, originally constructed in 1926 and 1922, respectively, require substantial maintenance to maintain readiness. Over the course of the entire Pier 6 project, the Navy will remove 400 deteriorating creosoted timber (380) and steel (20) fender piles and replace them with 330 new pre-stressed concrete fender piles. For Pier 4, the Navy plans to remove eighty deteriorating creosoted timber fender piles and replace them with eighty new steel fender piles.

*Dates and Duration*

For both projects, in-water work would occur only during approved work windows established to protect bull trout and migrating salmon; however, the two projects would operate under different requirements pursuant to separate agreements with the U.S. Fish and Wildlife Service (FWS). Under a 2013 agreement with FWS, in-water work associated with the Pier 6 project may be conducted from June 15 to March 1 of any year. In 2015, FWS requested that Navy operate under a more restrictive work window related to bull trout (*Salvelinus confluentus*) occurrence in the project area, and in-water work associated with the Pier 4 project may occur from July 16 to February 15.

*Pier 6*—The total three-year project is expected (on the basis of assumed production rates) to require fifty days of vibratory pile removal and 135 days of impact pile driving (total of 185 days of in-water pile driving work), although it appears that better-than-expected production rates will result in a reduced number of total days. Under the proposed action—which includes only the portion of the project that would be completed under this proposed IHA—a maximum of sixty pile driving days would occur. The Navy proposes to conduct fifteen days of vibratory pile removal and 45 days of pile installation with an impact hammer. Either type of pile driving may occur on any day during the proposed period of validity. The proposed Pier 6 IHA covers only the third year (in-water work window) of the project, and would be valid from September 1, 2015, through March 1, 2016.

*Pier 4*—The Navy expects to require thirty days of total work, including approximately ten days of vibratory pile removal and twenty days of vibratory pile driving. Either type of pile driving may occur on any day during the proposed period of validity (within approved work window). The proposed Pier 4 IHA would be valid for one year, from December 1, 2015, through November 30, 2016. The Navy requested a one-year period of validity for this proposed IHA due to uncertainty regarding the project start date. However, the proposed in-water work would occur within only a single work window; *i.e.,* would occur from December 1, 2015, through February 15, 2016, or would occur from July 16, 2016, through November 30, 2016.

*Specific Geographic Region*

NBKB is located on the north side of Sinclair Inlet in Puget Sound (see Figures 1–1 and 2–1 of the Navy's applications). Sinclair Inlet, an estuary of Puget Sound extending 3.5 miles southwesterly from its connection with the Port Washington Narrows, connects to the main basin of Puget Sound through Port Washington Narrows and then Agate Pass to the north or Rich Passage to the east. Sinclair Inlet has been significantly modified by development activities. Fill associated with transportation, commercial, and residential development of NBKB, the City of Bremerton, and the local ports of Bremerton and Port Orchard has resulted in significant changes to the shoreline. The area surrounding both Pier 6 and Pier 4 is industrialized, armored and adjacent to railroads and highways. Sinclair Inlet is also the receiving body for a wastewater treatment plant located just west of NBKB. Sinclair Inlet is relatively shallow and does not flush fully despite freshwater stream inputs. The action area is essentially the same for both projects, and is referred to generally as

the project area hereafter. Pier 4 and Pier 6 are co-located approximately 300 m apart on the NBKB waterfront. Please see Figure 4–1 of the Navy's applications.

*Detailed Description of Activities*

*Pier 6*—The Navy plans to remove deteriorated timber and steel fender piles at Pier 6 and replace them with prestressed concrete piles. The entire project calls for the removal of 380 12-in diameter creosoted timber piles and twenty 12-in steel pipe piles. These would be replaced with 240 18-in square concrete piles and ninety 24-in square concrete piles. It is not possible to specify accurately the number of piles that might be installed or removed in any given work window, due to various delays that may be expected during construction work and uncertainty inherent to estimating production rates. The Navy assumes a notional production rate of sixteen piles per day (removal) and four piles per day (installation) in determining the number of days of pile driving expected, and scheduling (as well as exposure analysis) is based on this assumption.

All piles are planned for removal via vibratory driver. The driver is suspended from a barge-mounted crane and positioned on top of a pile. Vibration from the activated driver loosens the pile from the substrate. Once the pile is released, the crane raises the driver and pulls the pile from the sediment. Vibratory extraction is expected to take approximately 5–30 minutes per pile. If piles break during removal, the remaining portion may be removed via direct pull or with a clamshell bucket. Replacement piles would be installed via impact driver and would require approximately 15–60 minutes of driving time per pile, depending on subsurface conditions. Impact driving or vibratory removal could occur on any work day during the period of the proposed IHA.

*Description of Work Accomplished, Pier 6*—During the first in-water work season for the Pier 6 project, the contractor completed installation of two concrete piles, on two separate days. During the second in-water work season, 282 piles were removed by vibratory extraction or direct pull. The contractor found that the direct pull method was very effective in pile removal and approximately fifty percent of the piles that were removed during Year 2, including three steel piles, were pulled without the use of the vibratory driver. A total of 168 new concrete piles were installed using an impact hammer. Therefore, approximately 118 piles remain to be removed and 160 to be installed. The Navy's monitoring reports are available on the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

*Pier 4*—The Navy plans to remove eighty deteriorated 14-in timber fender piles at Pier 4 and replace them with eighty new 12 to 14-in steel fender piles. Here, due to slightly different geotechnical conditions, the Navy assumes a notional production rate of eight piles per day (removal) and four piles per day (installation) in determining the number of days of pile driving expected, and scheduling (as well as exposure analysis) is based on this assumption. All pile driving and removal would be accomplished with a vibratory driver (except where removal is accomplished by direct pull or other mechanical means, *e.g.,* clamshell, cutting). Expected per-pile time for removal and installation is similar to that described for Pier 6.

Neither project would employ more than one pile driving rig. Therefore, there would not be concurrent pile driving specific to either project. In addition, due to scheduling differences, it is unlikely that in-water work associated with the two projects would occur concurrently, meaning that it is highly unlikely that there would be more than one pile driving rig in operation at NBKB at any time even considering both projects. Pile driving would occur only during daylight hours.

**Description of Marine Mammals in the Area of the Specified Activity**

There are five marine mammal species with records of occurrence in waters of Sinclair Inlet in the action area. These are the California sea lion, harbor seal, Steller sea lion, gray whale (*Eschrichtius robustus*), and killer whale (*Orcinus orca*). The harbor seal is a year-round resident of Washington inland waters, including Puget Sound, while the sea lions are absent for portions of the summer. For the killer whale, both transient (west coast stock) and resident (southern stock) animals have occurred in the area. However, southern resident animals are known to have occurred only once, with the last confirmed sighting from 1997 in Dyes Inlet. A group of 19 whales from the L–25 subpod entered and stayed in Dyes Inlet, which connects to Sinclair Inlet northeast of NBKB, for thirty days. Dyes Inlet may be reached only by traversing from Sinclair Inlet through the Port Washington Narrows, a narrow connecting body that is crossed by two bridges, and it was speculated at the time that the whales' long stay was the result of a reluctance to traverse back through the Narrows and under the two bridges. There is one other unconfirmed report of a single southern resident animal occurring in the project area, in January 2009. Of these stocks, the southern resident killer whale is listed (as endangered) under the Endangered Species Act (ESA).

An additional seven species have confirmed occurrence in Puget Sound, but are considered rare to extralimital in Sinclair Inlet and the surrounding waters. These species—the humpback whale (*Megaptera novaeangliae*), minke whale (*Balaenoptera acutorostrata scammoni*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), harbor porpoise (*Phocoena phocoena vomerina*), Dall's porpoise (*Phocoenoides dalli dalli*), and northern elephant seal (*Mirounga angustirostris*)—along with the southern resident killer whale, are considered extremely unlikely to occur in the action area or to be affected by the specified activities, and are not considered further in this document. A review of sightings records available from the Orca Network (*www.orcanetwork.org;* accessed July 13, 2015) confirms that there are no recorded observations of these species in the action area (with the exception of the southern resident sightings described above).

We have reviewed the Navy's detailed species descriptions, including life history information, for accuracy and completeness and refer the reader to sections 3 and 4 of the Navy's application instead of reprinting the information here. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals*) for generalized species accounts and to the Navy's Marine Resource Assessment for the Pacific Northwest, which documents and describes the marine resources that occur in Navy operating areas of the Pacific Northwest, including Puget Sound (DoN, 2006). The document is publicly available at *www.navfac.navy.mil/products_and_services/ev/products_and_services/marine_resources/marine_resource_assessments.html* (accessed July 13, 2015).

Table 1 lists the marine mammal species with expected potential for occurrence in the vicinity of NBKB during the project timeframe and summarizes key information regarding stock status and abundance. Taxonomically, we follow Committee on Taxonomy (2014). Please see NMFS' Stock Assessment Reports (SAR), available at *www.nmfs.noaa.gov/pr/sars,* for more detailed accounts of these stocks' status and abundance. The harbor seal, California sea lion, and gray

whale are assessed in the Pacific SARs (*e.g.,* Carretta *et al.,* 2014), while the Steller sea lion and transient killer whale are considered in the Alaska SARs (*e.g.,* Allen and Angliss, 2014).

In the species accounts provided here, we offer a brief introduction to the species and relevant stock as well as available information regarding population trends and threats, and describe any information regarding local occurrence.

TABLE 1—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF NBKB

| Species | Stock | ESA/MMPA status; Strategic (Y/N) [1] | Stock abundance (CV, $N_{min}$, most recent abundance survey) [2] | PBR [3] | Annual M/SI [4] | Relative occurrence in Sinclair Inlet; season of occurrence |
|---|---|---|---|---|---|---|
| Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales) Family Eschrichtiidae | | | | | | |
| Gray whale | Eastern North Pacific [5]. | —; N | 20,990 (0.05; 20,125; 2010–11) | 624 | [10] 132 | Rare; year-round. |
| Superfamily Odontoceti (toothed whales, dolphins, and porpoises) Family Delphinidae | | | | | | |
| Killer whale | West coast transient [6]. | —; N | 243 (n/a; 2009) | 2.4 | 0 | Rare; year-round. |
| Order Carnivora—Superfamily Pinnipedia Family Otariidae (eared seals and sea lions) | | | | | | |
| California sea lion | U.S. | —; N | 296,750 (n/a; 153,337; 2011) | 9,200 | 389 | Common; year-round (excluding July). |
| Steller sea lion | Eastern U.S.[5] | —; N [8] | 60,131–74,448 (n/a; 36,551; 2008–13)[9] | 1,645 | 92.3 | Occasional/seasonal; Oct-May. |
| Family Phocidae (earless seals) | | | | | | |
| Harbor seal | Washington northern inland waters [7]. | —; N | 11,036 (0.15; 7,213; 1999) | undetermined | >2.8 | Common; year-round. |

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] CV is coefficient of variation; $N_{min}$ is the minimum estimate of stock abundance. In some cases, CV is not applicable. For killer whales, the abundance values represent direct counts of individually identifiable animals; therefore there is only a single abundance estimate with no associated CV. For certain stocks of pinnipeds, abundance estimates are based upon observations of animals (often pups) ashore multiplied by some correction factor derived from knowledge of the species (or similar species) life history to arrive at a best abundance estimate; therefore, there is no associated CV. In these cases, the minimum abundance may represent actual counts of all animals ashore. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate.

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

[4] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value. All values presented here are from the draft 2014 SARs (*www.nmfs.noaa.gov/pr/sars/draft.htm*).

[5] Abundance estimates (and resulting PBR values) for these stocks are new values presented in the draft 2014 SARs. This information was made available for public comment and is currently under review and therefore may be revised prior to finalizing the 2014 SARs. However, we consider this information to be the best available for use in this document.

[6] The abundance estimate for this stock includes only animals from the ''inner coast'' population occurring in inside waters of southeastern Alaska, British Columbia, and Washington—excluding animals from the ''outer coast'' subpopulation, including animals from California—and therefore should be considered a minimum count. For comparison, the previous abundance estimate for this stock, including counts of animals from California that are now considered outdated, was 354.

[7] Abundance estimates for these stocks are greater than eight years old and are therefore not considered current. PBR is considered undetermined for these stocks, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates and PBR values, as these represent the best available information for use in this document.

[8] The eastern distinct population segment of the Steller sea lion, previously listed under the ESA as threatened, was delisted on December 4, 2013 (78 FR 66140; November 4, 2013).

[9] Best abundance is calculated as the product of pup counts and a factor based on the birth rate, sex and age structure, and growth rate of the population. A range is presented because the extrapolation factor varies depending on the vital rate parameter resulting in the growth rate (*i.e.,* high fecundity or low juvenile mortality).

[10] Includes annual Russian subsistence harvest of 127 whales.

*Steller Sea Lion*

Steller sea lions are distributed mainly around the coasts to the outer continental shelf along the North Pacific rim from northern Hokkaido, Japan through the Kuril Islands and Okhotsk Sea, Aleutian Islands and central Bering Sea, southern coast of Alaska and south to California (Loughlin *et al.,* 1984). Based on distribution, population response, and phenotypic and genotypic data, two separate stocks of Steller sea

lions are recognized within U. S. waters, with the population divided into western and eastern distinct population segments (DPS) at 144°W (Cape Suckling, Alaska) (Loughlin, 1997). The eastern DPS extends from California to Alaska, including the Gulf of Alaska, and is the only stock that may occur in Sinclair Inlet.

According to NMFS' recent status review (NMFS, 2013), the best available information indicates that the overall abundance of eastern DPS Steller sea lions has increased for a sustained period of at least three decades while pup production has also increased significantly, especially since the mid-1990s. Johnson and Gelatt (2012) provided an analysis of growth trends of the entire eastern DPS from 1979–2010, indicating that the stock increased during this period at an annual rate of 4.2 percent (90% CI 3.7–4.6). Most of the overall increase occurred in the northern portion of the range (southeast Alaska and British Columbia), but pup counts in Oregon and California also increased significantly (*e.g.,* Merrick *et al.,* 1992; Sease *et al.,* 2001; Olesiuk and Trites, 2003; Fritz *et al.* 2008; Olesiuk, 2008; NMFS, 2008, 2013). In Washington, Pitcher *et al.* (2007) reported that Steller sea lions, presumably immature animals and non-breeding adults, regularly used four haul-outs, including two ''major'' haul-outs (>50 animals). The same study reported that the numbers of sea lions counted between 1989 and 2002 on Washington haul-outs increased significantly (average annual rate of 9.2 percent) (Pitcher *et al.,* 2007). Although the stock size has increased, its status relative to OSP size is unknown. However, the consistent long-term estimated annual rate of increase may indicate that the stock is reaching OSP size (Allen and Angliss, 2014).

The eastern stock breeds in rookeries located in southeast Alaska, British Columbia, Oregon, and California. There are no known breeding rookeries in Washington (Allen and Angliss, 2014) but eastern stock Steller sea lions are present year-round along the outer coast of Washington, including immature animals or non-breeding adults of both sexes. In 2011, the minimum count for Steller sea lions in Washington was 1,749 (Allen and Angliss, 2014), up from 516 in 2001 (Pitcher *et al.,* 2007). In Washington, Steller sea lions primarily occur at haul-out sites along the outer coast from the Columbia River to Cape Flattery and in inland waters sites along the Vancouver Island coastline of the Strait of Juan de Fuca (Jeffries *et al.,* 2000; Olesiuk and Trites, 2003; Olesiuk, 2008). Numbers vary seasonally in Washington waters with peak numbers present during the fall and winter months (Jeffries *et al.,* 2000). More recently, five winter haul-out sites used by adult and subadult Steller sea lions have been identified in Puget Sound (see Figure 4–2 of the Navy's applications). Numbers of animals observed at all of these sites combined were less than 200 individuals. The closest haul-out, with approximately 30 to 50 individuals near the Navy's Manchester Fuel Depot, occurs approximately 6.5 mi from the project site but is physically separated by various land masses and waterways. However, one Steller sea lion was observed hauled out on the floating security barrier at NBKB in November 2012. No permanent haul-out has been identified in the project area and Steller sea lion presence is considered to be rare and seasonal.

*Harbor Seal*

Harbor seals inhabit coastal and estuarine waters and shoreline areas of the northern hemisphere from temperate to polar regions. The eastern North Pacific subspecies is found from Baja California north to the Aleutian Islands and into the Bering Sea. Multiple lines of evidence support the existence of geographic structure among harbor seal populations from California to Alaska (*e.g.,* O'Corry-Crowe *et al.,* 2003; Temte, 1986; Calambokidis *et al.,* 1985; Kelly, 1981; Brown, 1988; Lamont, 1996; Burg, 1996). Harbor seals are generally non-migratory, and analysis of genetic information suggests that genetic differences increase with geographic distance (Westlake and O'Corry-Crowe, 2002). However, because stock boundaries are difficult to meaningfully draw from a biological perspective, three separate harbor seal stocks are recognized for management purposes along the west coast of the continental U.S.: (1) Inland waters of Washington (including Hood Canal, Puget Sound, and the Strait of Juan de Fuca out to Cape Flattery), (2) outer coast of Oregon and Washington, and (3) California (Carretta *et al.,* 2014). Multiple stocks are recognized in Alaska. Samples from Washington, Oregon, and California demonstrate a high level of genetic diversity and indicate that the harbor seals of Washington inland waters possess unique haplotypes not found in seals from the coasts of Washington, Oregon, and California (Lamont *et al.,* 1996).

Recent genetic evidence suggests that harbor seals of Washington inland waters have sufficient population structure to warrant division into multiple distinct stocks (Huber *et al.,* 2010, 2012). Based on studies of pupping phenology, mitochondrial DNA, and microsatellite variation, Carretta *et al.* (2014) divide the Washington inland waters stock into three new populations, and present these as stocks: (1) Southern Puget Sound (south of the Tacoma Narrows Bridge); (2) Washington northern inland waters (including Puget Sound north of the Tacoma Narrows Bridge, the San Juan Islands, and the Strait of Juan de Fuca); and (3) Hood Canal. Only the northern inland waters stock of harbor seals is expected to occur in the action area.

The best available abundance estimate was derived from aerial surveys of harbor seals in Washington conducted during the pupping season in 1999, during which time the total numbers of hauled-out seals (including pups) were counted (Jeffries *et al.,* 2003). Radio-tagging studies conducted at six locations collected information on harbor seal haul-out patterns in 1991–92, resulting in a pooled correction factor (across three coastal and three inland sites) of 1.53 to account for animals in the water which are missed during the aerial surveys (Huber *et al.,* 2001), which, coupled with the aerial survey counts, provides the abundance estimate (see Table 1).

Harbor seal counts in Washington State increased at an annual rate of six percent from 1983–96, increasing to ten percent for the period 1991–96 (Jeffries *et al.,* 1997). The population is thought to be stable, and the Washington inland waters stock is considered to be within its OSP size (Jeffries *et al.,* 2003).

Harbor seal numbers increase from January through April and then decrease from May through August as the harbor seals move to adjacent bays on the outer coast of Washington for the pupping season. From April through mid-July, female harbor seals haul out on the outer coast of Washington at pupping sites to give birth. Harbor seals are expected to occur in Sinclair Inlet and NBKB at all times of the year. No permanent haul-out has been identified at NBKB. The nearest known haul-outs are along the south side of Sinclair Inlet on log breakwaters at several marinas in Port Orchard, approximately one mile from Pier 6. An additional haul-out location in Dyes Inlet, approximately 8.5 km north and west (shoreline distance), was believed to support less than 100 seals (Jeffries *et al.,* 2000). Please see Figure 4–2 of the Navy's application.

*California Sea Lion*

California sea lions range from the Gulf of California north to the Gulf of

Alaska, with breeding areas located in the Gulf of California, western Baja California, and southern California. Five genetically distinct geographic populations have been identified: (1) Pacific temperate, (2) Pacific subtropical, and (3–5) southern, central, and northern Gulf of California (Schramm *et al.,* 2009). Rookeries for the Pacific temperate population are found within U.S. waters and just south of the U.S.-Mexico border, and animals belonging to this population may be found from the Gulf of Alaska to Mexican waters off Baja California. For management purposes, a stock of California sea lions comprising those animals at rookeries within the U.S. is defined (*i.e.,* the U.S. stock of California sea lions) (Carretta *et al.,* 2014). Pup production at the Coronado Islands rookery in Mexican waters is considered an insignificant contribution to the overall size of the Pacific temperate population (Lowry and Maravilla-Chavez, 2005).

Trends in pup counts from 1975 through 2008 have been assessed for four rookeries in southern California and for haul-outs in central and northern California. During this time period counts of pups increased at an annual rate of 5.4 percent, excluding six El Nino years when pup production declined dramatically before quickly rebounding (Carretta *et al.,* 2014). The maximum population growth rate was 9.2 percent when pup counts from the El Niño years were removed. There are indications that the California sea lion may have reached or is approaching carrying capacity, although more data are needed to confirm that leveling in growth persists (Carretta *et al.,* 2014).

Sea lion mortality has been linked to the algal-produced neurotoxin domoic acid (Scholin *et al.,* 2000). Future mortality may be expected to occur, due to the sporadic occurrence of such harmful algal blooms. There is currently an Unusual Mortality Event (UME) declaration in effect for California sea lions. Beginning in January 2013, elevated strandings of California sea lion pups have been observed in southern California, with live sea lion strandings nearly three times higher than the historical average. Findings to date indicate that a likely contributor to the large number of stranded, malnourished pups was a change in the availability of sea lion prey for nursing mothers, especially sardines. The causes and mechanisms of this UME remain under investigation (*www.nmfs.noaa.gov/pr/health/mmume/californiasealions2013.htm;* accessed July 13, 2015).

California sea lions were not recorded in Puget Sound until approximately 1979 (Steiger and Calambokidis, 1986). Everitt *et al.* (1980) reported the initial occurrence of large numbers in northern Puget Sound in the spring of that year. Similar sightings and increases in numbers were documented throughout the region after the initial sighting (Steiger and Calambokidis 1986), including urbanized areas such as Elliot Bay near Seattle and heavily used areas of central Puget Sound (Gearin *et al.,* 1986). California sea lions now use haul-out sites within all regions of Washington inland waters (Jeffries *et al.,* 2000). California sea lions migrate northward along the coast to central and northern California, Oregon, Washington, and Vancouver Island during the non-breeding season from September to May and return south the following spring (Mate, 1975; Bonnell *et al.,* 1983). Jeffries *et al.* (2000) estimated that 3,000 to 5,000 individuals make this trip, with peak numbers of up to 1,000 occurring in Puget Sound during this time period. The California sea lion population has grown substantially, and it is likely that the numbers migrating to Washington inland waters have increased as well.

Occurrence in Puget Sound is typically between September and June with peak abundance between September and May. During summer months (June through August) and associated breeding periods, California sea lions are largely returning to rookeries in California and are not present in large numbers in Washington inland waters. They are known to utilize a diversity of man-made structures for hauling out (Riedman, 1990) and, although there are no regular California sea lion haul-outs known within Sinclair Inlet (Jeffries *et al.,* 2000), they are frequently observed hauled out at several opportune areas at NBKB (*e.g.,* floating security fence; see Figures 4–1 and 4–2 of the Navy's application). The next nearest recorded haul-outs are navigation buoys and net pens in Rich Passage, approximately 10 km east of NBKB (Jeffries *et al.,* 2000).

*Killer Whale*

Killer whales are one of the most cosmopolitan marine mammals, found in all oceans with no apparent restrictions on temperature or depth, although they do occur at higher densities in colder, more productive waters at high latitudes and are more common in nearshore waters (Leatherwood and Dahlheim, 1978; Forney and Wade, 2006). Killer whales are found throughout the North Pacific, including the entire Alaska coast, in British Columbia and Washington inland waterways, and along the outer coasts of Washington, Oregon, and California. On the basis of differences in morphology, ecology, genetics, and behavior, populations of killer whales have largely been classified as ''resident'', ''transient'', or ''offshore'' (*e.g.,* Dahlheim *et al.,* 2008). Several studies have also provided evidence that these ecotypes are genetically distinct, and that further genetic differentiation is present between subpopulations of the resident and transient ecotypes (*e.g.,* Barrett-Lennard, 2000). The taxonomy of killer whales is unresolved, with expert opinion generally following one of two lines: Killer whales are either (1) a single highly variable species, with locally differentiated ecotypes representing recently evolved and relatively ephemeral forms not deserving species status, or (2) multiple species, supported by the congruence of several lines of evidence for the distinctness of sympatrically occurring forms (Krahn *et al.,* 2004). Resident and transient whales are currently considered to be unnamed subspecies (Committee on Taxonomy, 2014).

The resident and transient populations have been divided further into different subpopulations on the basis of genetic analyses, distribution, and other factors. Recognized stocks in the North Pacific include Alaska residents; northern residents; southern residents; Gulf of Alaska, Aleutian Islands, and Bering Sea transients; and west coast transients, along with a single offshore stock. See Allen and Angliss (2014) for more detail about these stocks. West coast transient killer whales, which occur from California through southeastern Alaska, are the only type expected to potentially occur in the project area.

It is thought that the stock grew rapidly from the mid-1970s to mid-1990s as a result of a combination of high birth rate, survival, as well as greater immigration of animals into the nearshore study area (DFO, 2009). The rapid growth of the population during this period coincided with a dramatic increase in the abundance of the whales' primary prey, harbor seals, in nearshore waters. Population growth began slowing in the mid-1990s and has continued to slow in recent years (DFO, 2009). Population trends and status of this stock relative to its OSP level are currently unknown. Analyses in DFO (2009) estimated a rate of increase of about six percent per year from 1975 to 2006, but this included recruitment of non-calf whales into the population.

Transient occurrence in inland waters appears to peak during August and September which is the peak time for harbor seal pupping, weaning, and post-weaning (Baird and Dill, 1995). The number of west coast transients in Washington inland waters at any one time was considered likely to be fewer than twenty individuals by Wiles (2004), although more recent information (2004–10) suggests that transient use of inland waters has increased, possibly due to increasing prey abundance (Houghton *et al.,* in prep.). However, Sinclair Inlet is a shallow bay located approximately eight miles through various waterways from the main open waters of Puget Sound, where killer whales occur more frequently, and killer whale occurrence in Sinclair Inlet is uncommon. From December 2002 to June 2014, there were two reports of transient killer whales transiting through the area around NBKB, with both reports occurring in May (a group of up to twelve in 2004 and a group of up to five in 2012; *www.orcanetwork.org*).

*Gray Whale*

Gray whales are found in shallow coastal waters, migrating between summer feeding areas in the north and winter breeding areas in the south. Gray whales were historically common throughout the northern hemisphere but are now found only in the Pacific, where two populations are recognized, Eastern and Western North Pacific (ENP and WNP). ENP whales breed and calve primarily in areas off Baja California and in the Gulf of California. From February to May, whales typically migrate northbound to summer/fall feeding areas in the Chukchi and northern Bering Seas, with the southbound return to calving areas typically occurring in November and December. WNP whales are known to feed in the Okhotsk Sea and off of Kamchatka before migrating south to poorly known wintering grounds, possibly in the South China Sea.

The two populations have historically been considered geographically isolated from each other; however, recent data from satellite-tracked whales indicates that there is some overlap between the stocks. Two WNP whales were tracked from Russian foraging areas along the Pacific rim to Baja California (Mate *et al.,* 2011), and, in one case where the satellite tag remained attached to the whale for a longer period, a WNP whale was tracked from Russia to Mexico and back again (IWC, 2012). Between 22–24 WNP whales are known to have occurred in the eastern Pacific through comparisons of ENP and WNP photo-identification catalogs (IWC, 2012; Weller *et al.,* 2011; Burdin *et al.,* 2011), and WNP animals comprised 8.1 percent of gray whales identified during a recent field season off of Vancouver Island (Weller *et al.,* 2012). In addition, two genetic matches of WNP whales have been recorded off of Santa Barbara, CA (Lang *et al.,* 2011a). More recently, Urban *et al.* (2013) compared catalogs of photo-identified individuals from Mexico with photographs of whales off Russia and reported a total of 21 matches. Therefore, a portion of the WNP population is assumed to migrate, at least in some years, to the eastern Pacific during the winter breeding season. However, no WNP whales are known to have occurred in Washington inland waters. The likelihood of any gray whale being exposed to project sound to the degree considered in this document is already low, given the uncommon occurrence of gray whales in the project area. In the event that a gray whale did occur in the project area, it is extremely unlikely that it would be one of the approximately twenty WNP whales that have been documented in the eastern Pacific (less than one percent probability). The WNP population is listed as endangered under the ESA and depleted under the MMPA as a foreign stock; however, the likelihood that a WNP whale would be present in the action area is insignificant and discountable.

In addition, recent studies provide new information on gray whale stock structure within the ENP, with emphasis on whales that feed during summer off the Pacific coast between northern California and southeastern Alaska, occasionally as far north as Kodiak Island, Alaska (Gosho *et al.,* 2011). These whales, collectively known as the Pacific Coast Feeding Group (PCFG), are a trans-boundary population with the U.S. and Canada and are defined by the International Whaling Commission (IWC) as follows: Gray whales observed between June 1 to November 30 within the region between northern California and northern Vancouver Island (from 41°N to 52°N) and photo-identified within this area during two or more years (Carretta *et al.,* 2013). Photo-identification and satellite tagging studies provide data on abundance, population structure, and movements of PCFG whales (Calambokidis *et al.,* 2010; Mate *et al.;* 2010; Gosho *et al.,* 2011). These data in conjunction with genetic studies (*e.g.,* Frasier *et al.,* 2011; Lang *et al.,* 2011b) indicate that the PCFG may be a demographically distinct feeding aggregation, and may warrant consideration as a distinct stock (Carretta *et al.,* 2014). It is unknown whether PCFG whales would be encountered in Washington inland waters. Here, we consider only a single stock of ENP whales.

The ENP population of gray whales, which is managed as a stock, was removed from ESA protection in 1994, is not currently protected under the ESA, and is not listed as depleted under the MMPA. Punt and Wade (2010) estimated the ENP population was at 91 percent of carrying capacity and at 129 percent of the maximum net productivity level and therefore within the range of its optimum sustainable population. The estimated annual rate of increase from 1967–88, based on a revised abundance time series from Laake *et al.* (2009), is 3.2 percent (Punt and Wade, 2010), and the population size of the ENP gray whale stock has been increasing over the past several decades despite a west coast UME from 1999–2001. It is likely that oceanographic factors limited food availability (LeBouef *et al.,* 2000; Moore *et al.,* 2001; Minobe, 2002; Gulland *et al.,* 2005), with resulting declines in survival rates of adults (Punt and Wade, 2012). The population has recovered to levels seen prior to the UME (Carretta *et al.,* 2014).

Gray whales generally migrate southbound past Washington in late December and January, and transit past Washington on the northbound return in March to May. Gray whales do not generally make use of Washington inland waters, but have been observed in certain portions of those waters in all months of the year, with most records occurring from March through June (Calambokidis *et al.,* 2010; *www.orcanetwork.org*) and associated with regular feeding areas. Usually fewer than twenty gray whales visit the inner marine waters of Washington and British Columbia beginning in about January, with some staying until summer. Six to ten of these are PCFG whales that return most years to feeding sites near Whidbey and Camano Islands in northern Puget Sound. The remaining individuals occurring in any given year generally appear unfamiliar with feeding areas, often arrive emaciated, and commonly die of starvation (WDFW, 2012). From December 2002 to June 2014, the Orca Network sightings database reports four occurrences of gray whales in the project area during the in-water work window (*www.orcanetwork.org*). Three sightings occurred during the winter of 2008–09, and one stranding was reported in January 2013. The necropsy of the whale indicated that it was a juvenile

male in poor nutritional health. Two other strandings have been recorded in the project area, in May 2005 and July 2011.

**Potential Effects of the Specified Activity on Marine Mammals**

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals. This discussion also includes reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of a take (for example, with acoustics, we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measurable avoidance). This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented, and how either of those will shape the anticipated impacts from this specific activity. The Estimated Take by Incidental Harassment section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analyses section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the Estimated Take by Incidental Harassment section, the Proposed Mitigation section, and the Anticipated Effects on Marine Mammal Habitat section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks. In the following discussion, we provide general background information on sound and marine mammal hearing before considering potential effects to marine mammals from sound produced by vibratory and impact pile driving.

*Description of Sound Sources*

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds and attenuate (decrease) more rapidly in shallower water. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the decibel (dB) scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Rms is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.,* vessels, dredging, aircraft, construction). A number of sources contribute to ambient sound, including the following (Richardson *et al.,* 1995):

- Wind and waves: The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf noise becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions.
- Precipitation: Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times.
- Biological: Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.
- Anthropogenic: Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.,* 1995). Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.,* a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient

sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

The underwater acoustic environment in Sinclair Inlet is likely to be dominated by noise from day-to-day port and vessel activities. Normal port activities include vessel traffic from large ships, submarines, support vessels, and security boats, and loading and maintenance operations. Other sources of human-generated underwater sound in the area are recreational vessels, industrial ship noise, and ferry traffic at the adjacent Washington State Ferry Terminal. In 2009, the average broadband (100 Hz–20 kHz) underwater noise level at NBK Bangor in the Hood Canal was measured at 114 dB (Slater, 2009), which is within the range of levels reported for a number of sites within the greater Puget Sound region (95–135 dB; *e.g.,* Carlson *et al.,* 2005; Veirs and Veirs, 2006). Measurements near ferry terminals in Puget Sound, such as the Bremerton terminal adjacent to NBKB, resulted in median noise levels (50% cumulative distribution function) between 106 and 133 dB (Laughlin, 2012). Although no specific measurements have been made at NBKB, it is reasonable to believe that levels may generally be higher than at NBK Bangor as there is a greater degree of activity, that levels periodically exceed the 120-dB threshold and, therefore, that the high levels of anthropogenic activity in the area create an environment far different from quieter habitats where behavioral reactions to sounds around the 120-dB threshold have been observed (*e.g.,* Malme *et al.,* 1984, 1988).

Known sound levels and frequency ranges associated with anthropogenic sources similar to those that would be used for this project are summarized in Table 2. Details of the source types are described in the following text.

TABLE 2—REPRESENTATIVE SOUND LEVELS OF ANTHROPOGENIC SOURCES

| Sound source | Frequency range (Hz) | Underwater sound level | Reference |
|---|---|---|---|
| Small vessels | 250–1,000 | 151 dB rms at 1 m | Richardson *et al.,* 1995. |
| Tug docking gravel barge | 200–1,000 | 149 dB rms at 100 m | Blackwell and Greene, 2002. |
| Vibratory driving of 72-in steel pipe pile | 10–1,500 | 180 dB rms at 10 m | Reyff, 2007. |
| Impact driving of 36-in steel pipe pile | 10–1,500 | 195 dB rms at 10 m | Laughlin, 2007. |
| Impact driving of 66-in cast-in-steel-shell (CISS) pile | 10–1,500 | 195 dB rms at 10 m | Reviewed in Hastings and Popper, 2005. |

In-water construction activities associated with the project would include impact pile driving and vibratory pile driving. The sounds produced by these activities fall into one of two general sound types: pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.,* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986; Harris, 1998; NIOSH, 1998; ISO, 2003; ANSI, 2005) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper, 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.,* 2005).

*Marine Mammal Hearing*

Hearing is the most important sensory modality for marine mammals, and exposure to sound can have deleterious effects. To appropriately assess these potential effects, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on measured or estimated hearing ranges on the basis of available behavioral data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. The lower and/or upper frequencies for some of these functional hearing groups have been modified from those designated by Southall *et al.* (2007). The functional groups and the associated frequencies are indicated below (note that these frequency ranges do not necessarily correspond to the range of best hearing, which varies by species):

• Low-frequency cetaceans (mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 25 kHz (extended from 22 kHz; Watkins, 1986; Au *et al.,* 2006; Lucifredi and Stein, 2007; Ketten and Mountain, 2009; Tubelli *et al.,* 2012);

• Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;

• High-frequency cetaceans (porpoises, river dolphins, and members of the genera *Kogia* and *Cephalorhynchus;* now considered to include two members of the genus *Lagenorhynchus* on the basis of recent echolocation data and genetic data [May-Collado and Agnarsson, 2006; Kyhn *et al.* 2009, 2010; Tougaard *et al.* 2010]): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and

• Pinnipeds in water: Functional hearing is estimated to occur between approximately 75 Hz to 100 kHz for Phocidae (true seals) and between 100 Hz and 40 kHz for Otariidae (eared seals), with the greatest sensitivity between approximately 700 Hz and 20 kHz. The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth *et al.,* 2013).

There are five marine mammal species (two cetacean and three pinniped [two otariid and one phocid] species) with expected potential to co-occur with Navy construction activities. Please refer to Table 1. Of the two cetacean species that may be present, the killer whale is classified as mid-frequency and the gray whale is classified as low-frequency.

*Acoustic Effects, Underwater*

*Potential Effects of Pile Driving Sound*—The effects of sounds from pile driving might result in one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). The effects of pile driving on marine mammals are dependent on several factors, including the size, type, and depth of the animal; the depth, intensity, and duration of the pile driving sound; the depth of the water column; the substrate of the habitat; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the received level and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. Shallow environments are typically more structurally complex, which leads to rapid sound attenuation. In addition, substrates that are soft (*e.g.,* sand) would absorb or attenuate the sound more readily than hard substrates (*e.g.,* rock) which may reflect the acoustic wave. Soft porous substrates would also likely require less time to drive the pile, and possibly less forceful equipment, which would ultimately decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species would be expected to result from physiological and behavioral responses to both the type and strength of the acoustic signature (Viada *et al.,* 2008). The type and severity of behavioral impacts are more difficult to define due to limited studies addressing the behavioral effects of impulsive sounds on marine mammals. Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973).

*Hearing Impairment and Other Physical Effects*—Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.,* 1999; Schlundt *et al.,* 2000; Finneran *et al.,* 2002, 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Marine mammals depend on acoustic cues for vital biological functions, (*e.g.,* orientation, communication, finding prey, avoiding predators); thus, TTS may result in reduced fitness in survival and reproduction. However, this depends on the frequency and duration of TTS, as well as the biological context in which it occurs. TTS of limited duration, occurring in a frequency range that does not coincide with that used for recognition of important acoustic cues, would have little to no effect on an animal's fitness. Repeated sound exposure that leads to TTS could cause PTS. PTS constitutes injury, but TTS does not (Southall *et al.,* 2007). The following subsections discuss in somewhat more detail the possibilities of TTS, PTS, and non-auditory physical effects.

*Temporary Threshold Shift*—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be stronger in order to be heard. In terrestrial mammals, TTS can last from minutes or hours to days (in cases of strong TTS). For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007).

Given the available data, the received level of a single pulse (with no frequency weighting) might need to be approximately 186 dB re 1 $\mu Pa^2$-s (*i.e.,* 186 dB sound exposure level [SEL] or approximately 221–226 dB p-p [peak]) in order to produce brief, mild TTS. Exposure to several strong pulses that each have received levels near 190 dB rms (175–180 dB SEL) might result in cumulative exposure of approximately 186 dB SEL and thus slight TTS in a small odontocete, assuming the TTS threshold is (to a first approximation) a function of the total received pulse energy.

The above TTS information for odontocetes is derived from studies on the bottlenose dolphin (*Tursiops truncatus*) and beluga whale (*Delphinapterus leucas*). There is no published TTS information for other species of cetaceans. However, preliminary evidence from a harbor porpoise exposed to pulsed sound suggests that its TTS threshold may have been lower (Lucke *et al.,* 2009). As summarized above, data that are now available imply that TTS is unlikely to occur unless odontocetes are exposed to pile driving pulses stronger than 180 dB re 1 μPa rms.

*Permanent Threshold Shift*—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial

deafness, while in other cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of sound can cause PTS in any marine mammal. However, given the possibility that mammals close to a sound source might incur TTS, there has been further speculation about the possibility that some individuals might incur PTS. Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals but are assumed to be similar to those in humans and other terrestrial mammals. PTS might occur at a received sound level at least several decibels above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise time. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as pile driving pulses as received close to the source) is at least 6 dB higher than the TTS threshold on a peak-pressure basis and probably greater than 6 dB (Southall *et al.,* 2007). On an SEL basis, Southall *et al.* (2007) estimated that received levels would need to exceed the TTS threshold by at least 15 dB for there to be risk of PTS. Thus, for cetaceans, Southall *et al.* (2007) estimate that the PTS threshold might be an M-weighted SEL (for the sequence of received pulses) of approximately 198 dB re 1 $\mu Pa^2$-s (15 dB higher than the TTS threshold for an impulse). Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

Measured source levels from impact pile driving can be as high as 214 dB rms. Although no marine mammals have been shown to experience TTS or PTS as a result of being exposed to pile driving activities, captive bottlenose dolphins and beluga whales exhibited changes in behavior when exposed to strong pulsed sounds (Finneran *et al.,* 2000, 2002, 2005). The animals tolerated high received levels of sound before exhibiting aversive behaviors. Experiments on a beluga whale showed that exposure to a single watergun impulse at a received level of 207 kPa (30 psi) p-p, which is equivalent to 228 dB p-p, resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within four minutes of the exposure (Finneran *et al.,* 2002). Although the source level of pile driving from one hammer strike is expected to be much lower than the single watergun impulse cited here, animals being exposed for a prolonged period to repeated hammer strikes could receive more sound exposure in terms of SEL than from the single watergun impulse (estimated at 188 dB re 1 $\mu Pa^2$-s) in the aforementioned experiment (Finneran *et al.,* 2002). However, in order for marine mammals to experience TTS or PTS, the animals have to be close enough to be exposed to high intensity sound levels for a prolonged period of time. Based on the best scientific information available, these SPLs are far below the thresholds that could cause TTS or the onset of PTS.

*Non-auditory Physiological Effects*—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur auditory impairment or non-auditory physical effects.

*Disturbance Reactions*

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Behavioral responses to sound are highly variable and context-specific and reactions, if any, depend on species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007).

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. Behavioral state may affect the type of response as well. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003).

Controlled experiments with captive marine mammals showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic guns or acoustic harassment devices, but also including pile driving) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; Thorson and Reyff, 2006; see also Gordon *et al.,* 2004; Wartzok *et al.,* 2003; Nowacek *et al.,* 2007). Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds.

With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.,* 1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haul-outs or rookeries). Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially

lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Habitat abandonment due to loss of desirable acoustic environment; and
- Cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

*Auditory Masking*

Natural and artificial sounds can disrupt behavior by masking, or interfering with, a marine mammal's ability to hear other sounds. Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher levels. Chronic exposure to excessive, though not high-intensity, sound could cause masking at particular frequencies for marine mammals, which utilize sound for vital biological functions. Masking can interfere with detection of acoustic signals such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction. If the coincident (masking) sound were man-made, it could be potentially harassing if it disrupted hearing-related behavior. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water pile driving is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. However, lower frequency man-made sounds are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey sound. It may also affect communication signals when they occur near the sound band and thus reduce the communication space of animals (*e.g.,* Clark *et al.,* 2009) and cause increased stress levels (*e.g.,* Foote *et al.,* 2004; Holt *et al.,* 2009).

Masking has the potential to impact species at the population or community levels as well as at individual levels. Masking affects both senders and receivers of the signals and can potentially have long-term chronic effects on marine mammal species and populations. Recent research suggests that low frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, and that most of these increases are from distant shipping (Hildebrand, 2009). All anthropogenic sound sources, such as those from vessel traffic, pile driving, and dredging activities, contribute to the elevated ambient sound levels, thus intensifying masking.

The most intense underwater sounds in the proposed action are those produced by impact pile driving. Given that the energy distribution of pile driving covers a broad frequency spectrum, sound from these sources would likely be within the audible range of marine mammals present in the project area. Impact pile driving activity is relatively short-term, with rapid pulses occurring for approximately fifteen minutes per pile. The probability for impact pile driving resulting from this proposed action masking acoustic signals important to the behavior and survival of marine mammal species is likely to be negligible. Vibratory pile driving is also relatively short-term, with rapid oscillations occurring for approximately one and a half hours per pile. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area would result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for vibratory and impact pile driving, and which have already been taken into account in the exposure analysis.

*Acoustic Effects, Airborne*

Marine mammals that occur in the project area could be exposed to airborne sounds associated with pile driving that have the potential to cause harassment, depending on their distance from pile driving activities. Airborne pile driving sound would have less impact on cetaceans than pinnipeds because sound from atmospheric sources does not transmit well underwater (Richardson *et al.,* 1995); thus, airborne sound would only be an issue for pinnipeds either hauled-out or looking with heads above water in the project area. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled-out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon their habitat and move further from the source. Studies by Blackwell *et al.* (2004) and Moulton *et al.* (2005) indicate a tolerance or lack of response to unweighted airborne sounds as high as 112 dB peak and 96 dB rms.

**Anticipated Effects on Habitat**

The proposed activities associated with both projects at NBKB would not result in permanent impacts to habitats used directly by marine mammals, such as haul-out sites, but may have potential short-term impacts to food sources such as forage fish and salmonids. The proposed activities could also affect acoustic habitat (see masking discussion above), but this is unlikely given the existing conditions at the project site (see previous discussion of acoustic environment under *Description of Sound Sources* above). There are no rookeries or major haul-out sites, no known foraging hotspots, or other ocean bottom structure of significant biological importance to marine mammals present in the marine waters in the vicinity of the project area. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The most likely impact to marine mammal habitat occurs from pile driving effects on likely marine mammal prey (*i.e.,* fish) near NBKB and minor impacts to the immediate substrate during installation and removal of piles during the pier maintenance project.

*Pile Driving Effects on Potential Prey*

Construction activities would produce both pulsed (*i.e.,* impact pile driving) and continuous (*i.e.,* vibratory pile driving) sounds. Fish react to sounds which are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. Hastings and

Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.,* Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Sound pulses at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.,* 1992; Skalski *et al.,* 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality. The most likely impact to fish from pile driving activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the short timeframe for the project. However, adverse impacts may occur to a few species of fish which may still be present in the project area despite operating in a reduced work window in an attempt to avoid important fish spawning time periods.

*Pile Driving Effects on Potential Foraging Habitat*

The area likely impacted by the project is relatively small compared to the available habitat in inland waters in the region. Avoidance by potential prey (*i.e.,* fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity.

In summary, given the short daily duration of sound associated with individual pile driving events and the relatively small areas being affected, pile driving activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. The area around NBKB, including the adjacent ferry terminal and nearby marinas, is heavily altered with significant levels of industrial and recreational activity, and is unlikely to harbor significant amounts of forage fish. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

**Proposed Mitigation**

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses. Here we provide a single description of proposed mitigation measures, as we propose to require similar measures for both the Pier 6 and Pier 4 IHAs. The only differences would be related to the difference between impact and vibratory driving, as described below. The Pier 4 project does not involve impact driving and measures specific to that technique are not relevant for the Pier 4 project. Please see Proposed Authorizations, below, for requirements specific to each proposed IHA.

Measurements from similar pile driving events were coupled with practical spreading loss to estimate zones of influence (ZOI; see Estimated Take by Incidental Harassment); these values were used to develop mitigation measures for pile driving activities at NBKB. The ZOIs effectively represent the mitigation zone that would be established around each pile to prevent Level A harassment to marine mammals, while providing estimates of the areas within which Level B harassment might occur. In addition to the specific measures described later in this section, the Navy would conduct briefings between construction supervisors and crews, marine mammal monitoring team, and Navy staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

*Monitoring and Shutdown for Pile Driving*

The following measures would apply to the Navy's mitigation through shutdown and disturbance zones:

*Shutdown Zone*—For all pile driving activities, the Navy will establish a shutdown zone intended to contain the area in which SPLs equal or exceed the 190 dB rms acoustic injury criteria. The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury of marine mammals (as described previously under Potential Effects of the Specified Activity on Marine Mammals, serious injury or death are unlikely outcomes even in the absence of mitigation measures). Modeled radial distances for shutdown zones are shown in Table 5. However, a minimum shutdown zone of 10 m (which is larger than the maximum predicted injury zone) will be established during all pile driving activities, regardless of the estimated zone. Vibratory pile driving activities are not predicted to produce sound exceeding the 190-dB Level A harassment threshold, but these precautionary measures are intended to prevent the already unlikely possibility of physical interaction with construction equipment and to further reduce any possibility of acoustic injury.

*Disturbance Zone*—Disturbance zones are the areas in which SPLs equal or exceed 160 and 120 dB rms (for impulse and continuous sound, respectively). Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting incidents of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see Proposed Monitoring and Reporting). Nominal radial distances for disturbance zones are shown in Table 5.

In order to document observed incidents of harassment, monitors record all marine mammal observations, regardless of location. The observer's location, as well as the location of the pile being driven, is known from a GPS. The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile. It may then be estimated whether the animal was exposed to sound levels constituting incidental harassment on the basis of predicted distances to relevant thresholds in post-processing of observational and acoustic data, and a precise accounting of observed incidences of harassment created. This information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes.

*Monitoring Protocols*—Monitoring would be conducted before, during, and after pile driving activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown; that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from fifteen minutes prior to initiation through thirty minutes post-completion of pile driving activities. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes. Please see the project-specific Monitoring Plans (Appendix C in both the Pier 4 and Pier 6 applications; *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*), developed by the Navy in agreement with NMFS, for full details of the monitoring protocols.

The following additional measures apply to visual monitoring:

(1) Monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Qualified observers are trained biologists, with the following minimum qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- Advanced education in biological science or related field (undergraduate degree or higher required);
- Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

(2) Prior to the start of pile driving activity, the shutdown zone will be monitored for fifteen minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals; animals will be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.,* when not obscured by dark, rain, fog, etc.). In addition, if such conditions should arise during impact pile driving that is already underway, the activity would be halted.

(3) If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal. Monitoring will be conducted throughout the time required to drive a pile.

*Special Conditions*

The Navy has not requested the authorization of incidental take for killer whales or gray whales (see discussion below in Estimated Take by Incidental Harassment). Therefore, shutdown would be implemented in the event that either of these species is observed in the vicinity, prior to entering the defined disturbance zone. As described later in this document, we believe that occurrence of these species during the in-water work window would be uncommon and that the occurrence of an individual or group would likely be highly noticeable and would attract significant attention in local media and with local whale watchers and interested citizens.

Prior to the start of pile driving on any day, the Navy would contact and/or review the latest sightings data from the Orca Network and/or Center for Whale Research to determine the location of the nearest marine mammal sightings. The Orca Sightings Network consists of a list of over 600 residents, scientists, and government agency personnel in the U.S. and Canada, and includes passive acoustic detections. The presence of a killer whale or gray whale in the southern reaches of Puget Sound would be a notable event, drawing public attention and media scrutiny. With this level of coordination in the region of activity, the Navy should be able to effectively receive real-time information on the presence or absence of whales, sufficient to inform the day's activities. Pile driving would not occur if there was the risk of incidental harassment of a species for which incidental take was not authorized.

During vibratory pile driving, one land-based observer would be positioned at the pier work site. Additionally, one vessel-based observer will travel through the monitoring area, completing an entire loop approximately every thirty minutes (please see Figure 1 of Appendix C in the Navy's applications). If any killer whales or gray whales are detected, activity would not begin or would shut down.

*Timing Restrictions*

In the project area, designated timing restrictions exist to avoid in-water work when salmonids and other spawning forage fish are likely to be present. The in-water work window is June 15–March 1 for Pier 6 and July 16–February 15 for Pier 4. All in-water construction activities would occur only during daylight hours (sunrise to sunset).

*Soft Start*

The use of a soft start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in ''bouncing'' of the hammer as it strikes the pile, resulting in multiple ''strikes.'' The pier maintenance project will utilize soft start techniques for both impact and vibratory pile driving. We require the Navy to initiate sound from vibratory hammers for fifteen seconds at reduced energy followed by a thirty-second

waiting period, with the procedure repeated two additional times. For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a thirty-second waiting period, then two subsequent three strike sets. Soft start will be required at the beginning of each day's pile driving work and at any time following a cessation of pile driving of thirty minutes or longer.

We have carefully evaluated the Navy's proposed mitigation measures and considered their effectiveness in past implementation to preliminarily determine whether they are likely to effect the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals, (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(3) A reduction in the number (total number or number at biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(4) A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing the severity of behavioral harassment only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the Navy's proposed measures, as well as any other potential measures that may be relevant to the specified activity, we have preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

**Proposed Monitoring and Reporting**

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Any monitoring requirement we prescribe should improve our understanding of one or more of the following:

- Occurrence of marine mammal species in action area (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) Affected species (*e.g.,* life history, dive patterns); (3) Co-occurrence of marine mammal species with the action; or (4) Biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual responses to acute stressors, or impacts of chronic exposures (behavioral or physiological).
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of an individual; or (2) Population, species, or stock.
- Effects on marine mammal habitat and resultant impacts to marine mammals.
- Mitigation and monitoring effectiveness.

With the exception of acoustic monitoring required for the Pier 6 project (see below), monitoring requirements are the same for both Pier 4 and Pier 6 projects, and a single discussion is provided here. Monitoring requirements specific to impact pile driving are only applicable to the Pier 6 project. The Navy marine mammal monitoring plans can be found as Appendix C of both applications, on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

*Acoustic Monitoring*

Specific to the Pier 6 project, the Navy will implement a sound source level verification study during the specified activities. Data will be collected in order to estimate airborne and underwater source levels for vibratory removal of timber piles and impact driving of concrete piles, with measurements conducted for ten piles of each type. Monitoring will include one underwater and one airborne monitoring position. These exact positions will be determined in the field during consultation with Navy personnel, subject to constraints related to logistics and security requirements. Reporting of measured sound level signals will include the average, minimum, and maximum rms value and frequency spectra for each pile monitored. Please see section 11.4.4 of the Navy's Pier 6 application for details of the Navy's acoustic monitoring plan. This acoustic monitoring program was included with requirements under Year 2 of the Pier 6 project, but could not be conducted due to changes to the project schedule.

*Visual Marine Mammal Observations*

The Navy will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All observers will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. The Navy will monitor the shutdown zone and disturbance zone before, during, and after pile driving, with observers located at the best practicable vantage points. Based on our requirements, the Navy would implement the following procedures for pile driving:

- MMOs would be located at the best vantage point(s) in order to properly see the entire shutdown zone and as much of the disturbance zone as possible.
- During all observation periods, observers will use binoculars and the

naked eye to search continuously for marine mammals.

• If the shutdown zones are obscured by fog or poor lighting conditions, pile driving at that location will not be initiated until that zone is visible. Should such conditions arise while impact driving is underway, the activity would be halted.

• The shutdown and disturbance zones around the pile will be monitored for the presence of marine mammals before, during, and after any pile driving or removal activity.

During vibratory pile driving, two observers would be deployed as described under Proposed Mitigation, including one land-based observer and one-vessel-based observer traversing the extent of the Level B harassment zone. We previously required (for Years 1–2 of the Pier 6 project) the deployment of four land-based observers (in addition to one vessel-based observer) during vibratory driving. This additional monitoring effort served to confirm that our assumptions relating to marine mammal occurrence in the action area were accurate, and we do not believe it necessary to continue with two shore-based observers in the far-field, in addition to the far-field vessel-based observer, to accomplish the required monitoring of incidental take. During impact driving, one observer would be positioned at or near the pile to observe the much smaller disturbance zone.

Individuals implementing the monitoring protocol will assess its effectiveness using an adaptive approach. Monitoring biologists will use their best professional judgment throughout implementation and seek improvements to these methods when deemed appropriate. Any modifications to protocol will be coordinated between NMFS and the Navy.

*Data Collection*

We require that observers use approved data forms. Among other pieces of information, the Navy will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, the Navy will attempt to distinguish between the number of individual animals taken and the number of incidents of take. We require that, at a minimum, the following information be collected on the sighting forms:

• Date and time that monitored activity begins or ends;

• Construction activities occurring during each observation period;

• Weather parameters (*e.g.,* percent cover, visibility);

• Water conditions (*e.g.,* sea state, tide state);

• Species, numbers, and, if possible, sex and age class of marine mammals;

• Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;

• Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;

• Description of implementation of mitigation measures (*e.g.,* shutdown or delay).

• Locations of all marine mammal observations; and

• Other human activity in the area.

*Reporting*

A draft report would be submitted to NMFS within 45 days of the completion of marine mammal monitoring, or sixty days prior to the issuance of any subsequent IHA for these projects (if required), whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within thirty days following resolution of comments on the draft report.

*Monitoring Results From Previously Authorized Activities*

The Navy complied with the mitigation and monitoring required under the previous authorizations for the Pier 6 project. Marine mammal monitoring occurred before, during, and after each pile driving event. During the course of these activities, the Navy did not exceed the take levels authorized under the IHAs. In accordance with the 2013 and 2014 IHAs, the Navy submitted monitoring reports (available at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*).

Under the 2013 IHA, the Navy anticipated a total of 65 pile driving days; however, only a limited program of test pile driving actually took place. Pile driving occurred on only two days, with a total of only two piles driven (both impact-driven concrete piles). The only species observed was the California sea lion. A total of 24 individuals were observed within the defined Level B harassment zone, but all were hauled-out on port security barrier floats outside of the defined Level B harassment zone for airborne sound. Therefore, no take of marine mammals occurred incidental to project activity under the year one IHA.

Under the 2014 IHA, the Navy anticipated a total of sixty pile driving days, but actually conducted a total of 32 pile driving days. This total included sixteen days each of impact driving and pile removal; however, only approximately fifty percent of pile removal required use of the vibratory driver and there were a total of 24 monitoring days. Only two species, the California sea lion and harbor seal, were observed. Total observed incidents of take were 275 for California sea lions (151 during vibratory removal and 124 during impact driving) and ten for harbor seals (nine during vibratory removal and one during impact driving). Given the extensive far-field monitoring required, no extrapolation of observed takes to unobserved area was necessary.

Observed behaviors were typical for pinnipeds and included foraging, milling, and traveling. Numerous California sea lions use the port security floats as a haul-out. No reactions indicative of disturbance were observed.

**Estimated Take by Incidental Harassment**

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

All anticipated takes would be by Level B harassment resulting from vibratory and impact pile driving and involving temporary changes in behavior. The proposed mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by Level A harassment, serious injury, or mortality is considered discountable. However, it is unlikely that injurious or lethal takes would occur even in the absence of the planned mitigation and monitoring measures.

If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or

vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound. In practice, depending on the amount of information available to characterize daily and seasonal movement and distribution of affected marine mammals, it can be difficult to distinguish between the number of individuals harassed and the instances of harassment and, when duration of the activity is considered, it can result in a take estimate that overestimates the number of individuals harassed. In particular, for stationary activities, it is more likely that some smaller number of individuals may accrue a number of incidences of harassment per individual than for each incidence to accrue to a new individual, especially if those individuals display some degree of residency or site fidelity and the impetus to use the site (*e.g.,* because of foraging opportunities) is stronger than the deterrence presented by the harassing activity.

The project area is not believed to be particularly important habitat for marine mammals, nor is it considered an area frequented by marine mammals, although harbor seals may be present year-round and sea lions are known to haul-out on man-made objects at the NBKB waterfront. Sightings of other species are rare. Therefore, behavioral disturbances that could result from anthropogenic sound associated with these activities are expected to affect only a relatively small number of individual marine mammals, although those effects could be recurring over the life of the project if the same individuals remain in the project vicinity.

The Navy has requested authorization for the incidental taking of small numbers of Steller sea lions, California sea lions, and harbor seals in Sinclair Inlet and nearby waters that may result from pile driving during construction activities associated with the pier maintenance projects described previously in this document. The available information, and the most appropriate way to use that information in estimating take by incidental harassment, is general to Sinclair Inlet. Therefore, we provide a single discussion of exposure analyses that is applicable to both the Pier 4 and Pier 6 projects.

In order to estimate the potential incidents of take that may occur incidental to the specified activity, we must first estimate the extent of the sound field that may be produced by the activity and then consider in combination with information about marine mammal density or abundance in the project area. We first provide information on applicable sound thresholds for determining effects to marine mammals before describing the information used in estimating the sound fields, the available marine mammal density or abundance information, and the method of estimating potential incidents of take.

*Sound Thresholds*

We use generic sound exposure thresholds to determine when an activity that produces sound might result in impacts to a marine mammal such that a take by harassment might occur. To date, no studies have been conducted that explicitly examine impacts to marine mammals from pile driving sounds or from which empirical sound thresholds have been established. These thresholds (Table 3) are used to estimate when harassment may occur (*i.e.,* when an animal is exposed to levels equal to or exceeding the relevant criterion) in specific contexts; however, useful contextual information that may inform our assessment of effects is typically lacking and we consider these thresholds as step functions. NMFS is working to revise these acoustic guidelines; for more information on that process, please visit *www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 3—CURRENT ACOUSTIC EXPOSURE CRITERIA

| Criterion | Definition | Threshold |
|---|---|---|
| Level A harassment (underwater) | Injury (PTS—any level above that which is known to cause TTS). | 180 dB (cetaceans)/190 dB (pinnipeds) (rms). |
| Level B harassment (underwater) | Behavioral disruption | 160 dB (impulsive source)/120 dB (continuous source) (rms). |
| Level B harassment (airborne) | Behavioral disruption | 90 dB (harbor seals)/100 dB (other pinnipeds) (unweighted). |

*Distance to Sound Thresholds*

*Underwater Sound Propagation Formula*—Pile driving generates underwater noise that can potentially result in disturbance to marine mammals in the project area. Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \log_{10}(R_1/R_2),$$

Where

$R_1$ = the distance of the modeled SPL from the driven pile, and

$R_2$ = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of fifteen is often used under conditions, such as Sinclair Inlet, where water increases with depth as the receiver moves away from the shoreline,

resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss (4.5 dB reduction in sound level for each doubling of distance) is assumed here.

*Underwater Sound*—The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. However, a limited quantity of literature is available for consideration regarding SPLs recorded from pile driving projects similar to the Navy's activity (*i.e.,* impact-driven concrete piles and vibratory pile removal). In order to determine reasonable SPLs and their associated effects on marine mammals that are likely to result from pile driving at NBKB, studies with similar properties to the specified activity were evaluated, and are displayed in Table 4.

TABLE 4—SUMMARY OF PROXY MEASURED UNDERWATER SPLS

| Location | Method | Pile size and material | Measured SPLs |
|---|---|---|---|
| Berth 22, Port of Oakland [1] | Impact | 24-in concrete | 176 dB at 10 m. |
| Mad River Slough, CA [1] | Vibratory | 13-in steel pipe | 155 dB at 10 m. |
| Port Townsend, WA [2] | Vibratory (removal) | 12-in timber | 150 dB at 16 m. |

Sources: [1] Caltrans, 2012; [2] Laughlin, 2011.

We consider the values presented in Table 4 to be representative of SPLs that may be produced by impact driving of concrete piles, vibratory driving of steel piles, and vibratory removal of timber piles, respectively. The value from Berth 22 was selected as representative of the largest concrete pile size to be installed and may be conservative when smaller concrete piles are driven. The value from Mad River Slough is for vibratory installation and would likely be conservative when applied to vibratory extraction, which would be expected to produce lower SPLs than vibratory installation of same-sized piles. All calculated distances to and the total area encompassed by the marine mammal sound thresholds are provided in Table 5.

TABLE 5—DISTANCES TO RELEVANT SOUND THRESHOLDS AND AREAS OF ENSONIFICATION, UNDERWATER

| Description | Distance to threshold (m) and associated area of ensonification ($km^2$) | | | |
|---|---|---|---|---|
| | 190 dB | 180 dB | 160 dB | 120 dB |
| Concrete piles, impact | 1.2, <0.0001 | 5.4, 0.0001 | 117, 0.04 | n/a |
| Steel piles, vibratory | 0 | 0 | n/a | 2,154[2], 7.5 |
| Timber piles, vibratory | 0 | 0 | n/a | 1,585; 5.0 |

[1] SPLs used for calculations were: 191 dB for impact driving, 170 dB for vibratory removal of steel piles, and 168 dB for vibratory removal of timber piles.
[2] Areas presented take into account attenuation and/or shadowing by land. Please see Appendix B in the Navy's applications.

Sinclair Inlet does not represent open water, or free field, conditions. Therefore, sounds would attenuate according to the shoreline topography. Distances shown in Table 5 are estimated for free-field conditions, but areas are calculated per the actual conditions of the action area. See Appendix B of the Navy's applications for a depiction of areas in which each underwater sound threshold is predicted to occur at the project area due to pile driving.

*Airborne Sound*—Pile driving can generate airborne sound that could potentially result in disturbance to marine mammals (specifically, pinnipeds) which are hauled out or at the water's surface. As was discussed for underwater sound from pile driving, the intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. As before, measured values from other studies were used as proxy values to determine reasonable airborne SPLs and their associated effects on marine mammals that might result from pile driving at NBKB. There are no measurements known for unweighted airborne sound from either impact driving of concrete piles or for vibratory driving of timber piles. A spherical spreading loss model (*i.e.,* 6 dB reduction in sound level for each doubling of distance from the source), in which there is a perfectly unobstructed (free-field) environment not limited by depth or water surface, is appropriate for use with airborne sound and was used to estimate the distance to the airborne thresholds.

TABLE 6—SUMMARY OF PROXY MEASURED AIRBORNE SPLS

| Location | Method | Pile size and material | Measured SPLs |
|---|---|---|---|
| Test Pile Program, Hood Canal [1] | Impact | 24-in steel pipe | 89 dB at 15 m. |
| Wahkiakum Ferry Terminal, WA [2] | Vibratory | 18-in steel pipe | 87.5 dB at 15 m. |

Sources: [1] Illingworth & Rodkin, 2012; [2] Laughlin, 2010.

Steel piles generally produce louder source levels than do similarly sized concrete or timber piles. Similarly, the value shown here for the larger steel piles (18-in) would likely be louder than smaller steel piles or timber piles. Therefore, these values will likely overestimate the distances to relevant thresholds. Based on these values and the assumption of spherical spreading loss, distances to relevant thresholds and associated areas of ensonification

are presented in Table 7; these areas are depicted in Appendix B of the Navy's applications.

TABLE 7—DISTANCES TO RELEVANT SOUND THRESHOLDS AND AREAS OF ENSONIFICATION, AIRBORNE

| Group | Distance to threshold (m) and associated area of ensonification ($m^2$) | |
|---|---|---|
| | Impact driving | Vibratory driving |
| Harbor seals ..... | 13, 169 | 11, 121 |
| Sea lions ... | 5, 25 | 4, 16 |

[1]SPLs used for calculations were: 112.5 dB for impact driving and 111 dB for use of a vibratory hammer.

However, because there are no regular haul-outs within such a small area around the site of proposed pile driving activity, we believe that incidents of incidental take resulting solely from airborne sound are unlikely. In particular, the zones for sea lions are within the minimum shutdown zone defined for underwater sound, and the zones for harbor seals are only slightly larger. It is extremely unlikely that any structure would be available as a haul-out opportunity within these zones, or that an animal would haul out in such close proximity to pile driving activity. There is a remote possibility that an animal could surface in-water, but with head out, within one of the defined zones and thereby be exposed to levels of airborne sound that we associate with harassment, but any such occurrence would likely be accounted for in our estimation of incidental take from underwater sound.

In summary, we generally recognize that pinnipeds occurring within an estimated airborne harassment zone, whether in the water or hauled out, could be exposed to airborne sound that may result in behavioral harassment. However, any animal exposed to airborne sound above the behavioral harassment threshold is likely to also be exposed to underwater sound above relevant thresholds (which are typically in all cases larger zones than those associated with airborne sound). Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Multiple incidents of exposure to sound above NMFS' thresholds for behavioral harassment are not believed to result in increased behavioral disturbance, in either nature or intensity of disturbance reaction. Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

*Marine Mammal Densities*

For all species, the best scientific information available was considered for use in the marine mammal take assessment calculations. The Navy has developed, with input from regional marine mammal experts, estimates of marine mammal densities in Washington inland waters for the Navy Marine Species Density Database (NMSDD). A technical report (Hanser *et al.,* 2015) describes methodologies and available information used to derive these densities, which are generally based upon the best available information for Washington inland waters, except where specific local abundance information is available.

At NBKB, the Navy began collecting opportunistic observational data of animals hauled-out on the floating security barrier. These surveys began in February 2010 and have been conducted approximately monthly from September 2010 through December 2014 (DoN, 2014). In addition, the Washington State Department of Transportation (WSDOT) recently conducted in-water pile driving over the course of multiple work windows as part of the Manette Bridge construction project in the nearby Port Washington Narrows. WSDOT conducted required marine mammal monitoring as part of this project (WSDOT, 2011, 2012; Rand, 2011). Here, we considered NMSDD density information for all five species we believe to have the potential for occurrence in the project area, but determined it most appropriate to use local abundance data for the three pinniped species. Density information is shown in Table 8; see Hanser *et al.* (2015) for descriptions of how the densities were derived. That document is publicly available on the Internet at *nwtteis.com/DocumentsandReferences/NWTTDocuments/SupportingTechnicalDocuments.aspx* (accessed July 13, 2015). See below for discussion of gray whale and killer whale.

*Description of Take Calculation*

The following assumptions are made when estimating potential incidences of take:

- All marine mammal individuals potentially available are assumed to be present within the relevant area, and thus incidentally taken;
- An individual can only be taken once during a 24-h period;
- There were will be sixty total days of activity for the Pier 6 project and thirty total days for the Pier 4 project; and,
- Exposures to sound levels at or above the relevant thresholds equate to take, as defined by the MMPA.

The estimation of marine mammal takes typically uses the following calculation:

Exposure estimate = (n * ZOI) * days of total activity

Where:

n = density estimate used for each species/season.

ZOI = sound threshold ZOI area; the area encompassed by all locations where the SPLs equal or exceed the threshold being evaluated.

n * ZOI produces an estimate of the abundance of animals that could be present in the area for exposure, and is rounded to the nearest whole number before multiplying by days of total activity.

The ZOI impact area is estimated using the relevant distances in Table 5, taking into consideration the possible affected area due to topographical constraints of the action area (*i.e.,* radial distances to thresholds are not always reached). When local abundance is the best available information, in lieu of the density-area method described above, we may simply multiply some number of animals (as determined through counts of animals hauled-out) by the number of days of activity, under the assumption that all of those animals will be present and incidentally taken on each day of activity.

There are a number of reasons why estimates of potential incidents of take may be conservative, assuming that available density or abundance estimates and estimated ZOI areas are accurate. We assume, in the absence of information supporting a more refined conclusion, that the output of the calculation represents the number of individuals that may be taken by the specified activity. In fact, in the context of stationary activities such as pile driving and in areas where resident animals may be present, this number more realistically represents the number of incidents of take that may accrue to a smaller number of individuals. While pile driving can occur any day throughout the in-water work window, and the analysis is conducted on a per day basis, only a fraction of that time (typically a matter of hours on any given day) is actually spent pile driving. The potential effectiveness of mitigation measures in reducing the number of takes is typically not quantified in the take estimation process. For these reasons, these take estimates may be conservative. See Table 8 for total estimated incidents of take.

*Harbor Seal*—While no harbor seal haul-outs are present in the action area or in the immediate vicinity of NBKB, haul-outs are present elsewhere in Sinclair Inlet and in other nearby waters and harbor seals may haul out on available objects opportunistically. Marine mammal monitoring conducted during pile driving work on the Manette Bridge showed variable numbers of harbor seals (but generally greater than indicated by the uncorrected NMSDD density of 1.219 animals/km$^2$). During the first year of construction (in-water work window only), an average of 3.7 harbor seals were observed per day of monitoring with a maximum of 59 observed in October 2011 (WSDOT, 2011; Rand, 2011). During the most recent construction period (July-November 2012), an average of eleven harbor seals per monitoring day was observed, though some animals were likely counted multiple times (WSDOT, 2012). Given the potential for similar occurrence of harbor seals in the vicinity of NBKB during the in-water construction period, we determined it appropriate to use this most recent, local abundance information in the take assessment calculation.

*California Sea Lion*—Similar to harbor seals, it is not likely that use of the NMSDD density value for California sea lions (0.13 animals/km$^2$) would adequately represent their potential occurrence in the project area, *i.e.,* would result in an underestimate. California sea lions are commonly observed hauled out on the floating security barrier which is in close proximity to the piers; counts from 52 surveys (February 2010-December 2014) showed an average of 48 individuals per survey day (range 0–219; DoN, 2014). These counts represent the best local abundance data available and were used in the take assessment calculation.

*Steller Sea Lion*—No Steller sea lion haul-outs are present within or near the action area, and Steller sea lions have not been observed during Navy waterfront surveys or during monitoring associated with the Manette Bridge construction project. It is assumed that the possibility exists that a Steller sea lion could occur in the project area, but there is no known attractant in Sinclair Inlet, which is a relatively muddy, industrialized area, and the floating security barrier that California sea lions use as an opportunistic haul-out cannot generally accommodate the larger adult Steller sea lions (juveniles could haul-out on the barrier). Use of the NMSDD density estimate (0.037 animals/km$^2$) results in an estimate of zero exposures, and there are no existing data to indicate that Steller sea lions would occur more frequently locally. However, as a precaution and to account for the possibility that a Steller sea lion could occur in the project area, we assume that one Steller sea lion could occur per day of activity.

*Killer Whale*—Transient killer whales are rarely observed in the project area, with records since 2002 showing one group transiting through the area in May 2004 and a subsequent, similar observation in May 2010. No other observations have occurred during Navy surveys or during project monitoring for Manette Bridge. Use of the NMSDD density estimate (0.0024 animals/km$^2$) results in an estimate of zero exposures, and there are no existing data to indicate that killer whales would occur more frequently locally. Therefore, the Navy has not requested the authorization of incidental take for transient killer whales and we do not propose such authorization. The Navy would not begin activity or would shut down upon report of a killer whale present within or approaching the relevant ZOI.

*Gray Whale*—Gray whales are rarely observed in the project area, and the majority of in-water work would occur when whales are relatively less likely to occur (*i.e.,* outside of March-May). Since 2002 and during the in-water work window, there are observational records of three whales (all during winter 2008–09) and a stranding record of a fourth whale (January 2013). No other observations have occurred during Navy surveys or during project monitoring for Manette Bridge. Use of the NMSDD density estimate (0.0005 animals/km$^2$) results in an estimate of zero exposures, and there are no existing data to indicate that gray whales would occur more frequently locally. Therefore, the Navy has not requested the authorization of incidental take for gray whales and we do not propose such authorization. The Navy would not begin activity or would shut down upon report of a gray whale present within or approaching the relevant ZOI.

TABLE 8—CALCULATIONS FOR INCIDENTAL TAKE ESTIMATION

| Species | n (animals/km$^2$) [1] | n * ZOI (vibratory steel pile removal) [2] | Abundance [3] | Total proposed authorized takes, Pier 6 (% of total stock) | Total proposed authorized takes, Pier 4 (% of total stock) |
|---|---|---|---|---|---|
| California sea lion | 0.1266 | 1 | 45 | 2,880 (1.0) | 1,440 (0.5) |
| Steller sea lion | 0.0368 | 0 | 1 | 60 (0.1) | 30 (0.05) |
| Harbor seal | 1.219 [5] | 9 | 11 | 660 (6.0) | 330 (3.0) |
| Killer whale (transient) | 0.0024 (fall) | 0 | n/a | 0 | 0 |
| Gray whale | 0.0005 (winter) | 0 | n/a | 0 | 0 |

[1] Best available species- and season-specific density estimate, with season noted in parentheses where applicable (Hanser *et al.,* 2015).
[2] Product of density and largest ZOI (7.5 km$^2$) rounded to nearest whole number; presented for reference only.
[3] Best abundance numbers multiplied by expected days of activity (60 and 30 for Pier 6 and Pier 4, respectively) to produce take estimate.
[4] Totals presented for reference only. Negligible impact and small numbers analyses (below) consider the project-specific numbers in columns to left.
[5] Uncorrected density; presented for reference only.

## Analyses and Preliminary Determinations

### *Negligible Impact Analyses*

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, we consider other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses

(*e.g.,* critical reproductive time or location, migration), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

To avoid repetition, the discussion below applies to all the species listed in Table 8 for which we propose to authorize take, and to both separately proposed IHAs (*i.e.,* the Navy's planned activities pursuant to the separate Pier 6 and Pier 4 projects), as the anticipated effects of both the Pier 6 and Pier 4 maintenance projects on marine mammals are expected to be relatively similar in nature. There is no information about the nature or severity of the impacts, or the size, status, or structure of any species or stock that would lead to species- or action-specific analyses for these activities.

Pile driving activities associated with the pier maintenance projects, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from underwater sounds generated from pile driving. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving is happening.

No injury, serious injury, or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, piles would be removed via vibratory means—an activity that does not have the potential to cause injury to marine mammals due to the relatively low source levels produced (less than 180 dB) and the lack of potentially injurious source characteristics—and, while impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks, only small diameter concrete piles are planned for impact driving (no impact pile driving would occur for the Pier 4 project). Predicted source levels for such impact driving events are significantly lower than those typical of impact driving of steel piles and/or larger diameter piles. In addition, implementation of soft start and shutdown zones significantly reduces any possibility of injury. Given sufficient ''notice'' through use of soft start (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to its becoming potentially injurious. Environmental conditions in Sinclair Inlet are expected to generally be good, with calm sea states, although Sinclair Inlet waters may be more turbid than those further north in Puget Sound or in Hood Canal. Nevertheless, we expect conditions in Sinclair Inlet would allow a high marine mammal detection capability for the trained observers required, enabling a high rate of success in implementation of shutdowns to avoid injury, serious injury, or mortality. In addition, the topography of Sinclair Inlet should allow for placement of observers sufficient to detect cetaceans, should any occur (see Figure 1 of Appendix C in the Navy's applications).

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; HDR, Inc., 2012). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted in San Francisco Bay and in the Puget Sound region, which have taken place with no reported injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in viability for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment will be reduced to the level of least practicable impact through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring.

In summary, these negligible impact analyses are founded on the following factors: (1) The possibility of injury, serious injury, or mortality may reasonably be considered discountable; (2) the anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior; (3) the absence of any significant habitat within the project area, including rookeries, significant haul-outs, or known areas or features of special significance for foraging or reproduction; (4) the presumed efficacy of the proposed mitigation measures in reducing the effects of the specified activity to the level of least practicable impact. In addition, these stocks are not listed under the ESA or considered depleted under the MMPA. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activities will have only short-term effects on individuals. The specified activities are not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts. Below, we make separate preliminary findings specific to each project.

*Pier 6*—Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, we preliminarily find that the total marine mammal take from the Navy's pier maintenance activities will have a negligible impact on the affected marine mammal species or stocks.

*Pier 4*—Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, we preliminarily find that the total marine mammal take from the Navy's pier maintenance activities will have a negligible impact on the affected marine mammal species or stocks.

*Small Numbers Analyses*

The number of incidents of take proposed for authorization for these stocks, specific to each separate project, would be considered small relative to the relevant stocks or populations (one percent or less for both sea lion stocks and six percent or less for harbor seals; Table 8) even if each estimated taking occurred to a new individual. This is an extremely unlikely scenario as, for pinnipeds in estuarine/inland waters, there is likely to be some overlap in individuals present day-to-day. Below, we make separate preliminary findings specific to each project.

*Pier 6*—Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking

into consideration the implementation of the mitigation and monitoring measures, we preliminarily find that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

*Pier 4*—Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we preliminarily find that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

**Impact on Availability of Affected Species for Taking for Subsistence Uses**

There are no relevant subsistence uses of marine mammals implicated by these actions. Therefore, relevant to both the Pier 6 and Pier 4 proposed IHAs, we have determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

**Endangered Species Act (ESA)**

No marine mammal species listed under the ESA are expected to be affected by these activities. Therefore, we have determined that section 7 consultations under the ESA are not required.

**National Environmental Policy Act (NEPA)**

*Pier 6*—In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), the Navy prepared an Environmental Assessment (EA) to consider the direct, indirect and cumulative effects to the human environment resulting from the pier maintenance project. NMFS made the Navy's EA available to the public for review and comment, in relation to its suitability for adoption by NMFS in order to assess the impacts to the human environment of issuance of an IHA to the Navy. Also in compliance with NEPA and the CEQ regulations, as well as NOAA Administrative Order 216–6, NMFS has reviewed the Navy's EA, determined it to be sufficient, and adopted that EA and signed a Finding of No Significant Impact (FONSI) on November 8, 2013.

We have reviewed the Navy's application for a renewed IHA for ongoing construction activities for 2015–16 and the 2014–15 monitoring report. Based on that review, we have determined that the proposed action is very similar to that considered in the previous IHA. In addition, no significant new circumstances or information relevant to environmental concerns have been identified. Thus, we have determined preliminarily that the preparation of a new or supplemental NEPA document is not necessary, and will, after review of public comments determine whether or not to reaffirm our 2013 FONSI. The 2013 NEPA documents are available for review at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

*Pier 4*—The Navy has prepared a Draft EA in accordance with NEPA and the regulations published by the Council on Environmental Quality. We have posted it on the NMFS Web site concurrently with the publication of this proposed IHA. NMFS will independently evaluate the EA and determine whether or not to adopt it. We may prepare a separate NEPA analysis and incorporate relevant portions of the Navy's EA by reference. Information in the Navy's application, EA, and this notice collectively provide the environmental information related to proposed issuance of the IHA for public review and comment. We will review all comments submitted in response to this notice as we complete the NEPA process, including a decision of whether to sign a FONSI, prior to a final decision on the IHA request.

**Proposed Authorizations**

As a result of these preliminary determinations, we propose to issue two separate IHAs to the Navy for conducting the described pier maintenance activities in Sinclair Inlet, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. Specific language from the proposed IHAs is provided next.

This section contains drafts of the IHAs. The wording contained in this section is proposed for inclusion in the IHAs (if issued).

*Pier 6*

1. This Incidental Harassment Authorization (IHA) is valid from September 1, 2015 through March 1, 2016.

2. This IHA is valid only for pile driving and removal activities associated with the Pier 6 Maintenance Project at Naval Base Kitsap Bremerton, Washington.

3. General Conditions.

(a) A copy of this IHA must be in the possession of the Navy, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking are the harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), and Steller sea lion (*Eumetopias jubatus*).

(c) The taking, by Level B harassment only, is limited to the species listed in condition 3(b). See Table 1 for numbers of take authorized.

TABLE 1—AUTHORIZED TAKE NUMBERS, BY SPECIES

| Species | Authorized take |
|---|---|
| Harbor seal | 660 |
| California sea lion | 2,880 |
| Steller sea lion | 60 |

(d) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(e) The Navy shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, acoustic monitoring team, and Navy staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

4. Mitigation Measures.

The holder of this Authorization is required to implement the following mitigation measures:

(a) For all pile driving, the Navy shall implement a minimum shutdown zone of 10 m radius around the pile. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease.

(b) The Navy shall establish monitoring locations as described below. Please also refer to the Marine Mammal Monitoring Plan (Monitoring Plan; attached).

i. For all vibratory pile removal activities, a minimum of two observers shall be deployed. One observer shall be located at the pier work site, positioned to achieve optimal monitoring of the shutdown zone and the surrounding waters of Sinclair Inlet. A minimum of one vessel-based observer shall be deployed and shall conduct regular transits through the estimated disturbance zone for the duration of the activity.

ii. For all impact pile driving activities, a minimum of one shore-based observer shall be located at the pier work site.

iii. These observers shall record all observations of marine mammals, regardless of distance from the pile being driven, as well as behavior and potential behavioral reactions of the animals. If any killer whales or gray whales are detected, activity must not begin or must shut down.

iv. All observers shall be equipped for communication of marine mammal observations amongst themselves and to other relevant personnel (*e.g.,* those necessary to effect activity delay or shutdown).

(c) Prior to the start of pile driving on any day, the Navy shall take measures to ensure that no species for which incidental take is not authorized are located within the vicinity of the action area, and shall contact and/or review the latest sightings data from the Orca Network and/or Center for Whale Research, including passive acoustic detections, to determine the location of the nearest marine mammal sightings.

(d) Monitoring shall take place from fifteen minutes prior to initiation of pile driving activity through thirty minutes post-completion of pile driving activity. Pre-activity monitoring shall be conducted for fifteen minutes to ensure that the shutdown zone is clear of marine mammals, and pile driving may commence when observers have declared the shutdown zone clear of marine mammals. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals shall be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior shall be monitored and documented. Monitoring shall occur throughout the time required to drive a pile. The shutdown zone must be determined to be clear during periods of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

(e) If a marine mammal approaches or enters the shutdown zone, all pile driving activities at that location shall be halted. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal.

(f) Monitoring shall be conducted by qualified observers, as described in the Monitoring Plan. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator.

(g) The Navy shall use soft start techniques recommended by NMFS for vibratory and impact pile driving. Soft start for vibratory drivers requires contractors to initiate sound for fifteen seconds at reduced energy followed by a thirty-second waiting period. This procedure is repeated two additional times. Soft start for impact drivers requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. Soft start shall be implemented at the start of each day's pile driving and at any time following cessation of pile driving for a period of thirty minutes or longer. Soft start for impact drivers must be implemented at any time following cessation of impact driving for a period of thirty minutes or longer.

(h) Pile driving shall only be conducted during daylight hours.

5. Monitoring.

The holder of this Authorization is required to conduct marine mammal monitoring during pile driving activity. Marine mammal monitoring and reporting shall be conducted in accordance with the Monitoring Plan.

(a) The Navy shall collect sighting data and behavioral responses to pile driving for marine mammal species observed in the region of activity during the period of activity. All observers shall be trained in marine mammal identification and behaviors, and shall have no other construction-related tasks while conducting monitoring.

(b) For all marine mammal monitoring, the information shall be recorded as described in the Monitoring Plan.

(c) The Navy shall conduct acoustic monitoring sufficient to measure underwater and airborne source levels for vibratory removal of timber piles and impact driving of concrete piles. Minimum requirements include:

i. Measurements shall be taken for a minimum of ten piles of each type.

ii. Each hydrophone (underwater) and microphone (airborne) shall be calibrated prior to the beginning of the project and shall be checked at the beginning of each day of monitoring activity.

iii. Environmental data shall be collected including but not limited to: wind speed and direction, wave height, water depth, precipitation, and type and location of in-water construction activities, as well other factors that could contribute to influencing the airborne and underwater sound levels measured (*e.g.* aircraft, boats).

iv. The construction contractor shall supply the Navy and monitoring personnel with an estimate of the substrate condition, hammer model and size, hammer energy settings and any changes to those settings during the piles being monitored.

v. Post-analysis of data shall include the average, minimum, and maximum rms values and frequency spectra for each pile monitored. If equipment used is able to accommodate such a requirement, average, minimum, and maximum peak values shall also be provided.

6. Reporting.

The holder of this Authorization is required to:

(a) Submit a draft report on all monitoring conducted under the IHA within 45 days of the completion of marine mammal and acoustic monitoring, or sixty days prior to the issuance of any subsequent IHA for this project, whichever comes first. A final report shall be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS. This report must contain the informational elements described in the Monitoring Plan, at minimum (see attached), and shall also include:

i. Detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any.

ii. Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.

iii. A refined take estimate based on the number of marine mammals observed during the course of construction activities.

iv. Results of acoustic monitoring, including the information described in condition 5(c) of this authorization.

(b) Reporting injured or dead marine mammals:

i. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, Navy shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS. The report must include the following information:

A. Time and date of the incident;

B. Description of the incident;

C. Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

D. Description of all marine mammal observations in the 24 hours preceding the incident;

E. Species identification or description of the animal(s) involved;

F. Fate of the animal(s); and

G. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Navy to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Navy may not resume their activities until notified by NMFS.

ii. In the event that Navy discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), Navy shall immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS.

The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Navy to determine whether additional mitigation measures or modifications to the activities are appropriate.

iii. In the event that Navy discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), Navy shall report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. Navy shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

*Pier 4*

1. This Incidental Harassment Authorization (IHA) is valid from December 1, 2015, through November 30, 2016.

2. This IHA is valid only for pile driving and removal activities associated with the Pier 4 Maintenance Project at Naval Base Kitsap Bremerton, Washington.

3. General Conditions.

(a) A copy of this IHA must be in the possession of the Navy, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking are the harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), and Steller sea lion (*Eumetopias jubatus*).

(c) The taking, by Level B harassment only, is limited to the species listed in condition 3(b). See Table 1 for numbers of take authorized.

TABLE 1—AUTHORIZED TAKE NUMBERS, BY SPECIES

| Species | Authorized take |
|---|---|
| Harbor seal | 330 |
| California sea lion | 1,440 |
| Steller sea lion | 30 |

(d) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(e) The Navy shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, acoustic monitoring team, and Navy staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

4. Mitigation Measures.

The holder of this Authorization is required to implement the following mitigation measures:

(a) For all pile driving, the Navy shall implement a minimum shutdown zone of 10 m radius around the pile. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease.

(b) The Navy shall establish monitoring locations as described below. Please also refer to the Marine Mammal Monitoring Plan (Monitoring Plan; attached).

i. For all vibratory pile removal activities, a minimum of two observers shall be deployed. One observer shall be located at the pier work site, positioned to achieve optimal monitoring of the shutdown zone and the surrounding waters of Sinclair Inlet. A minimum of one vessel-based observer shall be deployed and shall conduct regular transits through the estimated disturbance zone for the duration of the activity.

ii. These observers shall record all observations of marine mammals, regardless of distance from the pile being driven, as well as behavior and potential behavioral reactions of the animals. If any killer whales or gray whales are detected, activity must not begin or must shut down.

iii. All observers shall be equipped for communication of marine mammal observations amongst themselves and to other relevant personnel (*e.g.,* those necessary to effect activity delay or shutdown).

(c) Prior to the start of pile driving on any day, the Navy shall take measures to ensure that no species for which incidental take is not authorized are located within the vicinity of the action area, and shall contact and/or review the latest sightings data from the Orca Network and/or Center for Whale Research, including passive acoustic detections, to determine the location of the nearest marine mammal sightings.

(d) Monitoring shall take place from fifteen minutes prior to initiation of pile driving activity through thirty minutes post-completion of pile driving activity. Pre-activity monitoring shall be conducted for fifteen minutes to ensure that the shutdown zone is clear of marine mammals, and pile driving may commence when observers have declared the shutdown zone clear of marine mammals. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals shall be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior shall be monitored and documented. Monitoring shall occur throughout the time required to drive a pile. The shutdown zone must be determined to be clear during periods of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

(e) If a marine mammal approaches or enters the shutdown zone, all pile driving activities at that location shall be halted. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal.

(f) Monitoring shall be conducted by qualified observers, as described in the Monitoring Plan. Trained observers shall be placed from the best vantage point(s) practicable to monitor for

marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator.

(g) The Navy shall use soft start techniques recommended by NMFS for vibratory pile driving. Soft start for vibratory drivers requires contractors to initiate sound for fifteen seconds at reduced energy followed by a thirty-second waiting period. This procedure is repeated two additional times. Soft start shall be implemented at the start of each day's pile driving and at any time following cessation of pile driving for a period of thirty minutes or longer.

(h) Pile driving shall only be conducted during daylight hours.

5. Monitoring.

The holder of this Authorization is required to conduct marine mammal monitoring during pile driving activity. Marine mammal monitoring and reporting shall be conducted in accordance with the Monitoring Plan.

(a) The Navy shall collect sighting data and behavioral responses to pile driving for marine mammal species observed in the region of activity during the period of activity. All observers shall be trained in marine mammal identification and behaviors, and shall have no other construction-related tasks while conducting monitoring.

(b) For all marine mammal monitoring, the information shall be recorded as described in the Monitoring Plan.

6. Reporting.

The holder of this Authorization is required to:

(a) Submit a draft report on all monitoring conducted under the IHA within 45 days of the completion of marine mammal and acoustic monitoring, or sixty days prior to the issuance of any subsequent IHA for this project, whichever comes first. A final report shall be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS. This report must contain the informational elements described in the Monitoring Plan, at minimum (see attached), and shall also include:

i. Detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any.

ii. Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.

iii. A refined take estimate based on the number of marine mammals observed during the course of construction activities.

(b) Reporting injured or dead marine mammals:

i. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, Navy shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS. The report must include the following information:

A. Time and date of the incident;

B. Description of the incident;

C. Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

D. Description of all marine mammal observations in the 24 hours preceding the incident;

E. Species identification or description of the animal(s) involved;

F. Fate of the animal(s); and

G. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Navy to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Navy may not resume their activities until notified by NMFS.

ii. In the event that Navy discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), Navy shall immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS.

The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Navy to determine whether additional mitigation measures or modifications to the activities are appropriate.

iii. In the event that Navy discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), Navy shall report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. Navy shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

**Request for Public Comments**

We request comment on our analyses, the draft authorizations, and any other aspect of this Notice of Proposed IHAs for Navy's pier maintenance activities. Please include with your comments any supporting data or literature citations to help inform our final decision on Navy's request for an MMPA authorization.

Dated: July 20, 2015.

**Perry F. Gayaldo,**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2015–18145 Filed 7–23–15; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XZ28**

### Revision to Management Measures for the Subsistence Taking of Northern Fur Seals on St. Paul Island, Alaska

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

**ACTION:** Notice; intent to prepare a Supplemental Environmental Impact Statement (SEIS).

**SUMMARY:** NMFS announces its intent to prepare an SEIS in accordance with the National Environmental Policy Act of 1969. The SEIS will evaluate alternatives which include petitioned changes to the regulations governing management of the northern fur seal subsistence harvest on St. Paul Island, Alaska. The SEIS will supplement the 2005 Final Environmental Impact Statement for Setting the Annual Subsistence Harvest of Northern Fur Seals on the Pribilof Islands. NMFS intends to prepare an SEIS because the petitioned action would make substantial changes to the action analyzed in the 2005 EIS that are relevant to environmental effects.

**DATES:** Written comments must be received by 5 p.m. Alaska Standard Time, August 24, 2015.

**ADDRESSES:** You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2015–0073, by either of the following methods:

*Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0073,* Click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

*Mail:* Submit written comments to Jon Kurland, Assistant Regional Administrator for Protected Resources, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the 2005 Final Environmental Impact Statement for Setting the Annual Subsistence Harvest of Northern Fur Seals on the Pribilof Islands, St. Paul Tribal Resolutions, and other relevant documents are available at: *http://alaskafisheries.noaa.gov/protectedresources/seals/fur.htm.*

**FOR FURTHER INFORMATION CONTACT:** Michael Williams, Protected Resources Division, NMFS Alaska Region, (907) 271–5117.

**SUPPLEMENTARY INFORMATION:** The subsistence harvest of the eastern Pacific stock of northern fur seals (*Callorhinus ursinus*) on the Pribilof Islands is governed by regulations at 50 CFR 216.71–.74 established under the Fur Seal Act (FSA) (16 U.S.C. 1511 *et seq.*) and Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*). NMFS manages the harvest of northern fur seals under regulations that impose a variety of restrictions to meet the subsistence needs of Pribilovians while ensuring sustainable harvests. The existing regulations (1) establish a 47-day period between June 23 and August 8 of each year, during which fur seals may be taken for subsistence purposes; (2) limit the harvest of sub-adult male fur seals to those 124.5 cm or less in length; (3) identify specific hauling grounds from which fur seals may be taken, and provide that no hauling ground on St. Paul may be harvested more than once per week; (4) require that NMFS receive adequate advance notice of scheduled harvest activities to enable NMFS to monitor the harvest; and (5) require NMFS to publish triennially a summary of the harvest during the preceding three years and the estimated subsistence needs for the next three years (71 FR 8222, February 16, 2006; 73 FR 49616, August 22, 2008; 77 FR 6682, February 9, 2012).

The harvest regulations at 50 CFR 216.72(c)(2) additionally state ''No fur seal may be taken except by experienced sealers using the traditional harvesting methods, including stunning followed immediately by exsanguination. The harvesting method shall include organized drives of sub-adult males to killing fields unless it is determined by the NMFS representatives, in consultation with the Pribilovians conducting the harvest that alternative methods will not result in increased disturbance to the rookery or the increased accidental take of female seals.''

On February 16, 2007, the Aleut Community of St. Paul Island, Tribal Government (ACSPI) submitted a petition for rulemaking requesting NMFS revise regulations governing the subsistence take of northern fur seals on St. Paul. NMFS published the notice of receipt of petition in the **Federal Register** with a 60-day public comment period (77 FR 41168, July 12, 2012). NMFS received comment letters from the Marine Mammal Commission (MMC), Humane Society of the United States, Center for Biological Diversity, Alaskan Wildlife Federation, and two individuals. On November 10, 2014 and April 29, 2015, ACSPI submitted letters to NMFS (see **ADDRESSES**) to revise its petition based on the public comments and subsequent discussions during the semi-annual St. Paul Island Co-Management Council meetings.

## St. Paul Island

St. Paul Island is a remote island located in the Bering Sea. St. Paul Island residents have a need for long-term sustainable use of northern fur seals for subsistence purposes of cultural continuity, food, clothing, arts, and crafts. Alaska Natives from St. Paul Island have a long history of harvesting fur seals for subsistence purposes prior to the United States' purchase of Alaska in 1867. Prior to the U.S. purchase of Alaska, the Aleuts harvested northern fur seal young of the year (pups); U.S. records of these subsistence harvests of pups indicate thousands were harvested annually during the late 1800s and were viewed by Aleuts as one of their most valued food sources. In the late 1800s, the fur seal population had declined due to the international pelagic harvests which killed mainly females on their summer foraging trips; therefore, the U.S. government asked the Aleuts of the Pribilof Islands to stop harvesting young of the year. The northern fur seal population recovered by the mid-1960s, but the pup harvest was never resumed.

The subsistence way of life has remained an important, consistent, and supporting factor in the personal, economic, and traditional character of ACSPI. A continued subsistence harvest preserves traditional skills, provides a culturally identifiable food source for Alaska Native residents, and enables the passing of cultural values to the next generation. The ACSPI petitioned NMFS on behalf of its tribal members to change the current subsistence harvest regulations to include the harvest of pups, which were an important traditional food source.

## Proposed Action

Based on the petition and subsequent revisions from the ACSPI, NMFS is evaluating a proposed action to use both harvester and scientific experience to improve northern fur seal subsistence harvest opportunities and refine existing regulatory measures to conserve the northern fur seal population on St. Paul Island. The 2005 EIS analyzed setting the annual fur seal subsistence harvest take ranges for St. George Island and St. Paul Island. NMFS intends to prepare an SEIS because the proposed action would make substantial changes to the action analyzed in the 2005 EIS that are relevant to environmental effects.

If NMFS determines that changes to the existing regulations for subsistence harvest on St. Paul Island are appropriate, NMFS will issue a proposed rule. Via the same rulemaking, or possibly a separate rulemaking, NMFS may propose certain changes to the subsistence harvest regulations for St. George Island (50 CFR 216.72) that were analyzed in the August 2014 *Final Supplemental Environmental Impact Statement* for the Management of the Subsistence Harvest of Northern Fur Seals on St. George Island, but not implemented in the associated final rule NMFS published in 2014 (79 FR 65327; November 4, 2014).

**Purpose and Need**

The purpose of the proposed action is to manage the subsistence harvest of fur seals on St. Paul Island. NMFS action in response to the petition from ACSPI is needed to fulfill Federal trust responsibilities under the MMPA and FSA to conserve the northern fur seal population and co-manage the subsistence harvest with ACSPI. In addition, NMFS trust responsibilities include recognizing the subsistence needs of Alaskan Natives on St. Paul Island to the fullest extent possible consistent with applicable law.

**Proposed Alternatives**

The proposed alternatives only apply to northern fur seal subsistence harvests on St. Paul Island, Alaska. NMFS is currently considering three alternatives for evaluation in the SEIS: Alternative 1 is the No Action Alternative; Alternative 2 (Petitioned Alternative) would modify the management to allow for a regulated harvest of northern fur seals to meet the subsistence needs as described in the petition from ACSPI; and Alternative 3 would incorporate aspects of Alternative 2 as modified with measures recommended from public comments received in response to the notice of receipt of the 2007 ACSPI petition (77 FR 41168; July 12, 2012).

*Alternative 1,* the no action alternative, would maintain the current subsistence harvest range on St. Paul Island from 1,645 to 2,000 northern fur seals. Federal regulations at 50 CFR 216.72 restrict subsistence harvests of fur seals to a 47-day season between June 23 and August 8 of each year. This alternative continues the harvest under the regulatory process used to establish harvest take levels every three years, and a set of restrictions that have been in place since 1993. The restrictions include prohibitions on any taking of adult fur seals or pups, intentional taking of sub-adult females, and taking sub-adult males larger than 124.5 cm long. The restrictions identify specific harvest locations and harvest frequency once per week per harvest site.

This alternative requires NMFS to publish in the **Federal Register** a summary of the number of seals taken during the prior 3-year period and expected to be taken annually over the next 3-year period to meet local subsistence needs. This information is used to set lower and upper take ranges for the number of seals that can be harvested annually. Following a 30-day public comment period, a final notification of the take ranges for the subsequent 3-year period is reported. Under this alternative, NMFS would maintain the regulations suspending, but not terminating, the harvest when the lower end of the harvest range is reached (1,645 fur seals). NMFS can lift this suspension, if after a review of the harvest data, it determines that the community's subsistence needs have not been met. NMFS is then required to publish a revised estimate of the number of seals needed to meet the community's subsistence need up to the upper end of the range (2,000 fur seals). NMFS is also required to suspend the harvest if it determines that the subsistence needs of the community have been satisfied, or if the harvest is being conducted in a wasteful manner.

*Alternative 2,* the petitioned action, would implement a regulated harvest of northern fur seals to meet the subsistence needs as described in the November 10, 2014, revised petition and subsequent clarifications from the ACSPI. ACSPI proposed on April 29, 2015, that the St. Paul Island Co-Management Council set seasonal limits, age class limits, or some combination of season and age limits not to exceed a total harvest of 2,000 male fur seals annually. The Co-Management Council is a body established via an agreement between NMFS and ACSPI under section 119 of the MMPA to oversee subsistence harvest of northern fur seals and Steller sea lions on St. Paul Island, and comprises NMFS and ACSPI representatives.

Alternative 2 includes the following provisions: (1) Lethally take up to 2,000 male fur seals annually; (2) if and when 20 female fur seals (1% of the harvest quota) have been accidentally killed, terminate all fur seal taking for the rest of the year; (3) within the overall limit of no more than 2,000 fur seals, take juvenile male fur seals by hunting with firearms from January 1 to May 31 annually and take by harvest (roundup, stunning, and exsanguination) male pups and juvenile male fur seals from June 23 to December 31 annually; (4) implement a subsistence harvest review process to be overseen by the Co-Management Council to develop harvest monitoring and allocation plans intended to minimize sub-lethal effects to seals not harvested, maximize detection and avoidance of females, prevent wasteful taking, and make in-season allocations among the age groups and locations to be harvested. The total harvest level under Alternative 2 would be the same as the currently authorized upper end of the harvest range for St. Paul established for the 2014–2016 seasons (79 FR 45728; August 6, 2014). In addition, the harvest would be suspended for two days if and when 5 females have been accidentally killed, which would allow time for ACSPI to determine in consultation with NMFS what measures can be taken to detect and reduce additional mortality of females.

Under Alternative 2, a pup would be defined as a fur seal in the first year of its life and a juvenile would be defined as any animal that is older than a pup but too young to reproduce (up to seven years old). The current regulation uses the term sub-adult which is in reference to seals aged two to five years old or less than 124.5 cm long. The prohibition on taking animals greater than 124.5 cm in length would be eliminated to allow hunting larger fur seals from January 1 to May 31, most of which would be shot in the water similar to the manner in which Alaska Natives on St. Paul hunt for Steller sea lions during this same time period. The regulations suspending the harvest when the lower end of the harvest range is reached (1,645 fur seals) would be eliminated. Additionally, all fur seal pups to be harvested between June 23 and December 31 would be sexed before harvesting to ensure that female pups are detected and not killed. The location restrictions would be changed to allow harvest round-ups to originate in the rookeries and hauling grounds.

*Alternative 3* would incorporate recommendations described in the August 24, 2012 letter from the MMC and other members of the public (see **ADDRESSES**) into Alternative 2. Specifically, Alternative 3 would include the MMC's recommendations concerning monitoring of the harvest to ensure no wasteful taking occurs, disturbance at haulouts and taking of females is minimized, and use of firearms to harvest fur seals is prohibited.

Thus Alternative 3 would: (1) Allow 342 days of harvest, split into two seasons: January 1 to May 31, and June 23 to December 31; (2) from June 23 to December 31 limit the harvest of up to 1,500 male pups; (3) allow up to 500 juvenile males to be harvested during either season; and (4) include a new prohibition to terminate the harvest for the year if and when 20 female fur seals have been killed. Unlike Alternative 2, Alternative 3 would specifically prohibit any use of firearms such that juvenile and pup fur seals would be harvested using the current method of roundup, stunning, and exsanguination.

Alternative 3 would maintain the current subsistence harvest range on St. Paul Island from 1,645 to 2,000 northern fur seals, and the existing suspension provisions. Alternative 3 would define fur seal life stages to be harvested in the

same fashion as Alternative 2. Based on public comments this alternative would include criteria to determine if taking during the subsistence harvest is occurring in a wasteful manner. Additionally, all fur seal pups to be harvested from June 23 to December 31 would be sexed before harvesting to ensure that female pups are detected and not killed. This alternative would include provisions for ACSPI and NMFS to jointly develop harvest monitoring plans within the co-management structure intended to minimize sub-lethal effects to seals not harvested, maximize detection and avoidance of females, and prevent wasteful taking.

**Public Involvement**

Scoping is an early and open process for determining the scope of issues, alternatives, and impacts to be addressed in an EIS, and for identifying the significant issues related to the proposed action. A principal objective of the scoping and public involvement process is to identify a range of reasonable management alternatives that, with adequate analysis, will delineate critical issues and provide a clear basis for distinguishing among those alternatives and selecting a preferred alternative. NMFS began informal scoping for this issue in 2007 when it received the petition from the ACSPI proposing changes in harvest regulations to better meet the community's subsistence need.

NMFS is seeking written public comments on the scope of issues, potential impacts, and alternatives that should be considered for the fur seal harvest regulations. NMFS is also seeking public comments regarding whether the SEIS should evaluate additional alternatives, such as different levels of age-specific harvests and harvest termination thresholds to manage the subsistence removals of fur seals on St. Paul Island. Written comments will be accepted at the address above (see **ADDRESSES**). Written comments should be as specific as possible to be the most helpful. NMFS will incorporate scoping comments received into the Draft SEIS.

Dated: July 21, 2015.

**Donna S. Wieting,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2015–18176 Filed 7–23–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Pacific Islands Pelagic Squid Jig Fishing Permit.

*OMB Control Number:* 0648–0589.

*Form Number(s):* None.

*Type of Request:* Regular (revision and extension of a currently approved information collection).

*Number of Respondents:* 5.

*Average Hours Per Response:* Permit applications and renewals, 15 minutes; appeals, 2 hours.

*Burden Hours:* 3.

*Needs and Uses:* This request is for revision and extension of a currently approved information collection.

Federal regulations at Title 50, part 665, of the Code of Federal Regulations require that owners of vessels fishing for, or landing, pelagic squid in the western Pacific region obtain a permit from NOAA Fisheries Service (NMFS). In this revision/extension, the vessel ID requirements have been incorporated into Pacific Islands Region Vessel and Gear Identification Requirements (OMB Control No. 0648–0360) and the reporting requirement is being moved to Pacific Islands Logbook Family of Forms (OMB Control No. 0648–0214). There have also been minor changes to the permit application form, and instructions added.

*Affected Public:* Business or other for-profit organizations.

*Frequency:* Annually and on occasion.

*Respondent's Obligation:* Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–18158 Filed 7–23–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XE030**

### Taking of Marine Mammals Incidental to Specified Activities; San Francisco-Oakland Bay Bridge Pier E3 Demolition via Controlled Implosion

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

**ACTION:** Notice; proposed incidental harassment authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from the California Department of Transportation (CALTRANS) for an authorization to take small numbers of four species of marine mammals, by Level B harassment, incidental to proposed San Francisco-Oakland Bay Bridge (SFOBB) Pier E3 demolition via controlled implosion in San Francisco Bay (SFB or Bay). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to CALTRANS to incidentally take, by harassment, small numbers of marine mammals for its proposed controlled implosion.

**DATES:** Comments and information must be received no later than August 24, 2015.

**ADDRESSES:** Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *itp.guan@noaa.gov.* NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 25-megabyte file size.

*Instructions:* All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the application may be obtained by writing to the address specified above or visiting the internet

at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:**

## Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for a one-year authorization to incidentally take small numbers of marine mammals by harassment, provided that there is no potential for serious injury or mortality to result from the activity. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

## Summary of Request

On March 3, 2015, CALTRANS submitted a request to NMFS for the potential harassment of a small number of marine mammals incidental to the dismantling of Pier E3 of the East Span of the original SFOBB in SFB, California, in fall 2015. CALTRANS is proposing to remove the Pier E3 via highly controlled implosion with detonations. On April 16, 2015, CALTRANS submitted a revision of its request with an inclusion of a test implosion before the bridge demolition. NMFS determined that the IHA application was complete on May 1, 2015. NMFS is proposing to authorize the Level B harassment of Pacific harbor seal, California sea lion, northern elephant seal, and harbor porpoise.

## Description of the Specified Activity

### *Overview*

CALTRANS proposes removal of Pier E3 of the original SFOBB by use of controlled charges to implode the pier into its open cellular chambers below mudline. A Blast Attenuation System (BAS) will be used to minimize impacts to biological resources in the Bay. Given the complexity of removing the deep water caissons, CALTRANS is proposing the Demonstration Project to evaluate in-water controlled implosion techniques for the removal of marine foundations. CALTRANS' goal is to achieve a safe and efficient method for removing submerged foundations while avoiding and minimizing impacts to the Bay and natural communities and species within the project area.

The Demonstration Project expects to reduce environmental impacts as compared to currently permitted conventional dismantling methods which would employ large cofferdams with extensive amounts of associated pile driving and dewatering. The use of controlled charges is expected to greatly reduce in-water work periods and shorten the overall duration of marine foundation removal.

### *Dates and Duration*

The controlled implosion and the pre-demolition test implosion are expected to occur in November 2015. Both pre-demolition implosion and the Pier E3 demolition via controlled implosion would last for about 5 seconds each. The IHA is proposed to be valid between October 1 and December 30, 2015, per discussion between CALTRANS and NMFS.

### *Specified Geographic Region*

The location of the Pier E3 controlled implosion would occur within the Bay in the area around the east span of the SFOBB between Yerba Buena Island (YBI) and Oakland (Figure 16 of CALTRANS IHA application).

### *Detailed Description of CALTRANS Pier E3 Controlled Implosion*

CALTRANS proposes to remove Pier E3 of the original SFOBB by implosion using highly controlled charges. The mean of using controlled implosion is proposed as an alternate method to the original permitted mechanical methods for dismantling Pier E3, as it is expected to result in fewer in-water work days, have fewer effects on aquatic resources of the Bay, and require a shorter time frame for completion.

In addition, to ensure that the Blast Attenuation System (BAS) for mitigation and the passive acoustic monitoring (PAM) for monitoring work properly during the implosion, CALTRANS is proposing a pre-implosion test charge using a small detonation three or four days before the actual SFOBB implosion. Detailed descriptions of CALTRANS' implosion activities are provided below.

### *Drilling Boreholes*

Once the pier has been dismantled to the mechanical dismantling elevation, access platforms will be installed to support the drilling equipment while exposing the top of the interior cells and outside walls. Boreholes will be drilled on the inner cell walls and exterior walls of the pier for charge placement. An overhanging template system will be installed to guide the drill below the waterline. Divers will be required to cut notches to guide the drilling of underwater boreholes. No marine mammal is expected to be affected from borehole drilling activities.

### *Blast Attenuation System Installation and Deployment*

To minimize the potential impacts from shockwave generated from the bridge implosion, a Blast Attenuation System (BAS). The BAS to be used at Pier E3 is a modular system of pipe manifold frames that will be fed by 1,400–1,600 cubic feet per minute (cfm) air compressors to create a curtain of air bubbles around the entire pier during the controlled implosion. Proposed BAS design details and specifications are provided in Appendix B of CALTRANS' IHA application. Each BAS frame will be lowered to the bottom of the Bay by a barge mounted crane and positioned into place. Divers will be used to assist frame placement and to connect air hoses to the frames.

Based on location around the pier, the BAS frame elements will be situated from approximately 25 ft (7.6 m) to 40 ft (12 m) from the outside edge of Pier E3. The frames will be situated to contiguously surround the pier; frame

ends will overlap to ensure no break in the BAS when operational. Each frame will be weighted to negative buoyancy for activation. Each BAS frame will be fed by an individual compressor mounted on a barge. This will require 14 compressors on approximately 14 flexi-float barges situated around the pier. Each barge will be temporarily anchored to maintain their position around the pier. Compressors will be turned on and each section of the BAS will be tested for uniform air flow prior to the controlled implosion. Once the controlled implosion event has been completed, the contractor will demobilize the BAS and all associated equipment. Compressors will provide enough pressure to achieve a minimal air volume fraction of 3–4%, consistent with the successful use of BAS systems in past controlled blasting activities (Kiewit-Mass, pers. comm. in: CALTRANS 2015).

System performance is anticipated to provide approximately 80% attenuation, or better, based on past experience with similar systems during controlled blasting. Previous implosions using similar BAS systems in Ontario, Canada showed 85%–95% attenuation, in Vancouver, Canada showed 84%–88% attenuation, and in Manitoba, Canada showed 90–98% attenuation (Kiewit-Mason, pers. comm. in: CALTRANS 2015).

The installation of the BAS is not expected to effects marine mammals in the project vicinity.

*Pre-Implosion Test Charge*

Acoustically capturing the implosion is critical for the determination of whether or not this technique can be used for future piers. A key factor in accurately capturing hydroacoustic information is to ensure triggering of the data acquisition/recording instrument used for high speed recording during near-field and far-field monitoring of the implosion. To this end, the pressure-time signature of a blast cannot be duplicated except with another blast. As such, release of a small test charge before the actual implosion is required to validate that all equipment is functional and to set the triggering parameters accurately for the implosion.

Release of the test charge will occur at least three to four days prior to the actual implosion and after the BAS is in place and functional. The BAS will be in operation during the test. The test will use a charge weight of 18 grain (0.0025 lbs) or less. The charge will be placed along one of the longer faces of the Pier and inside the BAS while it is operating. The charge will be positioned near the center of the wider face of the pier to shield the areas on the opposite side as much as possible from sound. The charge will be placed approximately halfway between the face of the pier and the BAS. Note, the BAS may be located anywhere from 25 to 45 ft from the face of the Pier. Monitoring inside the BAS will be done at a distance of 20 to 30 feet from the blast. Outside the BAS, monitoring will occur at a distance of 100 feet from the charge.

Due to the small amount of charges to be used the test, no marine mammal is expected to be effected.

*Controlled Implosion Dismantling of Remaining Pier*

The controlled implosion event is scheduled to take place in November of 2015. Prior to the event, the bore holes in Pier E3 will be loaded with charges, as described in the Blast Plan (Appendix A of CALTRANS IHA application).

Individual cartridge charges, versus pump-able liquid blasting agents, have been chosen to provide greater accuracy in estimating the individual and total charge weights. Charges will be transported by boat to Pier E3. Security will be required for transporting, handling and processing of the charges.

Boreholes vary in diameter and depth and have been optimized for charge efficiency. Individual and total charge weight loads are provided in the Blast Plan. Charges are arranged in different levels (decks) separated in the boreholes by stemming. Stemming is the insertion of inert materials, like sand or gravel, to insulate and retain charges in an enclosed space. Stemming allows for more efficient transfer of energy into the structural concrete for fracture, and further reduces the release of potential energy into the adjacent water column.

The blast event will consist of a total of 588 individual delays of varying charge weight; the largest is 35 pounds/delay and the smallest is 21 pounds/delay. The blasting sequence is rather complex. On the full height walls, 30 pound weights will be used for the portion below mud line, 35 pound weights will be used in the lower structure immediately above mud line, 29.6 pounds in the midstructure, and 21 pounds in the upper structure. Blasts will start in several interior webs of the southern portion of the structure followed by the outer walls of the south side. The blasts in the inner walls will occur just prior to the adjacent outer walls. The interior first, exterior second blast sequence will continue across the structure moving from south to north. The time for the 588 detonations is 5.3 seconds with a minimum delay time of 9 milliseconds (ms) between detonations. As the blasting progresses, locations to east, north, and west of the pier will be shielded from the blasting on the interior of the structure from the still-standing exterior walls of the pier. However, towards the conclusion of the blast, each direction will experience blasts from the outer walls that are not shielded.

**Description of Marine Mammals in the Area of the Specified Activity**

The marine mammal species under NMFS jurisdiction most likely to occur in the proposed construction area include Pacific harbor seal (*Phoca vitulina richardsi*), northern elephant seal (*Mirounga angustirostris*), California sea lion (*Zalophus californianus*), and harbor porpoise (*Phocoena phocoena*).

TABLE 1—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN REGION OF ACTIVITY

| Species | ESA status | MMPA status | Occurrence |
|---|---|---|---|
| Harbor Seal | Not listed | Non-depleted | Frequent. |
| California Sea Lion | Not listed | Non-depleted | Occasional. |
| Northern Elephant Seal | Not listed | Non-depleted | Occasional. |
| Harbor Porpoise | Not listed | Non-depleted | Rare. |

General information on the marine mammal species found in the San Francisco Bay can be found in Caretta *et al.* (2014), which is available at the following URL: *http://www.nmfs.noaa.gov/pr/sars/pdf/po2013.pdf.* Refer to that document for information on these species. A list of marine mammals in the vicinity of the action and their status are provided in Table 1. Specific information concerning these species in the vicinity

of the proposed action area is provided in detail in the CALTRANS's IHA application.

**Potential Effects of the Specified Activity on Marine Mammals**

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (*e.g.,* pile removal and pile driving) have been observed to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of a take (for example, with acoustics, we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measurable avoidance). This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented, and how either of those will shape the anticipated impacts from this specific activity. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Analysis and Preliminary Determinations'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Proposed Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall *et al.* (2007) designate ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

- Low frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 25 kHz;
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High frequency cetaceans (eight species of true porpoises, six species of river dolphins, Kogia, the franciscana, and four species of cephalorhynchids): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz;
- Phocid pinnipeds in Water: Functional hearing is estimated to occur between approximately 75 Hz and 100 kHz; and
- Otariid pinnipeds in Water: Functional hearing is estimated to occur between approximately 100 Hz and 40 kHz.

As mentioned previously in this document, four marine mammal species (one cetacean and three pinniped species) are likely to occur in the proposed Pier E3 controlled implosion area. The only one cetacean species (harbor porpoise) in the area is classified as high-frequency cetaceans, 2 species of pinniped are phocid (Pacific harbor seal and norther elephant seal), and 1 species of pinniped is otariid (California sea lion). A species' functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

We expect that an intense impulse from the proposed Pier E3 controlled implosion would have the potential to impact marine mammals in the vicinity. The majority of impacts would be startle behavioral and temporary behavioral modification from marine mammals. However, a few individuals of animals could be exposed to sound levels that would cause temporal hearing threshold shift (TTS).

*Impacts From Underwater Detonations in Free Field Environment at Close Range*

The underwater explosion would send a shock wave and blast noise through the water, release gaseous by-products, create an oscillating bubble, and cause a plume of water to shoot up from the water surface. The shock wave and blast noise are of most concern to marine animals. The effects of an underwater explosion on a marine mammal depends on many factors, including the size, type, and depth of both the animal and the explosive charge; the depth of the water column; and the standoff distance between the charge and the animal, as well as the sound propagation properties of the environment. Potential impacts can range from brief effects (such as behavioral disturbance), tactile perception, physical discomfort, slight injury of the internal organs and the auditory system, to death of the animal (Yelverton *et al.* 1973; DoN, 2001). Non-lethal injury includes slight injury to internal organs and the auditory system; however, delayed lethality can be a result of individual or cumulative sublethal injuries (DoN, 2001). Immediate lethal injury would be a result of massive combined trauma to internal organs as a direct result of proximity to the point of detonation (DoN, 2001). Generally, the higher the level of impulse and pressure level exposure, the more severe the impact to an individual.

Injuries resulting from a shock wave take place at boundaries between tissues of different density. Different velocities are imparted to tissues of different densities, and this can lead to their physical disruption. Blast effects are greatest at the gas-liquid interface (Landsberg 2000). Gas-containing organs, particularly the lungs and gastrointestinal tract, are especially susceptible (Goertner 1982; Hill 1978; Yelverton *et al.* 1973). In addition, gas-containing organs including the nasal sacs, larynx, pharynx, trachea, and lungs may be damaged by compression/expansion caused by the oscillations of the blast gas bubble. Intestinal walls can bruise or rupture, with subsequent hemorrhage and escape of gut contents into the body cavity. Less severe gastrointestinal tract injuries include contusions, petechiae (small red or purple spots caused by bleeding in the skin), and slight hemorrhaging (Yelverton *et al.* 1973).

Because the ears are the most sensitive to pressure, they are the organs most sensitive to injury (Ketten 2000). Sound-related damage associated with blast noise can be theoretically distinct from injury from the shock wave, particularly farther from the explosion. If an animal is able to hear a noise, at some level it can damage its hearing by causing decreased sensitivity (Ketten 1995). Sound-related trauma can be lethal or sublethal. Lethal impacts are those that result in immediate death or serious debilitation in or near an intense source and are not, technically, pure acoustic trauma (Ketten 1995). Sublethal impacts include hearing loss, which is caused by exposures to perceptible sounds. Severe damage (from the shock wave) to the ears includes tympanic

membrane rupture, fracture of the ossicles, damage to the cochlea, hemorrhage, and cerebrospinal fluid leakage into the middle ear. Moderate injury implies partial hearing loss due to tympanic membrane rupture and blood in the middle ear. Permanent hearing loss also can occur when the hair cells are damaged by one very loud event, as well as by prolonged exposure to a loud noise or chronic exposure to noise. The level of impact from blasts depends on both an animal's location and, at outer zones, on its sensitivity to the residual noise (Ketten, 1995).

*Confined Detonation and Associated Level B Harassment*

However, the above discussion concerning underwater explosion only pertains to open water detonation in a free field. CALTRANS' Pier E3 demolition project using controlled implosion uses a confined detonation method, meaning that the charges would be placed within the structure. Therefore, most energy from the explosive shock wave would be absorbed through the destruction of the structure itself, and would not propagate through the open water. Measurements and modeling from confined underwater detonation for structure removal showed that energy from shock waves and noise impulses were greatly reduced in the water column (Hempen *et al.* 2007). Therefore, with monitoring and mitigation measures discussed above, CALTRANS Pier E3 controlled implosion is not likely to have the injury or mortality effects on marine mammals in the project vicinity. Instead, NMFS considers that CALTRANS' proposed Pier E3 controlled implosion in the San Francisco Bay is most like to cause Level B behavioral harassment and maybe TTS in a few individual of marine mammals, as discussed below.

Changes in marine mammal behavior are expected to result from an acute stress response. This expectation is based on the idea that some sort of physiological trigger must exist to change any behavior that is already being performed. The exception to this rule is the case of auditory masking, which is not likely since the CALTRANS' controlled implosion is only one short of sequential detonations that last for approximately 5 seconds.

Numerous behavioral changes can occur as a result of stress response. For each potential behavioral change, the magnitude in the change and the severity of the response needs to be estimated. Certain conditions, such as stampeding (*i.e.,* flight response) or a response to a predator, might have a probability of resulting in injury. For example, a flight response, if significant enough, could produce a stranding event. Each disruption to a natural behavioral pattern (*e.g.,* breeding or nursing) may need to be classified as Level B harassment. All behavioral disruptions have the potential to contribute to the allostatic load. This secondary potential is signified by the feedback from the collective behaviors to allostatic loading.

Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.* 1999; Schlundt *et al.* 2000; Finneran *et al.* 2002; 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is unrecoverable, or temporary (TTS), in which case the animal's hearing threshold will recover over time (Southall *et al.* 2007). Since marine mammals depend on acoustic cues for vital biological functions, such as orientation, communication, finding prey, and avoiding predators, marine mammals that suffer from PTS or TTS will have reduced fitness in survival and reproduction, either permanently or temporarily. Repeated noise exposure that leads to TTS could cause PTS.

Experiments on a bottlenose dolphin and beluga whale (*Delphinapterus leucas*) showed that exposure to a single watergun impulse at a received level of 207 kPa (or 30 psi) peak-to-peak (p-p), which is equivalent to 228 dB re 1 μPa (p-p), resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within 4 minutes of the exposure (Finneran *et al.* 2002). No TTS was observed in the bottlenose dolphin. Although the source level of pile driving from one hammer strike is expected to be much lower than the single watergun impulse cited here, animals being exposed for a prolonged period to repeated hammer strikes could receive more noise exposure in terms of SEL than from the single watergun impulse in the aforementioned experiment (Finneran *et al.* 2002).

**Potential Effects on Marine Mammal Habitat**

The proposed Pier E3 demolition using controlled implosion will not result in any permanent impact on habitats used by marine mammals, and potentially short-term to minimum impact to the food sources such as forage fish. There are no known haul-out sites, foraging hotspots, or other ocean bottom structures of significant biological importance to harbor seals, northern elephant seals, California sea lions, or harbor porpoises within San Francisco Bay. Therefore, the main impact associated with the activity will be the removal of an existing bridge structure.

Fish that are located in the water column, in close proximity to the source of the controlled implosion could be injured, killed, or disturbed by the impulsive sound and could leave the area temporarily. Continental Shelf Associates, Inc. (2002) summarized a few studies conducted to determine effects associated with removal of offshore structures (*e.g.,* oil rigs) in the Gulf of Mexico. Their findings revealed that at very close range, underwater explosions are lethal to most fish species regardless of size, shape, or internal anatomy. In most situations, cause of death in fish has been massive organ and tissue damage and internal bleeding. At longer range, species with gas-filled swimbladders (*e.g.,* snapper, cod, and striped bass) are more susceptible than those without swimbladders (*e.g.,* flounders, eels).

Studies also suggest that larger fish are generally less susceptible to death or injury than small fish. Moreover, elongated forms that are round in cross section are less at risk than deep-bodied forms. Orientation of fish relative to the shock wave may also affect the extent of injury. Open water pelagic fish (*e.g.,* mackerel) seem to be less affected than reef fishes. The results of most studies are dependent upon specific biological, environmental, explosive, and data recording factors.

The huge variation in fish populations, including numbers, species, sizes, and orientation and range from the detonation point, makes it very difficult to accurately predict mortalities at any specific site of detonation. Most fish species experience a large number of natural mortalities, especially during early life-stages, and any small level of mortality caused by the CALTRANS' one time controlled implosion will likely be insignificant to the population as a whole.

**Proposed Mitigation Measures**

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

For CALTRANS's proposed Pier E3 controlled implosion, CALTRANS worked with NMFS and proposed the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity. The primary purposes of these mitigation measures are to minimize sound levels from the activities, to monitor marine mammals within designated exclusion zones and zones of influence (ZOI). Specific proposed mitigation measures are described below.

*Time Restriction*

Implosion of Pier E3 would only be conducted during daylight hours and with enough time for pre and post implosion monitoring, and with good visibility when the largest exclusion zone can be visually monitored.

*Installation of Blast Attenuation System (BAS)*

Prior to the Pier E3 demolition, CALTRANS should install a Blast Attenuation System (BAS) as described above to reduce the shockwave from the implosion.

*Establishment of Level A Exclusion Zone*

Due to the different hearing sensitivities among different taxa of marine mammals, NMFS has established a series of take thresholds from underwater explosions for marine mammals belonging to different functional hearing groups (Table 2). Under these criteria, marine mammals from different taxa will have different impact zones (exclusion zones and zones of influence).

CALTRANS will establish an exclusion zone for both the mortality and Level A harassment zone (permanent hearing threshold shift or PTS, GI track injury, and slight lung injury) using the largest radius estimated harbor and northern elephant seals. Estimates are that the isopleth for PTS would extend out to a radius of 1,160 ft (354 m) for harbor and northern elephant seals to 5,800 ft (1,768 m) for harbor porpoise; covering the entire areas for both Level A harassment and mortality. As harbor porpoises are unlikely to be in the area in November, the exclusion zone boundaries would be set around the calculated distance to Level A harassment for harbor and northern elephant seals. However, real-time acoustic monitoring (*i.e.,* active listening for vocalizations with hydrophones) also will be utilized to provide an additional level of confidence that harbor porpoises are not in the affected area.

TABLE 2—NMFS ACOUSTIC CRITERIA FOR MARINE MAMMALS IN THE SFOBB PIER E3 DEMOLITION AREA FROM UNDERWATER IMPLOSIONS

| Group | Species | Level B harassment | | Level A harassment | Serious injury | | Mortality |
|---|---|---|---|---|---|---|---|
| | | Behavioral | TTS | PTS | Gastro-intestinal tract | Lung | |
| High-freq cetacean. | Harbor porpoise. | 141 dB SEL. | 146 dB SEL or 195 dB $SPL_{pk}$. | 161 dB SEL or 201 dB $SPL_{pk}$. | 237 dB SPL or 104 psi. | $39.1M^{\frac{1}{3}}$ $(1+[D/10.081])^{\frac{1}{2}}$ ..... Pa-sec ..... where: M = mass of the animals in kg. D = depth of animal in m .. | $91.4M^{\frac{1}{3}}$ $(1+[D/10.081])^{\frac{1}{2}}$ Pa-sec where: M = mass of the animals in kg D = depth of animal in m |
| Phocidae .... | Harbor seal & northern elephant seal. | 172 dB SEL. | 177 dB SEL or 212 dB $SPL_{pk}$. | 192 dB SEL or 218 dB $SPL_{pk}$. | | | |
| Otariidae .... | California sea lion. | 195 dB SEL. | 200 dB SEL or 212 $dB_{pk}$. | 215 dB SEL or 218 dB $SPL_{pk}$. | | | |

* Note: All dB values are referenced to 1 μPa. $SPL_{pk}$ = Peak sound pressure level; psi = pounds per square inch.

Adherence to calculated distances to Level A harassment for pinnipeds indicates that the radius of the exclusion zone would be 1,160 ft (354 m). The exclusion zone will be monitored by protected species observers (PSOs) and if any marine mammals are observed inside the exclusion, the implosion will be delayed until the animal leaves the area or at least 30 minutes have passed since the last observation of the marine mammal. Hearing group specific exclusion zone ranges are provided in Table 3.

*Establishment of Level B Temporary Hearing Threshold Shift (TTS) Zone of Infulence:*

As shown in Table 1, for harbor and northern elephant seals, this will cover the area out to 212 dB peak SPL or 177 dB SEL, whichever extends out the furthest. Hydroacoustic modeling indicates this isopleth would extend out to 5,700 ft (1,737 m) from Pier E3. For harbor porpoises, this will cover the area out to 195 dB peak SPL or 146 dB SEL, whichever extends out the furthest. Hydroacoustic modeling indicates this isopleth would extend out to 26,500 ft (8,077 m) from Pier E3. As discussed previously, the presence of harbor porpoises in this area is unlikely but monitoring (including real-time acoustic monitoring) will be employed to confirm their absence. For California sea lions, the distance to the Level B TTS zone of influence will cover the area out to 212 dB peak SPL or 200 dB SEL. This distance was calculated at 470 ft (143 m) from Pier E3, well within the exclusion zone previously described. Hearing group specific Level B TTS zone of influence ranges are provided in Table 3.

*Establishment of Level B Behavioral Zone of Influence*

**Table 3. Estimated distances to NMFS marine mammal explosion criteria for Level B harassment, Level A harassment, and mortality from the proposed Pier E3 implosion. A BAS with 80% efficiency in acoustic attenuation is assessed for the implosion. For thresholds with dual criteria, the larger distances (i.e., more conservative) are presented in bold and are used for take estimates.**

| Species | Level B Criteria | | Level A Criteria | | | Mortality |
|---|---|---|---|---|---|---|
| | Behavioral Response | TTS Dual Criteria | PTS Dual Criteria | GI Track | Lung Injury | |
| Pacific Harbor Seal | 9,700 ft (2,957 m) | **5,700 ft (1,737 m)**<br>440 ft (134 m) | **1,160 ft (354 m)**<br>70 ft (21 m) | 35 ft (11 m) | 450 ft (137 m) | 205 ft (63 m) |
| California Sea Lion | 800 ft (244 m) | 470 ft (143 m)<br>440 ft (134 m) | **245 ft (75 m)**<br>97 ft (30 m) | 35 ft (11 m) | 450 ft (137 m) | 205 ft (63 m) |
| Northern Elephant Seal | 9,700 ft (2,957 m) | **5,700 ft (1,737 m)**<br>440 ft (134 m) | **1,160 ft (354 m)**<br>70 ft (21 m) | 35 ft (11 m) | 450 ft (137 m) | 205 ft (63 m) |
| Harbor Porpoise | 44,500 ft (13,564 m) | **26,500 ft (8,077 m)**<br>2,600 ft (792 m) | **5,800 ft (1,768 m)**<br>1,400 ft (427 m) | 35 ft (11 m) | 450 ft (137 m) | 205 ft (63 m) |

As shown in Table 1, for harbor seals and northern elephant seals, this will cover the area out to 172 dB SEL. Hydroacoustic modeling indicates this isopleth would extend out to 9,700 ft (2,957 m) from Pier E3. For harbor porpoises, this will cover the area out to 141 dB SEL. Hydroacoustic modeling indicates this isopleth would extend out to 44,500 ft (13,564 m) from Pier E3. As discussed previously, the presence of harbor porpoises in this area is unlikely but monitoring (including real-time acoustic monitoring) will be employed to confirm their absence. For California sea lions, the distance to the Level B behavioral harassment ZOI will cover the area out to 195 dB SEL. This distance was calculated at 800 ft (244 m) from Pier E3, well within the exclusion zone previously described. Hearing group specific Level B TTS zone of influence ranges are provided in Table 3.

*Communication*

All PSOs will be equipped with mobile phones and a VHF radio as a backup. One person will be designated as the Lead PSO and will be in constant contact with the Resident Engineer on site and the blasting crew. The Lead PSO will coordinate marine mammal sightings with the other PSOs and the real time acoustic monitor. PSOs will contact the other PSOs when a sighting is made within the exclusion zone or near the exclusion zone so that the PSOs within overlapping areas of responsibility can continue to track the animal and the Lead PSO is aware of the animal. If it is within 30 minutes of blasting and an animal has entered the exclusion zone or is near it, the Lead PSO will notify the Resident Engineer and blasting crew. The Lead PSO will keep them informed of the disposition of the animal.

*Mitigation Conclusions*

NMFS has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of pile driving and pile removal or other activities expected to result in the take of marine mammals (this goal may

contribute to 1, above, or to reducing harassment takes only).

(3) A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of pile driving and pile removal, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

**Proposed Monitoring and Reporting**

In order to issue an incidental take authorization (ITA) for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. CALTRANS submitted a marine mammal monitoring plan as part of the IHA application. It can be found at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels of pile driving that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

(4) An increased knowledge of the affected species; and

(5) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

*Proposed Monitoring Measures*

Monitoring for implosion impacts to marine mammals will be based on the SFOBB pile driving monitoring protocol. Pile driving has been conducted for the SFOBB construction project since 2000 with development of several NMFS-approved marine mammal monitoring plans (CALTRANS 2004; 2013). Most elements of these marine mammal monitoring plans are similar to what would be required for underwater implosions. These monitoring plans would include monitoring an exclusion zone and ZOIs for TTS and behavioral harassment described above. In addition, CALTRANS shall implement passive acoustic monitoring. All monitoring would be conducted by NMFS-approved PSOs.

*(1) Protected Species Observers*

A minimum of 8–10 PSOs would be required during the Pier E3 controlled implosion so that the exclusion zone, Level B Harassment TTS and Behavioral ZOIs, and surrounding area can be monitored. One PSO would be designated as the Lead PSO and would receive updates from other PSOs on the presence or absence of marine mammals within the exclusion zone and would notify the Blasting Supervisor of a cleared exclusion zone to the implosion.

*(2) Monitoring Protocol*

PSOs shall be positioned near the edge of each of the thredhold criteria zones and shall utilize boats, barges, bridge piers and roadway, and sites on Yerba Buena Island and Treasure Island, as described in Figure 3 of the CALTRANS Marine Mammal Monitoring Plan. The Lead PSO shall be located with the Department Engineer and the Blasting Supervisor (or person that will be in charge of detonating the charges) during the implosion.

The Lead PSO will be in contact with other PSOs and the acoustic monitors. As the time for the implosion approaches, any marine mammal sightings would be discussed between the Lead PSO, the Resident Engineer, and the Blasting Supervisor. If any marine mammals enter the exclusion zone within 30 minutes of blasting, the Lead PSO will notify the Resident Engineer and Blasting Supervisor that the implosion may need to be delayed. The Lead PSO will keep them informed of the disposition of the animal. If the animal remains in the exclusion zone, blasting will be delayed until it has left the exclusion zone. If the animal dives and is not seen again, blasting will be delayed at least 30 minutes. Once the implosion has occurred, the PSOs will continue to monitor the area for at least 60 minutes.

*(3) Post-Implosion Survey*

Although any injury or mortality from the implosion of Pier E3 is very unlikely, boat or shore surveys will be conducted for the three days following the event to determine if there are any injured or stranded marine mammals in the area. If an injured or dead animal is discovered during these surveys or by other means, the NMFS-designated stranding team will be contacted to pick up the animal. Veterinarians will treat the animal or conduct a necropsy to

attempt to determine if it stranded was a result of the Pier E3 implosion.

*(4) Monitoring Data Collection*

Each PSO will record their observation position, start and end times of observations, and weather conditions (sunny/cloudy, wind speed, fog, visibility). For each marine mammal sighting, the following will be recorded, if possible:

- Species
- Number of animals (with or without pup/calf)
- Age class (pup/calf, juvenile, adult)
- Identifying marks or color (scars, red pelage, damaged dorsal fin, etc.)
- Position relative to Pier E3 (distance and direction)
- Movement (direction and relative speed)
- Behavior (logging [resting at the surface], swimming, spyhopping [raising above the water
- surface to view the area], foraging, etc.)
- Duration of sighting or times of multiple sightings of the same individual

*(5) Real Time Acoustic Monitoring for Harbor Porpoises*

While harbor porpoises are not expected to be within the CALTRANS' Pier E3 implosion Level B TTS ZOI (within 26,500 ft [8,077 ms]) in November, real time acoustic monitoring to confirm species absence is proposed as an avoidance measure in addition to active monitoring by trained visual PSOs. Harbor porpoises vocalize frequently with other animals within their group, and use echolocation to navigate and to locate prey. Therefore, as an additional monitoring tool, a real time acoustic monitoring system will be used to detect the presence or absence of harbor porpoises as a supplement to visual monitoring.

The system would involve two bio-acousticians monitoring the site in real time, likely near the north end of Treasure Island as most harbor porpoises appear to pass through the area north of Treasure Island before heading south toward the East Span of the SFOBB. A calibrated hydrophone or towed array would be suspended from a boat and/or several sonobuoys (acoustic information is sent via telemetry to the acoustic boat) or a hydrophone moored offshore with a cable leading to a shore based acoustic station will be deployed outside of the monitoring area of Pier E3. All equipment will be calibrated and tested prior to the implosion to ensure functionality. This system would not be able to give an accurate distance to the animal but would either determine that no cetaceans are in the area or would provide a relative distance and direction so that PSOs could search for the cetaceans and determine if those animals have entered or may enter the Pier E3 implosion area. The bio-acousticians would be in communication with the Lead PSO and would alert the crew to the presence of any cetacean approaching the monitoring area. It would also provide further confirmation that there are no cetaceans around Pier E3 in addition to the visual observations documenting no observations.

*(6) Hydroacoustic Monitoring for Underwater Implosion*

The purpose of hydroacoustic monitoring during the controlled implosion of Pier E3 is twofold: (1) To evaluate distances to marine mammal impact noise criteria; and (2) to improve the prediction of underwater noise for assessing the impact of the demolition of the remaining piers through future controlled implosions.

Monitoring of the implosion is specific to two regions around Pier E3 with unique methods, approaches, and plans for each of these regions. These regions include the ''near field'' and the ''far field''. For Pier E3, the near field will comprise measurements taken within 500 ft of the pier while the far field will comprise measurements taken at 500 feet and all greater distances.

Measurements inside the BAS will be made with near and far field systems using PCB 138A01 transducers. At the 100-ft distance, the near field system will use another PCB 138A01 transducer while the far field system will use both a PCB 138A01 transducer and a Reson TC4013 hydrophone. Prior to activating the BAS, ambient noise levels will be measured. While the BAS is operating and before the test implosion, background noise measurements will also be made. After the test implosion, the results will be evaluated to determine if any final adjustments are needed in the measurement systems prior to the Pier E3 controlled implosion. Pressure signals will be analyzed for peak pressure and SEL values prior to the scheduled time of the Pire E3 controlled implosion.

*Proposed Reporting Measures*

CALTRANS would be required to submit a draft monitoring report within 90 days after completion of the construction work or the expiration of the IHA (if issued), whichever comes earlier. This draft report would detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. NMFS would have an opportunity to provide comments on the draft report within 30 days, and if NMFS has comments, CALTRANS would address the comments and submit a final report to NMFS within 30 days. If no comments are provided by NMFS after 30 days receiving the report, the draft report is considered to be final.

*Marine Mammal Stranding Plan*

In addition, a stranding plan will be prepared in cooperation with the local NMFS-designated marine mammal stranding, rescue, and rehabilitation center. Although mitigation measures would likely prevent any injuries, preparations will be made in the unlikely event that marine mammals are injured. Elements of that plan would include the following:

1. The stranding crew would prepare treatment areas at the NMFS-designated facility for cetaceans or pinnipeds that may be injured from the implosion. Preparation would include equipment to treat lung injuries, auditory testing equipment, dry and wet caged areas to hold animals, and operating rooms if surgical procedures are necessary. Equipment to conduct auditory brainstem response hearing testing would be available to determine if any inner ear threshold shifts (TTS or PTS) have occurred (Thorson *et al.* 1999).

2. A stranding crew and a veterinarian would be on call near the Pier E3 site at the time of the implosion to quickly recover any injured marine mammals, provide emergency veterinary care, stabilize the animal's condition, and transport individuals to the NMFS-designated facility. If an injured or dead animal is found, NMFS (both the regional office and headquarters) will be notified immediately even if the animal appears to be sick or injured from other than blasting.

3. Post-implosion surveys would be conducted immediately after the event and over the following three days to determine if there are any injured or dead marine mammals in the area.

4. Any veterinarian procedures, euthanasia, rehabilitation decisions and time of release or disposition of the animal will be at the discretion of the NMFS-designated facility staff and the veterinarians treating the animals. Any necropsies to determine if the injuries or death of an animal was the result of the blast or other anthropogenic or natural causes will be conducted at the NMFS-designated facility by the stranding crew and veterinarians. The results will be communicated to both CALTRANS and

to NMFS as soon as possible with a written report within a month.

**Estimated Take by Incidental Harassment**

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Numbers of marine mammals within the Bay may be incidentally taken during demolition using controlled charges (impulse sound) related to the demolition of the original East Span of the SFOBB were calculated based on acoustic propagation models for each functional hearing group and the estimated density of each species in the project vicinity. Specifically, the takes estimates are calculated by multiplying the ensonified areas that are specific to each functional hearing group by the density of the marine mammal species.

*Marine Mammal Density Estimates*

There are no systematic line transect surveys of marine mammals within San Francisco Bay, therefore, the in water densities of harbor seals, California sea lions, and harbor porpoises were calculated from 14 years of observations during monitoring for the SFOBB construction and demolition. During the 210 days of monitoring (including 15 days of baseline monitoring in 2003), 657 harbor seals, 69 California sea lions and three harbor porpoises were observed within the waters of the east span of the SFOBB. Density estimates for other species were made from stranding data provided by the MMC (Sausalito, CA; Northern elephant seal).

*(1) Pacific Harbor Seal*

Most data on harbor seal populations are collected while the seals are hauled out. This is because it is much easier to count individuals when they are out of the water. In-water density estimates rely on haul-out counts, the percentage of seals not on shore based on radio telemetry studies, and the size of the foraging range of the population. Harbor seal density in the water can vary greatly depending on weather conditions or the availability of prey. For example, during Pacific herring runs further north in the Bay (near Richardson Bay, outside of the Pier E3 hydroacoustic zone) in February 2014, very few harbor seals were observed foraging near Yerba Buena Island (YBI) or transiting through the SFOBB area for approximately two weeks. Sightings went from a high of 16 harbor seal individuals foraging or in transit in one day to 0–2 seals per day in transit or foraging through the SFOBB area (CALTRANS 2014). Calculated harbor seal density is a per day estimate of harbor seals in a 1 $km^2$ area within the fall/winter or spring/summer seasons.

Harbor seal density for the proposed project was calculated from all observations during SFOBB Project monitoring from 2000 to 2014. These observations included data from baseline, pre, during and post pile driving and onshore implosion activities. During this time, the population of harbor seals within the Bay has remained stable (Manugian 2013), therefore, we do not anticipate significant differences in numbers or behaviors of seals hauling out, foraging or in their movements over that 15 year period. All harbor seal observations within a $km^2$ area were used in the estimate. Distances were recorded using a laser range finder (Bushnell Yardage Pro Elite 1500; ±1.0 yards accuracy). Care was taken to eliminate multiple observations of the same animal although this was difficult when more than three seals were foraging in the same area.

Density of harbor seals was highest near YBI and Treasure Island, probably due to the haul-out site and nearby foraging areas in the Coast Guard and Clipper coves. Therefore, density estimates were calculated for a higher density area within 3,936 ft (1,200 m) west of Pier E3, which includes these two foraging coves. A lower density estimate was calculated from the area east of Pier E3 and beyond 3,936 ft (1,200 m) to the north and south of Pier E3.

These density estimates were then extrapolated to the threshold criteria areas delineated by the hydroacoustic models to calculate the number of harbor seals likely to be exposed.

*(2) California Sea Lion*

Most data on California sea lion populations are collected while the seals are hauled out as it is much easier to count individuals when they are out of the water. In-water density estimates rely on haul-out counts, the percentage of sea lions not on shore based on radio telemetry studies, and the size of the foraging range of the population. Sea lion density, like harbor seal densities, in the water can vary greatly depending on weather conditions, the availability of prey, and the season. For example, sea lion density increases during the summer and fall after the end of the breeding season at the Southern California rookeries.

For the proposed project, California sea lion density was calculated from all observations during SFOBB monitoring from 2000 to 2014. These observations included data from baseline, pre, during and post pile driving and onshore implosion activities. During this time, the population of sea lions within the Bay has remained stable as have the numbers observed near the SFOBB (Manugian 2013). As a result, we do not anticipate significant differences in the number of sea lion or their movements over that 15 year period. All sea lion observations within a $km^2$ area were used in the estimate. Distances were recorded using a laser range finder (Bushnell Yardage Pro Elite 1500; ±1.0 yards accuracy). Care was taken to eliminate multiple observations of the same animal, although most sea lion observations involve a single animal. Calculated California sea lion density is a per day estimate of sea lions in a one $km^2$ area within the fall/winter or spring/summer seasons.

*(3) Northern Elephant Seal*

Northern elephant seal density around Pier E3 was calculated from the stranding records of the MMC from 2004 to 2014. These data included both injured or sick seals and healthy seals. Approximately 100 elephant seals were reported within the Bay during this time, most of these hauled out and were likely sick or starving. The actual number of individuals within the Bay may be higher as not all individuals would necessarily have hauled out. Some individuals may have simply left the Bay soon after entering. Data from the MMC show several elephant seals stranding on Treasure Island and one healthy elephant seal was observed resting on the beach in Clipper Cove in 2012. Elephant seal pups or juveniles also may strand after weaning in the spring and when they return to California in the fall (September through November).

*(4) Harbor Porpoise*

Harbor porpoise density was calculated from all observations during SFOBB monitoring from 2000 to 2014. These observations included data from baseline, pre, during and post pile driving and onshore implosion activities. Over this period, the number of harbor porpoises that were observed entering and using the Bay increased. During the fifteen years of observational data around the SFOBB Project, only

four harbor porpoises were observed and all occurred from 2006 to 2014 (including two in 2014). All harbor porpoise observations within a km² area were used in the estimate. Distances were recorded using a laser range finder (Bushnell Yardage Pro Elite 1500; ± 1.0 yards accuracy).

A summary of marine mammal density information is provided in Table 4.

**Table 4. Estimated in-water density of marine mammals that may occur in the vicinity of CALTRANS' proposed Pier E3 controlled implosion area.**

| Species | Main Season Of Occurrence | Density Within 1,200m of SFOBB (animals/km$^2$) | Density Beyond 1,200m of SFOBB (animals/km$^2$) |
|---|---|---|---|
| Pacific Harbor Seal | Spring – Summer (pupping/molt seasons) | 0.30 | 0.15 |
| Pacific Harbor Seal | Fall- Winter | 0.77 | 0.15 |
| Sea Lion | Late Summer – Fall (Post Breeding Season) | 0.12 | 0.12 |
| Sea Lion | Late Spring-Early Summer (Breeding Season) | 0.06 | 0.06 |
| Northern Elephant seal | Late Spring-Early Winter (Pups After First Trip To Sea) | 0.03 | 0.03 |
| Harbor Porpoise | All Year | Very Low estimated at 0.004 | Very Low estimated at 0.004 |

*Impact Zones Modeling*

Since the proposed Pier E3 controlled implosion would be carried as a confined explosion, certain elements were taken into the modeling process beyond a simple open-water blast model. Confinement is a concept in blasting that predicts the amount of blast energy that is expected to be absorbed by the surrounding structural material, resulting in the fracturing necessary for demolition. The energy beyond that absorbed by the material is the energy that produces the pressure wave propagating away from the source. NMFS has determined that modeling with confinement was appropriate for the proposed Pier E3 blast by evaluating blast results from case study data for underwater implosions similar to the proposed SFOBB Pier E3 implosion. In addition, the NMFS worked with CALTRANS and compared case study results to published blast models that incorporate a degree of confinement.

Data from 39 comparable underwater concrete blasts were used by CALTRANS to evaluate potential equations for modeling blast-induced peak pressures and subsequent effects to marine mammals (Kiewit-Mason, pers. Comm 2015 in CALTRANS 2015). All 39 blasts occurred in approximately 55 ft (16.8 m) of water, similar to the maximum water depth around Pier E3. In addition, all blasts had burdens (*i.e.,* distance from the charge to the outside side of the material being fractured) of approximately 1.5 to 2 ft (0.5 to 0.6 m). Burdens for Pier E3 also are estimated to be in this range. Data provided included the charge weight, observed peak pressure, distance of peak pressure observation, and the modeled peak pressure using Cole's confined equation, Cole's unconfined equation, and Oriard's conservative concrete equation (Cole 1948; Oriard 2002).

Using these data, appropriate equations for modeling the associated hydroacoustic impacts are established for the Pier E3 controlled implosion. Cole's unconfined equation greatly overestimated peak pressures for all blasts while Cole's confined equation appeared to most accurately predict observed peak pressures. Oriard's conservative concrete equation overestimated peak pressures, but not as dramatically as under Cole's unconfined equation. NMFS and CALTRANS have opted to use more conservative methods to ensure an additional level of safety when predicting the monitoring zone and potential impact areas to marine mammals from the proposed controlled implosion project.

The applicable metrics discussed are the peak pressure ($P_{pk}$) expressed in dB, the accumulated sound exposure level (SEL) also expressed in dB, and the positive acoustic impulse (I) in Pa-sec. The criteria for marine mammals are grouped into behavioral response, slight injury, mortality, and the specific acoustic thresholds depend on group and species. These are summarized in Table 1. The metrics for these are criteria defined as:

*(1) Peak pressure level*

$$L_{pk} = 20\log_{10}\left(P_{pk}/P_{ref}\right) \quad (1)$$

where $L_{pk}$ is the peak level in dB and $P_{ref}$ is the reference pressure of 1μPa;

*(2) SEL*

$$SEL = 20\log_{10}\left(\int_0^T \frac{P^2(t)dt}{P_{ref}^2 \cdot T_{ref}}\right) \quad (2)$$

where $T$ is the duration of the event, $P^2(t)$ is the instantaneous pressure squared and $T_{ref}$ is the reference time of 1 second;

*(3) Impulse:*

$$I = \int_0^T \left(P(t)dt/P_{ref}\right) \quad (3)$$

where $T$ is the duration of the initial positive portion of $P(t)$. In order to calculate these quantities, $P(t)$ for the blast event is needed as a function of distance from the blast, or alternatively, empirical relationship can be used for $L_{pk}$ and $I$.

*General Assumptions*

The blast event will consist of a total of 588 individual delays of varying charge weight; the largest is 35 pounds/delay and the smallest is 21 pounds/delay. The blasting sequence is rather complex. On the full height walls, 30 pound weights will be used for the portion below mud line, 35 pound weights will be used in the lower structure immediately above mud line, 29.6 pounds in the midstructure, and 21 pounds in the upper structure. Full details on the delay weights and locations can be found in the Blast Plan (CALTRANS 2015). Blasts will start in several interior webs of the southern portion of the structure followed by the outer walls of the south side. The blasts in the inner walls will occur just prior to the adjacent outer walls. The interior first, exterior second blast sequence will continue across the structure moving from south to north. The time for the 588 detonations is 5.3 seconds with a minimum delay time of 9 milliseconds (ms) between detonations. As the blasting progresses, locations to east, north, and west of the pier will be shielded from the blasting on the interior of the structure from the still-standing exterior walls of the pier. However, towards the conclusion of the blast, each direction will experience blasts from the outer walls that are not shielded.

To estimate $P_{pk}$ and $P^2(t)$, several assumptions were made. For simplification, it was assumed that there is only one blast distance and it is to the closest point on the pier from the receiver point. In actuality for almost all explosions, distances from the blast will be greater as the pier is approximately 135 ft (41 m) across and 80 ft (24 m) wide. Based on these dimensions, the actual blast point could be up to 135 ft (41 m) further from the receptor point used for the calculation. As a result, the calculated peak level is the maximum expected for one 35 pound blast while the other levels would be lower depending on the distance from the actual blast location to the calculation point and weight of the charge. In other words, the pressure received at the calculation point would not be 588 signals of the same amplitude, but would be from one at the estimated level for a 35 pound charge and 587 of varying lower amplitudes. Similarly, in the vertical direction, the location varies over a height of about 50 ft (15 m) and those blasts that are not at the same depth as the receiver would also be lower. This effect of variation in assumed blast to receiver distance will be most pronounced close to the pier, while at distances of about 1,000 ft (305 m) or greater, the effect would be less than 1 dB.

In the calculations, it was also assumed that there would be no self-shielding of the pier as the explosions progress. From the above discussion of the blast sequence, some shielding of the blasts along the interior of the pier will occur. However, the blasts that occur in outer wall (towards the end of the implosion) will not be shielded for all blasts. A blast in the outer wall that has a direct line of sight to the receptor calculation point will not be shielded and will generate the highest peak

pressure relative to be compared to the $L_{pk}$ criterion. The cumulative SEL and the root-mean-squared (RMS) levels; however, will be reduced to some degree by the outer walls until they are demolished as these metrics are defined by the pressure received throughout the entire 5.3 second event. However, due to the complexity of the blast sequence, this shielding effect was not considered in the calculated SEL and RMS levels.

Based on the Blast Plan (CALTRANS 2015), the delays are to be placed in 2¾ to 3 inch (7 to 7.6 cm) diameter holes drilled into the concrete pier structure. The outer walls of the pier are nominally 3 ft-11½ inch (1.5 m) thick and inner walls are nominally 3 ft (0.9 m) thick. Individual blasts should be not exposed to open water and some confinement of the blasts is expected. For confined blasts, the predicted pressures can be reduced by 65 to 95% (Nedwell and Thandavamoorthy 1992; Rickman 2000; Oriard 2002; Rivey 2011), corresponding to multiplication factors from 0.35 to 0.05, respectively. Based on a review of the available literature and recent data from similar explosive projects, CALTRANS and NMFS decided to use a conservative confinement factor of $K$=7500 which equates to a 65% reduction in pressure and by a multiplication factor of 0.3472 (Eq. 4).

Another assumption was to consider only the direct wave from an individual blast. In shallow water, the signal at the receiver point could consist of the direct wave, surface-relief wave generated by the water/air interface, a reflected wave from the bottom, and a wave transmitted through the bottom material (USACE 1991). For estimating $P_{pk}$, only the direct wave is considered as it will have the highest magnitude and will arrive at the receiver location before any other wave component. However, $P(t)$ after the arrival of the direct wave peak pressure will be effected. The surface-relief wave is negative so that when it arrives at the receiver location, it will reduce the positive pressure of the direct wave and can make the total pressure negative at times after the arrival of the initial positive peak pressure. Since the SEL is a pressure squared quantity, any negative pressure can also contribute to the SEL. However, the amplitude and arrival time of the surface-relief wave depends on the geometry of the propagation case, that is, depth of water, depth of blast, and distance and depth of the receiver point. The effect of this assumption is discussed further in the section on SEL.

*Estimation of Peak Pressure*

Peak pressures were estimated by following the modified version of the Cole Equation for prediction of blasts in open, deep water (Cole 1948). The peak pressure is determined by:

$$P_{pk} = K(\lambda)^{-1.13} \tag{4}$$

where $P_{pk}$ is peak pressure in pounds per square inch (psi), and λ is the scaled range given by $R/$
$R$ is the distance in feet and $W$ is the weight of the explosive charge in pounds. A modified version of the Cole Equation has been documented in U.S. Army Corps of Engineer (USACE) Technical Letter No. 1110–8–11(FR) and is applicable to shallow water cases such as that of the Pier E3 demolition (USACE 1991). The constant $K$ factor multiplier in the USACE calculation is 21,600 for an open-water blast instead of the 22,550 from the original Cole Expression. This factor is slightly less (~4%) than the original Cole. The decay factor (-1.13) used in the USACE modified equation remains the same as the original Cole Equation. To account for the confining effect of the concrete pier structure, a conservative $K$ factor of 7,500 was used corresponding to multiplying USACE $P_{pk}$ by a factor of 0.3472. With a minimum delay between of blast of 9 ms, the individual delays will be spaced sufficiently far in time to avoid addition of the peak pressures. In this case, the peak pressure is defined by that calculated for the largest charge weight of 35 pounds/delay. A BAS is specified in the Blast Plan. Based on the literature and recent results from similar projects, reductions in the pressure peak of 85% to 90% or more are expected. For determining $P_{pk}$ in this analysis, a conservative reduction of 80% has been used. Based on values of confinement, BAS performance, and the ''General Assumptions'' above, the calculated peak pressures are expected to be conservative.

*Estimation of SEL Values*

Estimating the weighted SEL values for the different groups/species is a multiple step process. The first step is to estimate SEL values as a function of distance from the blast pressure versus time histories for each of the six charge weights as a function of distance. The open-water equation used for this calculation was that modified by the USACE (1991) based on methods pioneered by Cole (1948). Pressure as a function of time is given by:

$$P(t) = P_{pk} e^{-\left(\frac{t-t_a}{\theta}\right)} \tag{5}$$

where $t_a$ is given as $R$/5,000 and $\theta$ is:

$$\theta = 6.0 \times 10^{-5} W^{1/3} (\lambda)^{0.18} \tag{6}$$

These calculations were then extended to distances out to 160,000 ft (48.8 km).

As discussed previously, there are other wave components that could be considered in the SEL estimation, including the surface relief wave, reflection from the bottom, and transmission through and re-radiation from the bottom. Little or no contribution is expected from the bottom based on its sedimentary nature and previous experiences from measuring noise from underwater pile driving in the area around Pier E3. The negative surface relief wave could be a factor in the SEL estimation. This wave could either increase or decrease the

SEL depending on its arrival time relative to the direct wave. For small differences in arrival time, the surface relief will decrease the total SEL as a portion of the positive direct wave is negated by the addition of the negative surface relief wave. For closer distances and when the receptor and blast locations are near the bottom, the total SEL can become greater than the direct wave SEL, but only by less than 3 dB. However, whenever the source or receiver is near the surface, the direct wave SEL will be greater than the total SEL and can approach being 10 dB greater for distances beyond 1,000 ft (305 m). As a result, the surface relief wave is ignored in this analysis knowing that the surface relief wave would only tend to produce lower SEL values than the direct wave.

For each of the marine mammal groupings included in Table 2, specific filter shapes apply to each functional hearing group. To apply this weighting, the Fast Fourier Transform (FFT) was calculated for the time histories at each analysis distance. Each FFT was then filtered using the frequency weighted specified for each group. Filter factors were then determined for each distance by subtracting the filtered result from the unfiltered FFT data and determining the overall noise reduction in decibels. These filter factors were applied to the accumulated SEL determined for the entire blast event for each distance from the Pier.

The BAS of the Blast Plan will have an effect on the wave once a blast passes through it. In a research report by USACE in 1964, the performance of a BAS was examined in detail (USACE 1964). It has also been found that for an energy metric such as SEL, the reduction produced by the BAS was equal to or greater than the reduction of the peak pressure (USACE 1991; Rude 2002; Rude and Lee 2007; Rivey 2011). To estimate the reduction for SEL values due to the BAS proposed in the Blast Plan (CALTRANS 2015), SEL was reduced by 80%. Effectively, this was done by reducing the SEL by 20 Log (0.20), or 14 dB. Delays below the mudline, which will be located below the BAS, were also reduced by 80% based on an assumption that the outside pier walls here (which will not be removed) and Bay mud sediments will provide a similar level of attenuation. These SEL values and those without the BAS were then compared to the appropriate criteria for each marine mammal group. Because the calculation of SEL is based on the peak pressure, these estimates for the direct wave component are expected to be conservative for the same reasons as described for the peak pressures.

*Estimation of Positive Impulse*

To estimate positive impulse values, the expression originally developed by Cole for open water was used (Cole 1948). This expression includes only contributions from the direct wave neglecting any contribution from the surface relief, bottom reflected, and bottom transmitted consistent with the assumptions used to estimate SEL. In this case, impulse is given by:

$$I = 2.18 \times W^{1/3} \times \left( \frac{W^{1/3}}{R} \right)^{1.05} \quad (7)$$

with the variables defined in Equation 4. The impulse can also equivalently be calculated from wave forms. Equation 5 produces impulse values in psi-msec which were converted to Pa-sec by multiplying by 6.9 for comparison to the marine mammal criteria.

Unlike $P_{pk}$ and SEL, no reduction by the BAS is assumed for the impulse calculation. The area under the $P(t)$ curve under goes little change after passing the BAS. The peak pressure is reduced as noted previously, however, since the $P(t)$ expands in duration, the area change is minimal. This behavior is well documented in the literature (Cole 1948; USACE 1964; USACE 1991; Rickman 2000). As discussed above, this is not the case for SEL which is determined by the area under the $P^2(t)$ curve.

*Estimated Takes of Marine Mammals*

The estimated distances (Table 5) to the marine mammal criteria for peak pressure, SEL, and impulse are based on established relationships between charge weight and distance from the literature. The estimated distances were determined assuming unconfined open water blasts from the original Cole equations or the Cole equations modified by USACE. The assumption of open water neglects several effects that could produce lower levels than estimated. These include no shielding by the pier structure prior a specific blast, confining of the individual delays in the holes drilled into the pier structure, and longer distances to individual blasts than assumed by closest distance between the pier and the receptor point. For SEL, the assumption of open water blasts neglects the surface relief wave which at longer distances from the pier, would tend to reduce the SEL due to interference with the direct wave. Although the estimated levels and distances may be conservative, there is sufficient uncertainty in the blast event and its propagation such that further, less conservative adjustments would not be appropriate.

Estimated exposure numbers are subsequently calculated based on modeled ensonified areas and marine mammal density information. However, since many marine mammals are expected to occur in groups, the estimated exposure numbers are adjusted upward by a factor of 2 to provide estimated take numbers. In addition, although modeling shows that no California sea lion would be exposure to noise levels that would result a take, its presence in the vicinity of SFOBB has been documented. Therefore, a take of 2 of California sea lion is assessed. A summary of estimated takes and exposures of marine mammals that could result from CALTRANS' Pier E3 controlled implosion is provided in Table 5.

TABLE 5—SUMMARY OF THE ESTIMATED TAKES AND EXPOSURES (IN PARENTHESIS) OF MARINE MAMMALS TO THE PIRE E3 IMPLOSION

| Species | Level B take | | Level A take | Mortality | Population | % take population |
|---|---|---|---|---|---|---|
| | Behavioral | TTS | | | | |
| Pacific harbor seal | 12 (6) | 6 (3) | 0 (0) | 0 (0) | 30.196 | 0.06 |
| California sea lion | 2 (0) | 0 (0) | 0 (0) | 0 (0) | 296,750 | 0.00 |
| Northern elephant seal | 2 (1) | 0 (0) | 0 (0) | 0 (0) | 124,000 | 0.00 |
| Harbor porpoise | 2 (1) | 0 (0) | 0 (0) | 0 (0) | 9,886 | 0.02 |

## Analysis and Preliminary Determinations

*Negligible Impact*

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

To avoid repetition, this introductory discussion of our analyses applies to all the species listed in Table 5, given that the anticipated effects of CALTRANS' Pier E3 controlled implosion on marine mammals are expected to be relatively similar in nature. There is no information about the nature or severity of the impacts, or the size, status, or structure of any species or stock that would lead to a different analysis for this activity, else species-specific factors would be identified and analyzed.

No injuries or mortalities are anticipated to occur as a result of CALTRANS' controlled implosion to demolish Pier E3, and none are proposed to be authorized. The relatively low marine mammal density and small Level A exclusion zones make injury takes of marine mammals unlikely, based on take calculation described above. In addition, the Level A exclusion zones would be thoroughly monitored before the proposed implosion, and detonation activity would be postponed if an marine mammal is sighted within the exclusion.

The takes that are anticipated and authorized are expected to be limited to short-term Level B harassment (behavioral and TTS). Marine mammals (Pacific harbor seal, northern elephant seal, California sea lion, and harbor porpoise) present in the vicinity of the action area and taken by Level B harassment would most likely show overt brief disturbance (startle reaction) and avoidance of the area form the implosion noise. A few Pacific harbor seals could experience TTS if they occur within the Level B TTS ZOI. However, as discussed early in this document, TTS is a temporary loss of hearing sensitivity when exposed to loud sound, and the hearing threshold is expected to recover completely within minutes to hours. Therefore, it is not considered an injury. In addition, even if an animal receives a TTS, the TTS would just be a one-time event from a brief impulse noise (about 5 seconds), making it unlikely that the TTS would involve into PTS. Finally, there is no critical habitat and other biologically important areas in the vicinity of CALTRANS' proposed Pier E3 controlled implosion area (John Calambokidis *et al.* 2015).

The project also is not expected to have significant adverse effects on affected marine mammals' habitat, as analyzed in detail in the ''Anticipated Effects on Marine Mammal Habitat'' section. The project activities would not modify existing marine mammal habitat. The activities may kill some fish and cause other fish to leave the area temporarily, thus impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from CALTRANS's Pier E3 demolition via controlled implosion will have a negligible impact on the affected marine mammal species or stocks.

*Small Number*

The requested takes represent less than 0.06% of all populations or stocks potentially impacted (see Table 5 in this document). These take estimates represent the percentage of each species or stock that could be taken by Level B behavioral harassment and TTS (Level B harassment). The numbers of marine mammals estimated to be taken are small proportions of the total populations of the affected species or stocks. In addition, the mitigation and monitoring measures (described previously in this document) prescribed in the proposed IHA are expected to reduce even further any potential disturbance to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

## Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no subsistence uses of marine mammals in the proposed project area; and, thus, no subsistence uses impacted by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

## Endangered Species Act (ESA)

NMFS has determined that issuance of the IHA will have no effect on listed marine mammals, as none are known to occur in the action area.

**National Environmental Policy Act (NEPA)**

NMFS prepared an Environmental Assessment (EA) and a Supplemental Environmental Assessment (SEA) for the take of marine mammals incidental to construction of the East Span of the SF–OBB and made Findings of No Significant Impact (FONSIs) on November 4, 2003 and August 5, 2009. Due to the modification of part of the demolition of the original SFOBB using controlled implosion and the associated mitigation and monitoring measures, NMFS prepared a draft SEA and analyzed the potential impacts to marine mammals that would result from the modification. NMFS has released the draft SEA for public comment along with this proposed IHA.

**Proposed Authorization**

As a result of these preliminary determinations, NMFS proposes to issue an IHA to CALTRANS for conducting Pier E3 demolition via controlled implosion, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

1. This Authorization is valid from October 1 through December 30, 2015.

2. This Authorization is valid only for activities associated the original San Francisco-Oakland Bay Bridge Pier E3 demolition via controlled implosion and a pre-demolition test implosion in San Francisco Bay.

3. (a) The species authorized for incidental harassment takings, Level B harassment only, are: Pacific harbor seal (*Phoca vitulina richardsi*), California sea lion (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), and harbor porpoise (*Phocoena phocoena*).

(b) The authorization for taking by harassment is limited to the following acoustic sources and from the following activities:

- Pre-demolition test implosion;
- Pier E3 demolition via controlled implosion.

(c) The taking of any marine mammal in a manner prohibited under this Authorization must be reported within 24 hours of the taking to the West Coast Administrator (206–526–6150), National Marine Fisheries Service (NMFS) and the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at (301) 427–8401, or her designee (301–427–8418).

4. The holder of this Authorization must notify the Chief of the Permits and Conservation Division, Office of Protected Resources, at least 48 hours prior to the start of activities identified in 3(b) (unless constrained by the date of issuance of this Authorization in which case notification shall be made as soon as possible).

5. Prohibitions

(a) The taking, by incidental harassment only, is limited to the species listed under condition 3(a) above and by the numbers listed in Table 5. The taking by Level A harassment, injury or death of these species or the taking by harassment, injury or death of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this Authorization.

(b) The taking of any marine mammal is prohibited whenever the required protected species observers (PSOs), required by condition 7(a), are not present in conformance with condition 7(a) of this Authorization.

6. Mitigation

(a) Time Restriction

Implosion of Pier E3 shall only be conducted during daylight hours and with enough time for pre and post implosion monitoring, and with good visibility when the largest exclusion zone can be visually monitored.

(b) Installation of Blast Attenuation System (BAS)

Prior to the Pier E3 demolition, CALTRANS should install a Blast Attenuation System (BAS) to reduce the shockwave from the implosion.

(c) Establishment of Exclusion Zones and Zones of Influence

Before CALTRANS begins Pier E3 demolition via controlled implosion and the pre-demolition test implosion, exclusion zones and zones of influence (ZOIs) that are appropriate to specific marine mammal functional hearing group shall be established. The modeled isopleth of these zones are provided in Table 3.

(d) Exclusion Zone Monitoring for Mitigation Measures

(i) The exclusion zone shall be monitored by protected species observers (PSOs) for at least 30 minutes before the implosion.

(ii) If any marine mammals are observed inside the exclusion, the implosion will be delayed until the animal leaves the area or at least 30 minutes have passed since the last observation of the marine mammal.

(e) Communication

The Lead PSO shall be in constant contact with the Resident Engineer on site and the blasting crew to ensure that no marine mammal is within the exclusion zone before the controlled implosion.

7. Monitoring:

(a) Protected Species Observers:

(i) CALTRANS shall employ NMFS-approved PSOs to conduct marine mammal monitoring for its Pier E3 demolition via controlled implosion.

(ii) A minimum of 8–10 PSOs shall be required during the Pier E3 controlled implosion so that the exclusion zone, Level B Harassment TTS and Behavioral ZOIs, and surrounding area can be monitored.

(b) Monitoring Protocol:

(i) PSOs shall be positioned near the edge of each of the thredhold criteria zones and shall utilize boats, barges, bridge piers and roadway, and sites on Yerba Buena Island and Treasure Island, as described in Figure 3 of the CALTRANS Marine Mammal Monitoring Plan.

(ii) The Lead PSO shall be located with the Department Engineer and the Blasting Supervisor (or person that will be in charge of detonating the charges) during the implosion.

(iii) The Lead PSO will be in contact with other PSOs and the acoustic monitors. As the time for the implosion approaches, any marine mammal sightings would be discussed between the Lead PSO, the Resident Engineer, and the Blasting Supervisor.

(iv) If any marine mammals enter the exclusion zone within 30 minutes of blasting, the Lead PSO shall notify the Resident Engineer and Blasting Supervisor that the implosion may need to be delayed. The Lead PSO shall keep them informed of the disposition of the animal.

(v) Once the implosion has occurred, the PSOs will continue to monitor the area for at least 60 minutes.

(c) Post-implosion Survey:

(i) Boat or shore surveys shall be conducted for the three days following the event to determine if there are any injured or stranded marine mammals in the area.

(ii) If an injured or dead animal is discovered during these surveys or by other means, the NMFS-designated stranding team shall be contacted to pick up the animal. Veterinarians will treat the animal or conduct a necropsy to attempt to determine if it stranded was a result of the Pier E3 implosion.

(d) Monitoring Data Collection:

(i) Each PSO shall record their observation position, start and end

times of observations, and weather conditions (sunny/cloudy, wind speed, fog, visibility).

(ii) For each marine mammal sighting, the following shall be recorded, if possible:

- Species
- Number of animals (with or without pup/calf)
- Age class (pup/calf, juvenile, adult)
- Identifying marks or color (scars, red pelage, damaged dorsal fin, etc.)
- Position relative to Pier E3 (distance and direction)
- Movement (direction and relative speed)
- Behavior (logging [resting at the surface], swimming, spyhopping [raising above the water
- surface to view the area], foraging, etc.)
- Duration of sighting or times of multiple sightings of the same individual

(e) Real Time Acoustic Monitoring for Harbor Porpoises:

(i) Real time acoustic monitoring (PAM) system shall be used to detect the presence or absence of harbor porpoises as a supplement to visual monitoring.

(ii) Real time PAM shall involve two bio-acousticians monitoring the site near the north end of Treasure Island.

(iii) Real time PAM shall use a hydrophone or towed array suspended from a boat and/or several sonobuoys, or a hydrophone moored offshore with a cable leading to a shore based acoustic station outside of the monitoring area of Pier E3.

(iv) All equipment used for real time PAM shall be calibrated and tested prior to the implosion to ensure functionality.

(v) The bio-acousticians shall be in communication with the Lead PSO and shall alert the crew to the presence of any cetacean approaching the monitoring area. The bio-acousticians shall also provide further confirmation that there are no cetaceans around Pier E3 in addition to the visual observations documenting no observations.

(f) Hydroacoustic Monitoring for Underwater Implosion:

(i) Hydroacoustic monitoring of sound field from the controlled implosion shall be conducted in near field and far field regions around Pier E3

(A) Near field measurements shall be taken within 500 ft of the Pier

(B) Far field measurements shall be taken at 500 feet and all greater distances from the Pier.

(ii) Near field and far field measurements protocols

(A) Measurements inside the BAS shall be made with near and far field systems using PCB 138A01 transducers. At the 100-ft distance, the near field system will use another PCB 138A01 transducer.

(B) Far field measurements shall be conducted using both a PCB 138A01 transducer and a Reson TC4013 hydrophone.

(iii) Ambient and background noise measurements

(A) Prior to activating the BAS, ambient noise levels shall be measured.

(B) While the BAS is operating and before the test implosion, background noise measurements shall also be made.

(C) After the test implosion, the results shall be evaluated to determine if any final adjustments are needed in the measurement systems prior to the Pier E3 controlled implosion.

(D) Pressure signals shall be analyzed for peak pressure and SEL values prior to the scheduled time of the Pier E3 controlled implosion.

8. Reporting:

(a) CALTRANS shall submit a draft monitoring report within 90 days after completion of the construction work or the expiration of the IHA (if issued), whichever comes earlier. This report would detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed.

(b) NMFS would have an opportunity to provide comments within 30 days after receiving the draft report, and if NMFS has comments, CALTRANS shall address the comments and submit a final report to NMFS within 30 days.

(c) If NMFS does not provide comments within 30 days after receiving the report, the draft report is considered to be final.

9. Marine Mammal Stranding Plan:

A marine mammal stranding plan shall be prepared in cooperation with the local NMFS-designated marine mammal stranding, rescue, and rehabilitation center. Elements of that plan would include the following:

(a) The stranding crew shall prepare treatment areas at the NMFS-designated facility for cetaceans or pinnipeds that may be injured from the implosion. Preparation shall include equipment to treat lung injuries, auditory testing equipment, dry and wet caged areas to hold animals, and operating rooms if surgical procedures are necessary. Equipment to conduct auditory brainstem response hearing testing would be available to determine if any inner ear threshold shifts (TTS or PTS) have occurred.

(b) A stranding crew and a veterinarian shall be on call near the Pier E3 site at the time of the implosion to quickly recover any injured marine mammals, provide emergency veterinary care, stabilize the animal's condition, and transport individuals to the NMFS-designated facility. If an injured or dead animal is found, NMFS (both the regional office and headquarters) shall be notified immediately even if the animal appears to be sick or injured from other than blasting.

(c) Post-implosion surveys shall be conducted immediately after the event and over the following three days to determine if there are any injured or dead marine mammals in the area.

(d) Any veterinarian procedures, euthanasia, rehabilitation decisions and time of release or disposition of the animal shall be at the discretion of the NMFS-designated facility staff and the veterinarians treating the animals. Any necropsies to determine if the injuries or death of an animal was the result of the blast or other anthropogenic or natural causes will be conducted at the NMFS-designated facility by the stranding crew and veterinarians. The results shall be communicated to both CALTRANS and to NMFS as soon as possible with a written report within a month.

10. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals, or if there is an unmitigable adverse impact on the availability of such species or stocks for subsistence uses.

11. A copy of this Authorization must be in the possession of each contractor who performs the pre-demolition test implosion and Pier E3 controlled implosion work.

Dated: July 21, 2015.

**Perry F. Gayaldo,**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2015–18178 Filed 7–23–15; 8:45 am]

**BILLING CODE 3510–22–P**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Request for Public Comment on a Commercial Availability Request Under the U.S.-Chile Free Trade Agreement

**AGENCY:** The Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Request for Public Comment concerning a request for modification of the U.S.-Chile Free Trade Agreement

rules of origin for certain woven fabrics of artificial filament yarn.

**SUMMARY:** On June 11, 2015, the Government of the United States received a request from the Government of Chile to modify the U.S.-Chile Free Trade Agreement's (FTA) rules of origin for woven fabrics of artificial filament yarn in subheadings 5408.22–5408.23 of the Harmonized Tariff Schedule of the United States (HTSUS) to allow the use of non-U.S. or Chilean filament yarn of viscose rayon classified in subheadings 5403.10, 5403.31, 5403.32, and 5403.41 of the HTSUS. As provided in Article 3.20.3–3.20.5 of the U.S.-Chile FTA, the Parties shall consult to consider whether the rules of origin applicable to particular textile and apparel goods should be revised to address issues of availability of supply of fibers, yarns or fabrics in the territory of the Parties. The United States-Chile Free Trade Agreement Implementation Act provides the President with the authority to proclaim a modification to the U.S.-Chile FTA rules of origin necessary to implement an agreement with Chile on the modification. CITA hereby solicits public comments on this request, in particular with regard to whether filament yarn of viscose rayon classified in subheadings 5403.10, 5403.31, 5403.32, and 5403.41 can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by August 24, 2015 to the Chairman, Committee for the Implementation of Textile Agreements, Room 30003, United States Department of Commerce, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Richard Stetson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–2582.

**Authority:** Executive Order 11651 of March 3, 1972, as amended; Section 202 of the U.S.-Chile Free Trade Agreement Implementation Act (19 U.S.C. 3805).

## Background

Under the U.S.-Chile Free Trade Agreement (FTA), each Party is required to eliminate customs duties on textile and apparel goods that qualify as originating goods under the FTA rules of origin, which are set out in Annex 4.1 to the FTA. Article 3.20 of the FTA provides that the rules of origin for textile and apparel products may be amended through a subsequent agreement between the two Parties under certain circumstances. In consultations regarding such a change, the two Parties are to consider issues of availability of fibers, yarns, or fabrics in the free trade area and whether domestic producers are capable of supplying commercial quantities of the good in a timely manner. Section 202 of the U.S.-Chile FTA Implementation Act provides the President with the authority to proclaim modifications to the FTA rules of origin as are necessary to implement an agreement with Chile on such a modification.

On June 11, 2015, the Government of the United States received a request from the Government of Chile to modify the U.S.-Chile Free Trade Agreement's (FTA) rules of origin for woven fabrics of artificial filament yarn in subheadings 5408.22–5408.23 of the Harmonized Tariff Schedule of the United States (HTSUS) to allow the use of non-U.S. or Chilean filament yarn of viscose rayon classified in subheadings 5403.10, 5403.31, 5403.32, and 5403.41 of the HTSUS. As provided in Article 3.20.3–3.20.5 of the U.S.-Chile FTA, the Parties shall consult to consider whether the rules of origin applicable to particular textile and apparel goods should be revised to address issues of availability of supply of fibers, yarns or fabrics in the territory of the Parties. The United States-Chile Free Trade Agreement Implementation Act provides the President with the authority to proclaim a modification to the U.S.-Chile FTA rules of origin necessary to implement an agreement with Chile on the modification. CITA hereby solicits public comments on this request, in particular with regard to whether filament yarn of viscose rayon classified in subheadings 5403.10, 5403.31, 5403.32, and 5403.41 can be supplied by the domestic industry in commercial quantities in a timely manner. CITA hereby solicits public comments on this request, in particular with regard to whether filament yarn of viscose rayon classified in subheadings 5403.10, 5403.31, 5403.32, and 5403.41 can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be received no later than August 24, 2015. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, Room 30003, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.

If a comment alleges that filament yarn of viscose rayon can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer stating that it produces the filament yarn of viscose rayon that is the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked 'business confidential' from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in Room 30003 in the Herbert Hoover Building, 14th and Constitution Avenue NW., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

**Joshua Teitelbaum,**

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 2015–18207 Filed 7–23–15; 8:45 am]

BILLING CODE 3510–DR–P

# COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

## Procurement List Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to the Procurement List.

**SUMMARY:** This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**DATES:** *Effective date:* 8/24/2015.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

**FOR FURTHER INFORMATION CONTACT:** Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

**SUPPLEMENTARY INFORMATION:**

## Additions

On 5/1/2015 (80 FR 24905–24906), 6/12/2015 (80 FR 33485–33489), and 6/19/2015 (80 FR 35320–35321), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to furnish the products and impact of the additions on the current or most recent

contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

**Regulatory Flexibility Act Certification**

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.
2. The action will result in authorizing small entities to furnish the products to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

**End of Certification**

Accordingly, the following products are added to the Procurement List:

*Products*

*NSNs—Product Names:*
7520–00–NIB–2135—Pen, Retractable Gel, Black Ink, Medium Point
7520–00–NIB–2136—Pen, Retractable Gel, Blue Ink, Medium Point
7520–00–NIB–2235—Pen, Retractable Gel, Black Ink, Fine Point
7520–00–NIB–2236—Pen, Retractable Gel, Blue Ink, Fine Point
Distribution: A-List
7520–00–NIB–2237—Pen, Retractable Gel, Black Ink, Bold Point
7520–00–NIB–2238—Pen, Retractable Gel, Blue Ink, Bold Point
*Distribution:* B-List
*Mandatory Purchase for:* Total Government Requirement
*Mandatory Source of Supply:* Industries of the Blind, Inc., Greensboro, NC
*Contracting Activity:* General Services Administration, New York, NY

*NSN—Product Name:* 7240–00–NIB–0006—Kit, Cleaning, Bucket and Caddy
*Mandatory Purchase for:* Total Government Requirement
*Mandatory Source of Supply:* Industries for the Blind, Inc., West Allis, WI
*Contracting Activity:* General Services Administration, Fort Worth, TX
*Distribution:* B-List

*NSN—Product Name:* 1005–00–NIB–0016—Guard, Gun Barrel, Black, One Size Fits All
*Mandatory Purchase for:* 100% of the requirement of the Department of Defense
*Mandatory Source of Supply:* The Lighthouse for the Blind in New Orleans, Inc., New Orleans, LA
*Contracting Activity:* Defense Logistics Agency Land and Maritime, Columbus, OH
*Distribution:* C-List

*NSN—Product Name:* 7530–01–352–6616—Note Pad, Self-Stick, Fanfold, Yellow, 3″ x 3″
*Mandatory Purchase for:* Total Government Requirement
*Mandatory Source of Supply:* Association for the Blind and Visually Impaired—Goodwill Industries of Greater Rochester, Rochester, NY
*Contracting Activity:* General Services Administration, New York, NY
*Distribution:* A-List

*NSN—Product Name:* 4240–01–469–8738—Hearing Protection, Over-The-Head Earmuff, NRR 27dB
*Mandatory Purchase for:* Total Government Requirement
*Mandatory Source of Supply:* Access: Supports for Living Inc., Middletown, NY
*Contracting Activity:* Defense Logistics Agency Troop Support, Philadelphia, PA
*Distribution:* A-List

**Patricia Briscoe,**

*Deputy Director, Business Operations (Pricing and Information Management).*

[FR Doc. 2015–18200 Filed 7–23–15; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List Proposed Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Deletions from the Procurement List.

**SUMMARY:** The Committee is proposing to delete products previously furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

**DATES:** Comments must be received on or before: 8/24/2015.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

**FOR FURTHER INFORMATION CONTACT:** Patricia Briscoe, 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.

**Deletions**

The following products are proposed for deletion from the Procurement List:

*NSN(s)—Product Name(s):*
7530–00–243–9436—Card, Index, Unruled, White, 5″ x 8″
7530–00–243–9437—Card, Index, Ruled, White, 5″ x 8″
7530–00–244–7447—Card, Index, Ruled, Green, 5″ x 8″
7530–00–244–7451—Card, Index, Unruled, Buff, 4″ x 6″
7530–00–244–7453—Card, Index, Unruled, Green, 3″ x 5″
7530–00–244–7456—Card, Index, Unruled, Salmon, 3″ x 5″
7530–00–244–7459—Card, Index, Unruled, White, 4″ x 6″
7530–00–247–0310—Card, Index, Ruled, Buff, 3″ x 5″
7530–00–247–0311—Card, Index, Ruled, Buff, 5″ x 8″
7530–00–247–0315—Card, Index, Ruled, Salmon, 5″ x 8″
7530–00–247–0318—Card, Index, Ruled, White, 3″ x 5″
7530–00–264–3723—Card, Index, Ruled, White, 4″ x 6″
7530–00–949–2787—Card, Index, Unruled, Pink, 5″ x 8″
7530–00–238–4331—Card, Index, Unruled, Salmon, 5″ x 8″
*Mandatory Source of Supply:* Louisiana Association for the Blind, Shreveport, LA
*Contracting Activity:* General Services Administration, New York, NY

**Patricia Briscoe,**

*Deputy Director, Business Operations (Pricing and Information Management).*

[FR Doc. 2015–18199 Filed 7–23–15; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMODITY FUTURES TRADING COMMISSION

### Order Extending the Designation of the Provider of Legal Entity Identifiers To Be Used in Recordkeeping and Swap Data Reporting Pursuant to the Commission's Regulations

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Order.

**SUMMARY:** The Commodity Futures Trading Commission (''Commission'') has issued an order (''Order'') to extend the Commission's designation of the Depository Trust and Clearing Corporation (''DTCC'') and Society for Worldwide Interbank Financial Telecommunication (''SWIFT'') joint venture (''DTCC–SWIFT'') as the provider of legal entity identifiers, or ''LEIs,'' pursuant to applicable provisions of the Commodity Exchange Act and the Commission's regulations. DTCC–SWIFT's designation was made by Commission order issued on July 23, 2012, for a term of two years. An Amended and Restated Order issued on July 22, 2014 amended the

Commission's order of July 23, 2012, as previously amended on June 7, 2013, to extend DTCC–SWIFT's designation for an additional one year. This Order supersedes the Commission's Amended and Restated Order issued on July 22, 2014 and further extends DTCC–SWIFT's designation for an additional one year while the transition to a fully operational global LEI system continues. This Order permits registered entities and swap counterparties subject to the Commission's jurisdiction to comply with the legal entity identifier requirements of parts 45 and 46 of the Commission's regulations by using identifiers issued by DTCC–SWIFT, or any other pre-Local Operating Unit (''pre-LOU'') that has been endorsed by the Regulatory Oversight Committee (''ROC'') of the global LEI system as being globally acceptable and as issuing globally acceptable legal entity identifiers.

**FOR FURTHER INFORMATION CONTACT:** Srinivas Bangarbale, Chief Data Officer, Office of Data and Technology, (202) 418–5315, *sbangarbale@cftc.gov,* or Benjamin DeMaria, Special Counsel, Division of Market Oversight, (202) 418–5988, *bdemaria@cftc.gov,* Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

## Table of Contents

I. Background
A. Legal Entity Identifiers: CEA Section 21(b) and Section 45.6 of the Commission's Regulations
B. Amended and Restated Order of July 22, 2014
II. Further Extension of Designation of the DTCC–SWIFT Utility
III. Order

## I. Background

### *A. Legal Entity Identifiers: CEA Section 21(b) and Section 45.6 of the Commission's Regulations*

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') [1] amended the Commodity Exchange Act (''CEA'') [2] to establish a comprehensive new regulatory framework for swaps. Amendments to the CEA included the addition of provisions requiring the retention, and the reporting to Commission-registered swap data repositories (''SDRs''), of data regarding swap transactions, in order to enhance transparency, promote standardization and reduce systemic risk.[3] Pursuant to these newly added provisions, the Commission added to its regulations part 45,[4] which sets forth recordkeeping rules, and rules for the reporting of swap transaction data to a registered SDR; and part 46,[5] which sets forth recordkeeping and swap data reporting rules for historical swaps.

Under the authority granted by section 21(b) of the CEA, which, among other things, directs the Commission ''to prescribe standards that specify the data elements for each swap that shall be collected and maintained'' by a registered SDR,[6] the Commission, in its part 45 regulations, prescribed the use of a legal entity identifier, or ''LEI,'' in required recordkeeping and swap data reporting. Section 45.6 provides that ''[e]ach counterparty to any swap subject to the jurisdiction of the Commission shall be identified in all recordkeeping and all swap data reporting pursuant to [part 45] by means of a single legal entity identifier as specified in this section.'' [7] In adopting this requirement, the Commission highlighted the LEI as a crucial regulatory tool to facilitate data aggregation by regulators, which furthers, among other goals, the systemic risk mitigation and market manipulation prevention purposes of the Dodd-Frank Act.[8]

Section 45.6 sets forth requirements that the legal entity identifier to be used to comply with the Commission's recordkeeping and swap data reporting rules must meet, including satisfaction of specified technical and governance principles. In adopting these requirements, the Commission took into consideration work that had commenced at the international level to establish a global LEI system.[9] The Commission expressed its agreement that ''optimum effectiveness of [the LEI] as a tool for achieving the systemic risk mitigation, transparency and market protection goals of the Dodd-Frank Act—goals shared by financial regulators world-wide—would come from creation of [an LEI] . . . that is capable of becoming the single international standard for unique identification of legal entities across the world financial sector.'' [10] The Commission cited its involvement in an international initiative, coordinated by the Financial Stability Board (''FSB''),[11] to establish standards, and a governance framework, for a global LEI system—including the Commission's participation in an ad hoc, expert group of regulatory authorities convened by the FSB to develop recommendations regarding the implementation of such a system.[12]

### *B. Amended and Restated Order of July 22, 2014*

On July 22, 2014 the Commission issued an Amended and Restated Order, which amended the Commission's July 23, 2012 order, as previously amended on June 7, 2013, to extend its designation of the DTCC–SWIFT utility while the terms of transition to a fully operational global LEI system were finalized and implemented. In the Amended and Restated Order, the Commission aligned the legal entity identifier terminology used therein with the terminology that is currently in use at the international level, and removed certain provisions that, given the current state of implementation of the global LEI system, were no longer applicable.

In the preamble to the Amended and Restated Order, the Commission noted that the process to establish the global LEI system continued to move forward since the issuance of the Amendment on June 7, 2013, noting various

[1] Public Law 111–203, 124 Stat. 1376 (2010).

[2] 7 U.S.C. 1 *et seq.*

[3] *See, e.g.,* section 2(a)(13)(G) of the CEA, which requires all swaps, whether cleared or uncleared, to be reported to a registered SDR; new section 21(b) of the CEA, which directs the Commission to prescribe standards for swap data reporting and attendant recordkeeping; and new sections 4r and 2(h)(5) of the CEA, which, among other things, establish reporting requirements for swaps in effect as of the enactment of the Dodd-Frank Act (''pre-enactment swaps''), as well as swaps in effect after such enactment but prior to the effective date for compliance with the Commission's final recordkeeping and swap data reporting rules (''transition swaps'' and, collectively with pre-enactments swaps, ''historical swaps'').

[4] Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136 (January 13, 2012).

[5] Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps, 77 FR 35200 (June 12, 2012).

[6] CEA section 21(b).

[7] 77 FR 2204. In addition, in part 46 of the Commission's regulations, § 46.4 provides that each counterparty to a historical swap in existence on or after April 25, 2011, for which an initial data report is required pursuant to part 46, must obtain a legal entity identifier, which must be used for purposes of recordkeeping and swap data reporting under part 46 as prescribed in § 46.4. 77 FR 35228–35229.

[8] *See* 77 FR 2138.

[9] *See* 77 FR 2163.

[10] *Id.*

[11] The FSB is an international body that develops and promotes the implementation of effective regulatory, supervisory and other policies in the interest of financial stability. Established in 2009 as a successor to the Financial Stability Forum, the FSB coordinates the work of national financial authorities, international standards setting bodies and international financial institutions. Its membership includes G–20 members, the International Monetary Fund and the World Bank. The FSB Secretariat is located in Basel, Switzerland. The FSB's Web site can be accessed at *http://www.financialstabilityboard.org.*

[12] *See* 77 FR 2162.

implementation milestones,[13] and that while progress towards the establishment of the global LEI system continued, the system would not be fully operational before the expiration of DTCC–SWIFT's two-year term of designation under the July 23, 2012 Order. The Commission believed it was appropriate, in order to further the smooth transition to a fully operational global LEI system, to extend its designation of the DTCC–SWIFT utility, given the significant progress made in establishing the global LEI system—including the ROC's endorsement of the DTCC–SWIFT utility as a globally acceptable pre-LOU.

## II. Further Extension of Designation of the DTCC–SWIFT Utility

Progress towards the establishment of the global LEI system continues. The Global LEI Foundation (''GLEIF'') is incorporated and currently in the process of finalizing the Master Agreement with pre-LOUs, including DTCC–SWIFT's Global Markets Entity Identifier (''GMEI'') utility. The ROC continues, within its authority, to facilitate that process. The finalization of the Master Agreement is a deliberative process that includes several multi-party discussions.[14] Progress has been made and all parties involved are putting forth efforts to conclude the necessary steps expeditiously. Once pre-LOUs sign the Master Agreement and become accredited, they will become LOUs and will be under the direct operational oversight of the GLEIF, which in turn will be under the oversight of the ROC. While it is expected that the Master Agreement will be signed and DTCC–SWIFT accredited in the near term, given the international and deliberative nature of the process, the Commission finds it appropriate to provide sufficient time for the process to conclude successfully and smoothly.

Accordingly, the Commission is issuing this Order, to further extend the Commission's designation of the DTCC–SWIFT utility while the transition to a fully operational global LEI system is finalized and implemented. The Commission is not otherwise modifying the terms or conditions found in the Amended and Restated Order.

## III. Order

*It is ordered,* pursuant to section 21(b) of the CEA and § 45.6 of the Commission's regulations *that:*

1. Subject to Section 2(a), below, the Depository Trust and Clearing Corporation (''DTCC'') and Society for Worldwide Interbank Financial Telecommunications (''SWIFT'') joint venture (''DTCC–SWIFT'') is designated as the provider of legal entity identifiers (''LEIs''), to be used in recordkeeping and swap data reporting pursuant to parts 45 and 46 of the Commission's regulations.

a. This designation is conditioned on DTCC–SWIFT's continuing compliance, for as long as it is authorized to provide LEIs by this order or any future order of the Commission, with all of the legal entity identifier requirements of part 45 of the Commission's regulations, and any related requirements as set forth in this order or in the requirements document provided to DTCC–SWIFT during the determination and designation process; including, without limitation, the requirement to be subject to supervision by a governance structure that includes the Commission and other financial regulators in any jurisdiction requiring use of legal entity identifiers pursuant to applicable law, for the purpose of ensuring that issuance and maintenance of LEIs and of associated reference data adheres on an ongoing basis to the Commission's requirements set forth in part 45.

b. This designation is further conditioned on the requirement that, subject to applicable confidentiality laws and other applicable law, (1) DTCC–SWIFT shall make public all LEIs and associated reference data, utility operations, and identity validation processes, and (2) if DTCC–SWIFT fails to satisfy the conditions of this designation, or upon any termination of this designation pursuant to Section 2(c)(2) below, DTCC–SWIFT shall, as instructed by the Commission, pass to a successor LEI utility specified by the Commission, or to the global LEI system, free of charge, all LEIs issued by DTCC–SWIFT and associated reference data and all LEI intellectual property rights.

c. This designation is made for a limited term, expiring on July 22, 2016 and may be terminated by the Commission on three months' notice in connection with (1) the establishment of the global LEI system, or (2) DTCC–SWIFT's exit from the global LEI system.

2. To comply with the legal entity identifier requirements of parts 45 and 46 of the Commission's regulations:

a. Registered entities and swap counterparties subject to the Commission's jurisdiction may use LEIs provided by DTCC–SWIFT, or any other pre-Local Operating Unit (''pre-LOU'') approved by the Regulatory Oversight Committee of the global LEI system (''ROC'') as globally acceptable and as issuing globally acceptable LEIs. The list of pre-LOUs that are currently approved by the ROC as globally acceptable and as issuing globally acceptable LEIs, including the Web site address via which registered entities and swap counterparties may contact each such pre-LOU, is available at *http://www.leiroc.org/publications/gls/lou_20131003_2.pdf.*

b. As provided in § 45.6(b)(1) of the Commission's regulations, registered entities and swap counterparties subject to the Commission's jurisdiction shall be identified in all swap recordkeeping and swap data reporting by a single LEI.

3. This Order supersedes the Commission's Amended and Restated Order issued on July 22, 2014.

Issued in Washington, DC, on July 17, 2015, by the Commission.

**Christopher J. Kirkpatrick,**

*Secretary of the Commission.*

## Appendix To Order Extending the Designation of the Provider of Legal Entity Identifiers To Be Used in Recordkeeping and Swap Data Reporting Pursuant to the Commission's Regulations—Commission Voting Summary

On this matter, Chairman Massad and Commissioners Bowen and Giancarlo voted in the affirmative. No Commissioner voted in the negative. Commissioner Wetjen did not participate in this matter.

[FR Doc. 2015–17959 Filed 7–23–15; 8:45 am]

BILLING CODE 6351–01–P

[13] In the second half of 2013, the ROC adopted endorsement standards for pre-LOUs and the identifiers issued by them, and endorsed sixteen member-sponsored pre-LOUs—including DTCC–SWIFT—as globally acceptable. The Global LEI Foundation that will provide the Central Operating Unit (''COU''), managing the central operations of the global LEI system, was formally established under Swiss law. The ROC and the Global LEI Foundation are developing a framework for the transition of full operational management of the global LEI system to the COU, with supervisory oversight by the ROC in the public interest.

[14] In its 2014 Annual Report, the GLEIF reported certain milestones regarding the development and implementation of the Master Agreement including: Achieving consensus on core principles among the pre-LOUS and the GLEIF; developing a common set of terms and conditions for LOU operations to be executed in 2015; and arriving at an agreed framework for business operations between the GLEIF and the LOUs. *See* GLEIF 2014 Annual Report, available at *https://www.gleif.org/content/1-about/4-governance/9-annual-report/20150622_V1_1_RZ_GLEIF_AR_web.pdf.*

## CONSUMER PRODUCT SAFETY COMMISSION

**[CPSC Docket No. 15–C0005]**

## LG Electronics Tianjin Appliance Co., Ltd. and LG Electronics USA Inc., Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission

**ACTION:** Notice.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR1118.20(e). Published below is a provisionally-accepted Settlement Agreement with LG Electronics Tianjin Appliance Co., Ltd. and LG Electronics USA Inc. containing a civil penalty of $1,825,000, within twenty (20) days of service of the Commission's final Order accepting the Settlement Agreement.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by August 10, 2015.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 15–C0005 Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 820, Bethesda, Maryland 20814–4408.

**FOR FURTHER INFORMATION CONTACT:** Dennis C. Kacoyanis, General Attorney, Office of the General Counsel, Division of Enforcement and Information, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7587.

**SUPPLEMENTARY INFORMATION:** The text of the Agreement and Order appears below.

Dated: July 21, 2015.

**Todd A. Stevenson,**

*Secretary.*

## UNITED STATES OF AMERICA

## CONSUMER PRODUCT SAFETY COMMISSION

*In the Matter of: LG Electronics Tianjin Appliance Co., Ltd. and LG Electronics USA Inc.*

CPSC Docket No.: *15–C0005*

## SETTLEMENT AGREEMENT

1. In accordance with the Consumer Product Safety Act, 15 U.S.C. 2051–2089 (''CPSA'') and 16 CFR 1118.20, LG Electronics Tianjin Appliance Co., Ltd. and its affiliated U.S. company LG Electronics USA Inc. (collectively ''LG'' or ''Firm''), and the United States Consumer Product Safety Commission (''Commission''), through its staff, hereby enter into this Settlement Agreement (''Agreement''). The Agreement, and the incorporated attached Order, resolve staff's charges set forth below.

## THE PARTIES

2. The Commission is an independent federal regulatory agency, established pursuant to, and responsible for the enforcement of, the CPSA, 15 U.S.C. 2051–2089. By executing the Agreement, staff is acting on behalf of the Commission, pursuant to 16 CFR 1118.20(b). The Commission issues the Order under the provisions of the CPSA.

3. LG Electronics Tianjin Appliance Co., Ltd. is a Chinese corporation with its principal corporate offices in Tianjin, China. LG Electronics USA, Inc. is a Delaware corporation with its principal corporate offices located in Englewood Cliffs, NJ.

## STAFF CHARGES

*Dehumidifiers*

4. From 2003 to 2005 LG manufactured and imported about 795,000 Dehumidifiers (''Dehumidifiers'' or ''Subject Products'') under a major U.S. retailer's brand name. The retailer sold the Subject Products until 2009. The dehumidifiers consist of the following models: (a) 70-pint, model nos. 580.53701300/400/500; (b) 35-pint, model no. 580.54351400; and (c) 50-pint, model no. 580.5309300.

5. The Dehumidifiers are ''consumer products'' ''distributed in commerce,'' as those terms are defined or used in section 3(a)(5) and (8) of the CPSA, 15 U.S.C. 2052(a)(5) and (8). LG Electronics Tianjin Appliance Co., Ltd. and LG Electronics USA Inc. were ''manufacturers'' of the Subject Products, as such term is defined in section 3(a)(11) of the CPSA, 15 U.S.C. 2052(a)(11).

6. The Dehumidifiers contain a defect which could create a substantial product hazard or creates an unreasonable risk of serious injury or death in that the Dehumidifiers' motors posed a fire and burn risk to consumers.

7. Between 2003 and 2009 LG received complaints of smoke and fire damage resulting from overheating of the motors and electrical failures in the Subject Products. During this period three consumers reported smoke inhalation injuries. The Subject Products' failures also resulted in serious fires causing extensive property damage.

8. Despite having information regarding the defect and the unreasonable risk of serious injury or death LG did not immediately notify the Commission, as required by section 15(b)(3) and (4) of the CPSA, 15 U.S.C. 2064(b)(3) and (4). LG notified the Commission about the Dehumidifiers only after its principal retailer notified the Commission.

*Failure to Report*

9. In failing to inform the Commission immediately about the Dehumidifiers, LG knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), as the term ''knowingly'' is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d).

10. Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, LG is subject to civil penalties for its knowing failure to report, as required under section 15(b) of the CPSA, 15 U.S.C. 2064(b).

## RESPONSE OF LG

11. LG does not admit the charges set forth in paragraphs 4 through 10 above, including, but not limited to, the charge that the Subject Products contained a defect that could create a substantial product hazard or creates an unreasonable risk of serious injury or death, the charge that LG failed to notify the Commission in a timely manner in accordance with section 15(b) of the CPSA, 15 U.S.C. § 2064(b), and the charge that LG ''knowingly'' violated section 19(a)(4) of the CPSC, 15 U.S.C. 2068(a)(4).

12. At all relevant times, LG has had a product safety compliance program and has improved that program over time. LG has voluntarily reported to the Commission in the past when it believed an obligation to report existed under the CPSA.

13. LG enters into this Agreement to settle this matter without the delay and expense of litigation.

## AGREEMENT OF THE PARTIES

14. Under the CPSA, the Commission has jurisdiction over the matter involving the Subject Products described herein and over LG Electronics USA, Inc. LG Tianjin Appliance Co., Ltd., has agreed to a limited waiver of its jurisdictional defenses solely for the purpose of resolving this dispute.

15. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by LG or a determination by

the Commission that LG violated the CPSA's reporting requirements.

16. The parties agree that LG's conduct set forth in the staff's allegations is subject to the civil penalty amounts in effect from January 1, 2005 to August 13, 2009.

17. In settlement of staff's charges, and to avoid the cost, distraction, delay, uncertainty, and inconvenience of protracted litigation or other proceedings, LG shall pay a civil penalty in the amount of one million, eight hundred twenty-five thousand dollars ($1,825,000) within thirty (30) calendar days after receiving service of the Commission's final Order accepting the Agreement. The payment shall be made by electronic wire transfer to the Commission via: *http://www.pay.gov.*

18. After staff receives this Agreement executed on behalf of LG, staff shall promptly submit the Agreement to the Commission for provisional acceptance. Promptly following provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the **Federal Register**, in accordance with the procedures set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the 16th calendar day after the date the Agreement is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

19. This Agreement is conditioned upon, and subject to, the Commission's final acceptance, as set forth above, and it is subject to the provisions of 16 CFR § 1118.20(h). Upon the later of: (i) Commission's final acceptance of this Agreement and service of the accepted Agreement upon LG, and (ii) the date of issuance of the final Order, this Agreement shall be in full force and effect and shall be binding upon the parties.

20. Effective upon the later of: (i) the Commission's final acceptance of the Agreement and service of the accepted Agreement upon LG, and (ii) and the date of issuance of the final Order, for good and valuable consideration, LG hereby expressly and irrevocably waives and agrees not to assert any past, present, or future rights to the following, in connection with the matter described in this Agreement: (i) an administrative or judicial hearing; (ii) judicial review or other challenge or contest of the Commission's actions; (iii) a determination by the Commission of whether LG failed to comply with the CPSA and the underlying regulations; (iv) a statement of findings of fact and conclusions of law; and (v) any claims under the Equal Access to Justice Act.

21. LG has and shall maintain a compliance program designed to ensure compliance with the CPSA with respect to any consumer product imported, manufactured, distributed or sold by LG in the United States, and which shall contain the following elements:

(i) written standards, policies and procedures, including those designed to ensure that information that may relate to or impact CPSA compliance (including information obtained by quality control personnel) is conveyed effectively to personnel responsible for CPSA compliance;

(ii) a mechanism for confidential employee reporting of compliance-related questions or concerns to either a compliance officer or to another senior manager with authority to act as necessary;

(iii) effective communication of company compliance-related policies and procedures regarding CPSA to all applicable employees through training programs or otherwise;

(iv) LG senior management responsibility for, and general board oversight of, CPSA compliance; and

(v) retention of all CPSA compliance-related records for at least five (5) years, and availability of such records to staff upon reasonable request.

22. LG has, and shall maintain and enforce, a system of internal controls and procedures designed to ensure that, with respect to all consumer products imported, manufactured, distributed or sold by LG in the United States: (i) information required to be disclosed by LG to the Commission is recorded, processed and reported in accordance with applicable law; (ii) all reporting made to the Commission is timely, truthful, complete, accurate and in accordance with applicable law; and (iii) prompt disclosure is made to LG's management of any significant deficiencies or material weaknesses in the design or operation of such internal controls that are reasonably likely to affect adversely, in any material respect, LG's ability to record, process and report to the Commission in accordance with applicable law.

23. Upon reasonable request of staff, LG shall provide written documentation of its internal controls and procedures, including, but not limited to, the effective dates of the procedures and improvements thereto. LG shall cooperate fully and truthfully with staff and shall make available all non-privileged information and materials, and personnel deemed necessary by staff to evaluate LG's compliance with the terms of the Agreement.

24. The parties acknowledge and agree that the Commission may publicize the terms of the Agreement and the Order.

25. LG represents that the Agreement: (i) is entered into freely and voluntarily, without any degree of duress or compulsion whatsoever; (ii) has been duly authorized; and (iii) constitutes the valid and binding obligation of LG, enforceable against LG in accordance with its terms. LG will not directly or indirectly receive any reimbursement, indemnification, insurance-related payment, or other payment in connection with the civil penalty to be paid by LG pursuant to the Agreement and Order. The individuals signing the Agreement on behalf of LG represent that they are duly authorized by LG to execute the Agreement.

26. The Agreement is governed by the laws of the United States.

27. The Agreement and the Order shall apply to, and be binding upon, LG and each of its successors, transferees, and assigns, and a violation of the Agreement or Order may subject LG, and each of its successors, transferees and assigns, to appropriate legal action.

28. The Agreement and the Order constitute the complete agreement between the parties on the subject matter contained therein.

29. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. For purposes of construction, the Agreement shall be deemed to have been drafted by both of the parties and shall not, therefore, be construed against any party for that reason in any subsequent dispute.

30. The Agreement may not be waived, amended, modified, or otherwise altered, except as in accordance with the provisions of 16 CFR 1118.20(h). The Agreement may be executed in counterparts.

31. If any provision of the Agreement or the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and LG agree in writing that severing the provision materially affects the purpose of the Agreement and the Order.

LG ELECTRONICS TIANJIN APPLIANCE CO., LTD.

By:

Zhide Pang
*Manager of External/Legal Affairs Part, LG Electronics Tianjin Appliance Co., Ltd. JinWei Road, BeiChen District, Tianjin, China*

Date: *July 2, 2015*

LG ELECTRONICS USA, INC.
By:

Chris Kim
*Senior Counsel, NA Product Safety, LG Electronics USA, Inc., 910 Sylvan Avenue, Englewood Cliffs, New Jersey 07632.*

Date: *June 30, 2015*

By:

John W. Moss, Esq.
*Winston & Strawn LLP, 1700 K Street NW., Washington, DC 20006–3817*

Date: *July 2, 2015*

U.S. CONSUMER PRODUCT SAFETY COMMISSION

Stephanie Tsacoumis
*General Counsel*

Melissa V. Hampshire
*Assistant General Counsel*

By:

Dennis C. Kacoyanis
Alexander W. Dennis
*General Attorneys, Division of Enforcement and Information, Office of the General Counsel*

Date: *July 2, 2015*

**UNITED STATES OF AMERICA**

**CONSUMER PRODUCT SAFETY COMMISSION**

*In the Matter of: LG Electronics Tianjin Appliance Co., Ltd. and LG Electronics USA Inc.*

CPSC Docket No.: *15–C0005*

**ORDER**

Upon consideration of the Settlement Agreement entered into between LG Electronics Tianjin Appliance Co., Ltd. and LG Electronics USA Inc. (''LG''), and the U.S. Consumer Product Safety Commission (''Commission''), and the Commission having jurisdiction over the subject matter and over LG, and it appearing that the Settlement Agreement and the Order are in the public interest, it is:

**ORDERED** that the Settlement Agreement be, and is, hereby, accepted; and it is

**FURTHER ORDERED** that LG shall comply with the terms of the Settlement Agreement and shall pay a civil penalty in the amount of one million, eight hundred twenty-five thousand dollars ($1,825,000) within thirty (30) days after service of the Commission's final Order accepting the Settlement Agreement. The payment shall be made by electronic wire transfer to the Commission via: *http://www.pay.gov.* Upon the failure of LG to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by LG at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b). If LG fails to make such payment or to comply in full with any other provision of the Settlement Agreement, such conduct will be considered a violation of the Settlement Agreement and Order.

Provisionally accepted and provisional Order issued on the *21st* day of *July,* 2015.

By Order of the Commission.

**Todd A. Stevenson,**

*Secretary, U.S. Consumer Product Safety Commission.*

[FR Doc. 2015–18150 Filed 7–23–15; 8:45 am]

**BILLING CODE 6355–01–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Revised Non-Foreign Overseas Per Diem Rates

**AGENCY:** Defense Travel Management Office, DoD.

**ACTION:** Notice of revised non-foreign overseas per diem rates.

**SUMMARY:** The Defense Travel Management Office is publishing Civilian Personnel Per Diem Bulletin Number 298. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States when applicable. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 298 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

**DATES:** *Effective Date:* August 1, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sonia Malik, 571–372–1276.

**SUPPLEMENTARY INFORMATION:** This document gives notice of revisions in per diem rates prescribed by the Defense Travel Management Office for non-foreign areas outside the contiguous United States. It supersedes Civilian Personnel Per Diem Bulletin Number 297. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. Civilian Bulletin 298 includes updated rates for the U.S. Virgin Islands.

Dated: July 21, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

| Locality | Maximum lodging amount (A) | + | Meals and incidentals rate (B) | = | Maximum per diem rate (C) | Effective date |
|---|---|---|---|---|---|---|
| ALASKA: | | | | | | |
| [OTHER] | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| ADAK | | | | | | |
| 11/01–03/31 | 150 | | 70 | | 220 | 03/01/2015 |
| 04/01–10/31 | 192 | | 74 | | 266 | 03/01/2015 |
| ANCHORAGE [INCL NAV RES] | | | | | | |
| 05/16–09/30 | 339 | | 126 | | 465 | 07/01/2015 |
| 10/01–05/15 | 99 | | 102 | | 201 | 07/01/2015 |
| BARROW | | | | | | |
| 01/01–12/31 | 177 | | 78 | | 255 | 03/01/2015 |
| BARTER ISLAND LRRS | | | | | | |

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

| Locality | Maximum lodging amount (A) | + | Meals and incidentals rate (B) | = | Maximum per diem rate (C) | Effective date |
|---|---|---|---|---|---|---|
| 01/01–12/31 | 110 | | 99 | | 209 | 04/01/2015 |
| BETHEL | | | | | | |
| 01/01–12/31 | 179 | | 94 | | 273 | 03/01/2015 |
| BETTLES | | | | | | |
| 01/01–12/31 | 175 | | 79 | | 254 | 03/01/2015 |
| CAPE LISBURNE LRRS | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| CAPE NEWENHAM LRRS | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| CAPE ROMANZOF LRRS | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| CLEAR AB | | | | | | |
| 01/01–12/31 | 90 | | 82 | | 172 | 10/01/2006 |
| COLD BAY LRRS | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| COLDFOOT | | | | | | |
| 01/01–12/31 | 165 | | 70 | | 235 | 10/01/2006 |
| COPPER CENTER | | | | | | |
| 05/15–09/15 | 130 | | 79 | | 209 | 03/01/2015 |
| 09/16–05/14 | 89 | | 75 | | 164 | 03/01/2015 |
| CORDOVA | | | | | | |
| 01/01–12/31 | 95 | | 77 | | 172 | 03/01/2015 |
| CRAIG | | | | | | |
| 04/01–09/30 | 129 | | 77 | | 206 | 06/01/2014 |
| 10/01–03/31 | 85 | | 72 | | 157 | 06/01/2014 |
| DEADHORSE | | | | | | |
| 01/01–12/31 | 170 | | 70 | | 240 | 05/01/2014 |
| DELTA JUNCTION | | | | | | |
| 05/01–09/30 | 169 | | 60 | | 229 | 03/01/2015 |
| 10/01–04/30 | 139 | | 57 | | 196 | 03/01/2015 |
| DENALI NATIONAL PARK | | | | | | |
| 06/01–08/31 | 185 | | 89 | | 274 | 03/01/2015 |
| 09/01–05/31 | 109 | | 82 | | 191 | 03/01/2015 |
| DILLINGHAM | | | | | | |
| 05/15–10/15 | 185 | | 111 | | 296 | 01/01/2011 |
| 10/16–05/14 | 169 | | 109 | | 278 | 01/01/2011 |
| DUTCH HARBOR-UNALASKA | | | | | | |
| 01/01–12/31 | 135 | | 79 | | 214 | 03/01/2015 |
| EARECKSON AIR STATION | | | | | | |
| 01/01–12/31 | 90 | | 77 | | 167 | 06/01/2007 |
| EIELSON AFB | | | | | | |
| 05/15–09/15 | 154 | | 85 | | 239 | 03/01/2015 |
| 09/16–05/14 | 75 | | 77 | | 152 | 03/01/2015 |
| ELFIN COVE | | | | | | |
| 01/01–12/31 | 225 | | 68 | | 293 | 03/01/2015 |
| ELMENDORF AFB | | | | | | |
| 05/16–09/30 | 339 | | 126 | | 465 | 07/01/2015 |
| 10/01–05/15 | 99 | | 102 | | 201 | 07/01/2015 |
| FAIRBANKS | | | | | | |
| 05/15–09/15 | 154 | | 85 | | 239 | 03/01/2015 |
| 09/16–05/14 | 75 | | 77 | | 152 | 03/01/2015 |
| FOOTLOOSE | | | | | | |
| 01/01–12/31 | 175 | | 18 | | 193 | 10/01/2002 |
| FORT YUKON LRRS | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| FT. GREELY | | | | | | |
| 05/01–09/30 | 169 | | 60 | | 229 | 03/01/2015 |
| 10/01–04/30 | 139 | | 57 | | 196 | 03/01/2015 |
| FT. RICHARDSON | | | | | | |
| 05/16–09/30 | 339 | | 126 | | 465 | 07/01/2015 |
| 10/01–05/15 | 99 | | 102 | | 201 | 07/01/2015 |
| FT. WAINWRIGHT | | | | | | |
| 05/15–09/15 | 154 | | 85 | | 239 | 03/01/2015 |
| 09/16–05/14 | 75 | | 77 | | 152 | 03/01/2015 |
| GAMBELL | | | | | | |
| 01/01–12/31 | 133 | | 59 | | 192 | 03/01/2015 |

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

| Locality | Maximum lodging amount (A) | + | Meals and incidentals rate (B) | = | Maximum per diem rate (C) | Effective date |
|---|---|---|---|---|---|---|
| GLENNALLEN | | | | | | |
| 09/16–05/14 | 89 | | 75 | | 164 | 03/01/2015 |
| 05/15–09/15 | 130 | | 79 | | 209 | 03/01/2015 |
| HAINES | | | | | | |
| 01/01–12/31 | 107 | | 101 | | 208 | 01/01/2011 |
| HEALY | | | | | | |
| 06/01–08/31 | 185 | | 89 | | 274 | 03/01/2015 |
| 09/01–05/31 | 109 | | 82 | | 191 | 03/01/2015 |
| HOMER | | | | | | |
| 05/01–09/30 | 159 | | 91 | | 250 | 03/01/2015 |
| 10/01–04/30 | 89 | | 84 | | 173 | 03/01/2015 |
| JB ELMENDORF-RICHARDSON | | | | | | |
| 05/16–09/30 | 339 | | 126 | | 465 | 07/01/2015 |
| 10/01–05/15 | 99 | | 102 | | 201 | 07/01/2015 |
| JUNEAU | | | | | | |
| 10/01–04/30 | 135 | | 88 | | 223 | 03/01/2015 |
| 05/01–09/30 | 159 | | 90 | | 249 | 03/01/2015 |
| KAKTOVIK | | | | | | |
| 01/01–12/31 | 165 | | 86 | | 251 | 10/01/2002 |
| KAVIK CAMP | | | | | | |
| 01/01–12/31 | 250 | | 71 | | 321 | 03/01/2015 |
| KENAI-SOLDOTNA | | | | | | |
| 05/01–10/31 | 194 | | 107 | | 301 | 03/01/2015 |
| 11/01–04/30 | 84 | | 96 | | 180 | 03/01/2015 |
| KENNICOTT | | | | | | |
| 01/01–12/31 | 229 | | 102 | | 331 | 03/01/2015 |
| KETCHIKAN | | | | | | |
| 04/01–10/01 | 140 | | 90 | | 230 | 03/01/2015 |
| 10/02–03/31 | 99 | | 85 | | 184 | 03/01/2015 |
| KING SALMON | | | | | | |
| 10/02–04/30 | 125 | | 81 | | 206 | 10/01/2002 |
| 05/01–10/01 | 225 | | 91 | | 316 | 10/01/2002 |
| KING SALMON LRRS | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| KLAWOCK | | | | | | |
| 10/01–03/31 | 85 | | 72 | | 157 | 06/01/2014 |
| 04/01–09/30 | 129 | | 77 | | 206 | 06/01/2014 |
| KODIAK | | | | | | |
| 05/01–09/30 | 180 | | 82 | | 262 | 03/01/2015 |
| 10/01–04/30 | 100 | | 74 | | 174 | 03/01/2015 |
| KOTZEBUE | | | | | | |
| 01/01–12/31 | 219 | | 95 | | 314 | 03/01/2015 |
| KULIS AGS | | | | | | |
| 05/16–09/30 | 339 | | 126 | | 465 | 07/01/2015 |
| 10/01–05/15 | 99 | | 102 | | 201 | 07/01/2015 |
| MCCARTHY | | | | | | |
| 01/01–12/31 | 229 | | 102 | | 331 | 03/01/2015 |
| MCGRATH | | | | | | |
| 01/01–12/31 | 160 | | 82 | | 242 | 07/01/2014 |
| MURPHY DOME | | | | | | |
| 09/16–05/14 | 75 | | 77 | | 152 | 03/01/2015 |
| 05/15–09/15 | 154 | | 85 | | 239 | 03/01/2015 |
| NOME | | | | | | |
| 01/01–12/31 | 165 | | 108 | | 273 | 03/01/2015 |
| NUIQSUT | | | | | | |
| 01/01–12/31 | 233 | | 69 | | 302 | 03/01/2015 |
| OLIKTOK LRRS | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| PETERSBURG | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| POINT BARROW LRRS | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| POINT HOPE | | | | | | |
| 01/01–12/31 | 181 | | 81 | | 262 | 06/01/2014 |
| POINT LAY | | | | | | |
| 01/01–12/31 | 265 | | 72 | | 337 | 07/01/2014 |

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

| Locality | Maximum lodging amount (A) | + | Meals and incidentals rate (B) | = | Maximum per diem rate (C) | Effective date |
|---|---|---|---|---|---|---|
| POINT LAY LRRS | | | | | | |
| 01/01–12/31 | 265 | | 72 | | 337 | 04/01/2015 |
| POINT LONELY LRRS | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| PORT ALEXANDER | | | | | | |
| 01/01–12/31 | 155 | | 61 | | 216 | 03/01/2015 |
| PORT ALSWORTH | | | | | | |
| 01/01–12/31 | 135 | | 88 | | 223 | 10/01/2002 |
| PRUDHOE BAY | | | | | | |
| 01/01–12/31 | 170 | | 70 | | 240 | 05/01/2014 |
| SELDOVIA | | | | | | |
| 10/01–04/30 | 89 | | 84 | | 173 | 03/01/2015 |
| 05/01–09/30 | 159 | | 91 | | 250 | 03/01/2015 |
| SEWARD | | | | | | |
| 05/01–09/30 | 207 | | 104 | | 311 | 03/01/2015 |
| 10/01–04/30 | 169 | | 100 | | 269 | 03/01/2015 |
| SITKA-MT. EDGECUMBE | | | | | | |
| 05/15–09/15 | 200 | | 99 | | 299 | 03/01/2015 |
| 09/16–05/14 | 139 | | 93 | | 232 | 03/01/2015 |
| SKAGWAY | | | | | | |
| 04/01–10/01 | 140 | | 90 | | 230 | 03/01/2015 |
| 10/02–03/31 | 99 | | 85 | | 184 | 03/01/2015 |
| SLANA | | | | | | |
| 10/01–04/30 | 99 | | 55 | | 154 | 02/01/2005 |
| 05/01–09/30 | 139 | | 55 | | 194 | 02/01/2005 |
| SPARREVOHN LRRS | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| SPRUCE CAPE | | | | | | |
| 10/01–04/30 | 100 | | 74 | | 174 | 03/01/2015 |
| 05/01–09/30 | 180 | | 82 | | 262 | 03/01/2015 |
| ST. GEORGE | | | | | | |
| 01/01–12/31 | 220 | | 68 | | 288 | 03/01/2015 |
| TALKEETNA | | | | | | |
| 01/01–12/31 | 100 | | 89 | | 189 | 10/01/2002 |
| TANANA | | | | | | |
| 01/01–12/31 | 165 | | 108 | | 273 | 03/01/2015 |
| TATALINA LRRS | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| TIN CITY LRRS | | | | | | |
| 01/01–12/31 | 110 | | 99 | | 209 | 03/01/2015 |
| TOK | | | | | | |
| 05/15–09/30 | 100 | | 72 | | 172 | 03/01/2015 |
| 10/01–05/14 | 79 | | 70 | | 149 | 03/01/2015 |
| UMIAT | | | | | | |
| 01/01–12/31 | 350 | | 80 | | 430 | 03/01/2015 |
| VALDEZ | | | | | | |
| 09/17–04/15 | 109 | | 90 | | 199 | 03/01/2015 |
| 04/16–09/16 | 189 | | 98 | | 287 | 03/01/2015 |
| WAINWRIGHT | | | | | | |
| 01/01–12/31 | 175 | | 83 | | 258 | 01/01/2011 |
| WASILLA | | | | | | |
| 05/01–09/30 | 125 | | 92 | | 217 | 03/01/2015 |
| 10/01–04/30 | 90 | | 89 | | 179 | 03/01/2015 |
| WRANGELL | | | | | | |
| 04/01–10/01 | 140 | | 90 | | 230 | 03/01/2015 |
| 10/02–03/31 | 99 | | 85 | | 184 | 03/01/2015 |
| YAKUTAT | | | | | | |
| 01/01–12/31 | 105 | | 94 | | 199 | 01/01/2011 |
| AMERICAN SAMOA: | | | | | | |
| AMERICAN SAMOA | | | | | | |
| 01/01–12/31 | 139 | | 69 | | 208 | 06/01/2015 |
| GUAM: | | | | | | |
| GUAM (INCL ALL MIL INSTAL) | | | | | | |
| 01/01–12/31 | 159 | | 87 | | 246 | 07/01/2015 |
| JOINT REGION MARIANAS (ANDERSEN) | | | | | | |
| 01/01–12/31 | 159 | | 87 | | 246 | 07/01/2015 |

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

| Locality | Maximum lodging amount (A) | + | Meals and incidentals rate (B) | = | Maximum per diem rate (C) | Effective date |
|---|---|---|---|---|---|---|
| JOINT REGION MARIANAS (NAVAL BASE) | | | | | | |
| 01/01–12/31 | 159 | | 87 | | 246 | 07/01/2015 |
| HAWAII: | | | | | | |
| [OTHER] | | | | | | |
| 01/01–12/31 | 142 | | 108 | | 250 | 06/01/2015 |
| CAMP H M SMITH | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| EASTPAC NAVAL COMP TELE AREA | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| FT. DERUSSEY | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| FT. SHAFTER | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| HICKAM AFB | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| HONOLULU | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| ISLE OF HAWAII: HILO | | | | | | |
| 01/01–12/31 | 142 | | 108 | | 250 | 06/01/2015 |
| ISLE OF HAWAII: OTHER | | | | | | |
| 01/01–12/31 | 189 | | 142 | | 331 | 06/01/2015 |
| ISLE OF KAUAI | | | | | | |
| 01/01–12/31 | 305 | | 146 | | 451 | 06/01/2015 |
| ISLE OF MAUI | | | | | | |
| 01/01–12/31 | 259 | | 146 | | 405 | 06/01/2015 |
| ISLE OF OAHU | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| JB PEARL HARBOR-HICKAM | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| KEKAHA PACIFIC MISSILE RANGE FAC | | | | | | |
| 01/01–12/31 | 305 | | 146 | | 451 | 06/01/2015 |
| KILAUEA MILITARY CAMP | | | | | | |
| 01/01–12/31 | 142 | | 108 | | 250 | 06/01/2015 |
| LANAI | | | | | | |
| 01/01–12/31 | 229 | | 103 | | 332 | 06/01/2015 |
| LUALUALEI NAVAL MAGAZINE | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| MCB HAWAII | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| MOLOKAI | | | | | | |
| 01/01–12/31 | 157 | | 86 | | 243 | 06/01/2015 |
| NAS BARBERS POINT | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| PEARL HARBOR | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| PMRF BARKING SANDS | | | | | | |
| 01/01–12/31 | 305 | | 146 | | 451 | 06/01/2015 |
| SCHOFIELD BARRACKS | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| TRIPLER ARMY MEDICAL CENTER | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| WHEELER ARMY AIRFIELD | | | | | | |
| 01/01–12/31 | 177 | | 117 | | 294 | 06/01/2015 |
| MIDWAY ISLANDS: | | | | | | |
| MIDWAY ISLANDS | | | | | | |
| 01/01–12/31 | 125 | | 81 | | 206 | 06/01/2015 |
| NORTHERN MARIANA ISLANDS: | | | | | | |
| [OTHER] | | | | | | |
| 01/01–12/31 | 99 | | 102 | | 201 | 07/01/2015 |
| ROTA | | | | | | |
| 01/01–12/31 | 130 | | 107 | | 237 | 07/01/2015 |
| SAIPAN | | | | | | |
| 01/01–12/31 | 140 | | 98 | | 238 | 07/01/2015 |
| TINIAN | | | | | | |
| 01/01–12/31 | 99 | | 102 | | 201 | 07/01/2015 |
| PUERTO RICO: | | | | | | |

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

| Locality | Maximum lodging amount (A) | + | Meals and incidentals rate (B) | = | Maximum per diem rate (C) | Effective date |
|---|---|---|---|---|---|---|
| [OTHER] | | | | | | |
| 01/01–12/31 | 109 | | 112 | | 221 | 06/01/2012 |
| AGUADILLA | | | | | | |
| 01/01–12/31 | 124 | | 76 | | 200 | 10/01/2012 |
| BAYAMON | | | | | | |
| 01/01–12/31 | 195 | | 128 | | 323 | 09/01/2010 |
| CAROLINA | | | | | | |
| 01/01–12/31 | 195 | | 128 | | 323 | 09/01/2010 |
| CEIBA | | | | | | |
| 01/01–12/31 | 139 | | 92 | | 231 | 10/01/2012 |
| CULEBRA | | | | | | |
| 01/01–12/31 | 150 | | 98 | | 248 | 03/01/2012 |
| FAJARDO [INCL ROOSEVELT RDS NAVSTAT] | | | | | | |
| 01/01–12/31 | 139 | | 92 | | 231 | 10/01/2012 |
| FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO] | | | | | | |
| 01/01–12/31 | 195 | | 128 | | 323 | 09/01/2010 |
| HUMACAO | | | | | | |
| 01/01–12/31 | 139 | | 92 | | 231 | 10/01/2012 |
| LUIS MUNOZ MARIN IAP AGS | | | | | | |
| 01/01–12/31 | 195 | | 128 | | 323 | 09/01/2010 |
| LUQUILLO | | | | | | |
| 01/01–12/31 | 139 | | 92 | | 231 | 10/01/2012 |
| MAYAGUEZ | | | | | | |
| 01/01–12/31 | 109 | | 112 | | 221 | 09/01/2010 |
| PONCE | | | | | | |
| 01/01–12/31 | 149 | | 89 | | 238 | 09/01/2012 |
| RIO GRANDE | | | | | | |
| 01/01–12/31 | 169 | | 123 | | 292 | 06/01/2012 |
| SABANA SECA [INCL ALL MILITARY] | | | | | | |
| 01/01–12/31 | 195 | | 128 | | 323 | 09/01/2010 |
| SAN JUAN & NAV RES STA | | | | | | |
| 01/01–12/31 | 195 | | 128 | | 323 | 09/01/2010 |
| VIEQUES | | | | | | |
| 01/01–12/31 | 175 | | 95 | | 270 | 03/01/2012 |
| VIRGIN ISLANDS (U.S.): | | | | | | |
| ST. CROIX | | | | | | |
| 04/15–12/14 | 247 | | 110 | | 357 | 06/01/2015 |
| 12/15–04/14 | 299 | | 116 | | 415 | 06/01/2015 |
| ST. JOHN | | | | | | |
| 05/01–12/03 | 170 | | 107 | | 277 | 08/01/2015 |
| 12/04–04/30 | 230 | | 113 | | 343 | 08/01/2015 |
| ST. THOMAS | | | | | | |
| 01/01–12/31 | 240 | | 112 | | 352 | 08/01/2015 |
| WAKE ISLAND: | | | | | | |
| WAKE ISLAND | | | | | | |
| 01/01–12/31 | 173 | | 66 | | 239 | 07/01/2014 |

[FR Doc. 2015–18184 Filed 7–23–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

### Proposed Waiver and Extension of the Project Period for the Literacy Information and Communication System Regional Professional Development Centers

**AGENCY:** Office of Career, Technical, and Adult Education, Department of Education.

**ACTION:** Proposed waiver and extension of the project period.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.191B.

**SUMMARY:** The Secretary proposes to waive the requirements that generally prohibit project period extensions involving the obligation of additional Federal funds, and to extend the project period of the four currently-funded Literacy Information and Communication System (LINCS) Regional Professional Development Centers (RPDC) program grants for one year. The proposed waiver and extension would enable these grantees to receive funding for FY 2015 (through September 30, 2016), using FY 2014 funds. The Secretary proposes this action because we do not believe that it would be in the public interest to hold a LINCS RPDC competition during a period of significant change for State grantees transitioning to new program requirements under the Workforce Innovation and Opportunity Act (WIOA).

**DATES:** We must receive your comments on or before August 24, 2015.

**ADDRESSES:** Address all comments about this proposed waiver and extension of the project period to Patricia Bennett, U.S. Department of Education, 400 Maryland Avenue SW., Room 11013, Potomac Center Plaza, Washington, DC 20202–7241.

If you prefer to send your comments by email, use the following address: *patricia.bennett@ed.gov.* You must include the phrase ''Proposed waiver and extension of the project period for LINCS RPDCs'' in the subject line of your message.

**FOR FURTHER INFORMATION CONTACT:** Patricia Bennett by telephone at (202) 245–7758 or by email at: *patricia.bennett@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## Invitation To Comment

We invite you to submit comments regarding this notice. We are particularly interested in receiving comments on the potential impact that this proposed project period waiver and extension might have on current LINCS RPDCs and on potential applicants that would be eligible to apply for grant awards under any new LINCS RPDC notice inviting applications, should there be one.

The following entities would be eligible to apply should the Department conduct a new competition for LINCS RPDCs:

(a) Institutions of higher education;

(b) Public or private agencies or organizations; and

(c) Consortia of entities listed in paragraphs (a) and (b).

During and after the comment period, you may inspect all public comments about this proposed waiver and extension of the project period in room 11013, Potomac Center Plaza, 550 12th Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week, except Federal holidays.

*Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record:* On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice of proposed waiver and extension of the project period. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

## Background

In FY 2011, using FY 2010 funds, we funded four LINCS RPDC grants under section 243(2)(H) of the Adult Education and Family Literacy Act (AEFLA), as authorized under title II of the Workforce Investment Act of 1998 (WIA) (20 U.S.C. 9253(2)(H)). Each RPDC served one of the following four regions:

(1) *Region 1*—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, and the Virgin Islands.

(2) *Region 2*—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

(3) *Region 3*—Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

(4) *Region 4*—Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

Through the LINCS RPDC grants, established under WIA, we supported evidence-based virtual or in-person adult education professional development (AEPD) activities to assist educators who provide adult education services [1] or adult education instruction [2] to adult learners (adult educators).

In addition, the LINCS RPDCs supported each eligible agency responsible for administering or supervising policy for adult education and literacy programs under section 203(4) of AEFLA [3] under WIA (eligible agency), and adult education and related organizations within each State [4] and outlying area.[5]

The RPDCs provided substantial and direct operational involvement in the management of project implementation and on plans for AEPD and project activities, including by facilitating the collaboration between grantees and the Department's LINCS Resource Collection contractor and the LINCS technical services contractor. The LINCS RPDCs have also provided high quality professional development information and assistance to States in support of the transition to new AEFLA program requirements under the Workforce Innovation and Opportunity Act (WIOA), which was signed into law on July 22, 2014 (29 U.S.C. 3101 *et seq.*).

The project period for the four LINCS RPDC grantees that received awards under the FY 2011 competition was for 36 months, through FY 2013, to end on September 30, 2014, and the Secretary had planned to hold a competition to award new grants. However, we determined that holding an RPDC competition for FY 2014—the same year in which the Department's LINCS Resource Collection contract and the LINCS technical services contract would end—was not in the public interest because it would have disrupted the continuity and stability of services that we provided to adult educators and thereby would have negatively impacted service delivery to our adult education customers.

On June 2, 2014, we published in the **Federal Register** a final waiver and extension for the initial 36-month grant projects under the LINCS RPDC program. In that notice the Secretary waived the restriction against project period extensions involving the obligation of additional Federal funds and extended for an additional 12 months—for FY 2014 (through September 30, 2015), using FY 2013 funds—the project period of the four LINCS RPDC grants issued under the FY 2011 competition. (See 79 FR 31315, as corrected in the Correction Notice of Final Waiver and Extension of the Project Period for the LINCS RPDCs published elsewhere in this issue of the **Federal Register**.) This one-year extension of the LINCS RPDC project period through September 30, 2015, ensured seamless technical assistance service delivery to our adult education customers.

In this notice of proposed waiver and extension, the Secretary proposes to extend the project period of the current

[1] *Adult education services* (*e.g.,* career counseling, transportation counseling, education counseling) are provided to adult learners by educators who may include staff of eligible providers identified in section 203(5) of AEFLA under WIA, as well as State staff responsible for the implementation of adult education programs.

[2] *Adult education instruction* (*e.g.,* instruction in basic literacy, mathematics, and English language skills) is provided to adult learners by educators who may include adult education teachers and other instructional personnel of eligible providers identified in section 203(5) of AEFLA under WIA.

[3] Section 203(4) of AEFLA under WIA defines the term ''eligible agency'' as the sole entity or agency in a State or an outlying area responsible for administering or supervising policy for adult education and literacy in the or outlying area, respectively, consistent with the law of the State or outlying area, respectively.

[4] See section 203(17) of AEFLA under WIA.

[5] See section 203(14) of AEFLA under WIA.

LINCS RPDC grants for an additional 12 months, for FY 2015 (through September 30, 2016), using FY 2014 funds. The Secretary is proposing this action in light of the reauthorization of AEFLA by title II of WIOA and the resulting period of significant change for State grantees in transitioning from the program requirements in AEFLA as authorized under WIA to the new program requirements in AEFLA as authorized under WIOA. This action is also consistent with the transition authority in section 503(c) of WIOA, 29 U.S.C. 3343(c), which states that the Secretary shall take such action as determined to be appropriate to provide for the orderly transition from any authority under AEFLA (20 U.S.C. 9201 *et seq.*), as in effect on the day before the date of enactment of WIOA, to any authority under AEFLA, as amended by WIOA. The extension of the four current LINCS RPDCs will provide continuity for States, minimize disruption during the critical transition year, when support and technical assistance from the four experienced LINCS RPDC grantees would be critical, and align a LINCS RPDC grant competition with the full implementation of WIOA.

If the waiver of 34 CFR 75.261(a) and (c)(2) that we propose in this notice is announced by the Department in a final notice, the requirements applicable to continuation awards for current LINCS RPDC grantees and the requirements in 34 CFR 75.253 would apply to any continuation awards sought by current LINCS RPDC grantees.

If we announce this proposed waiver and extension of the project period as final, we would make continuation awards based on information that each grantee had provided, indicating that it is making substantial progress performing its LINCS RPDC grant activities based on the requirements in the notice inviting applications, and based on the regulations in 34 CFR 75.253.

Any activities to be carried out during the continuation year must be consistent with, or be a logical extension of, the scope, goals, and objectives of each grantee's application as approved in the FY 2011 LINCS RPDC competition. Under this proposed waiver and extension, the project period for current LINCS RPDC grantees would be extended through FY 2015 (ending September 30, 2016).

**Regulatory Flexibility Act Certification**

The Secretary certifies that the proposed waiver and extension of the project period and the activities required to support the additional year of funding would not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by this proposed waiver and extension of the project period are the four currently-funded LINCS RPDC grantees and any potential eligible applicants for the LINCS RPDC grants.

The proposed waiver and extension of these current projects would involve minimal compliance costs, and the activities required to support the additional year of funding would not impose additional regulatory burdens or require unnecessary Federal supervision.

**Paperwork Reduction Act of 1995**

This notice of proposed waiver and extension of the project period does not contain any information collection requirements.

**Intergovernmental Review**

The LINCS RPDC program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Program Authority:** 29 U.S.C. 3332(c)(2)(G).

Dated: July 21, 2015.

**Johan E. Uvin,**

*Acting Assistant Secretary for Career, Technical, and Adult Education.*

[FR Doc. 2015–18223 Filed 7–23–15; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### Notice of Final Waiver and Extension of the Project Period for the Literacy Information and Communication System Regional Professional Development Centers

**AGENCY:** Office of Career, Technical, and Adult Education, Department of Education.

**ACTION:** Notice, Correction.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.191B.

**SUMMARY:** On June 2, 2014, the Department of Education published in the **Federal Register** (79 FR 31315) a final waiver and extension of the project period for the Literacy Information and Communication System (LINCS) Regional Professional Development Centers (RPDCs) (Final Waiver and Extension). This notice corrects errors that appeared on pages 31315 and 31316 of the Final Waiver and Extension in the identification of the year of the extension and the fiscal year (FY) funds that would be used for continuation awards during the extension of the project period.

**FOR FURTHER INFORMATION CONTACT:** Patricia Bennett, U.S. Department of Education, 400 Maryland Avenue SW., Room 11013, Potomac Center Plaza, Washington, DC 20202–2600. Telephone: (202) 245–7758.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** We make the following corrections:

On page 31315 in the third column in the **SUMMARY** section, second sentence, first clause, we remove the phrase ''FY 2015 with FY 2014 funds'' and replace it with the phrase ''FY 2014 with FY 2013 funds''. The sentence now correctly reads, ''This will enable the four current LINCS RPDC grantees that received awards under the FY 2011 competition to seek a continuation award for one additional year through FY 2014 with FY 2013 funds; and we will not announce a new LINCS RPDC competition for FY 2014.''

On page 31316, in the first column in **SUPPLEMENTARY INFORMATION,** last sentence, we remove the phrase ''FY 2015 with FY 2014 funds'' replace it

with the phrase ''FY 2014 with FY 2013 funds''. The sentence now correctly reads, ''The Secretary also proposed to extend the project period of LINCS RPDC grants for an additional 12 months to enable the four current LINCS RPDC grantees that received awards under the FY 2011 competition to seek a continuation award for one additional year through FY 2014 with FY 2013 funds.''

On page 31316, under *Background,* in the third paragraph of the third column, fifth and sixth lines, we remove the reference to ''in FY 2014'', and in the eighth line, we remove the reference to ''FY 2015'' and replace it with ''FY 2014''. The sentence now correctly reads, ''The Secretary's waiver of 34 CFR 75.261(a) and (c)(2) and extension of the current LINCS RPDC project period means that: (1) Current LINCS RPDC grantees will be authorized to request and receive LINCS RPDC continuation awards for one additional year through FY 2014; (2) we will not announce a new LINCS RPDC competition to make new awards in FY 2014 . . .''

On page 31316, under *Background,* in the fifth paragraph of the third column, we remove the phrase ''FY 2015'' with FY 2014, funds'' and replace it with the phrase ''FY 2014, with FY 2013 funds''. The sentence now correctly reads, ''With this final waiver and extension of the project period, the current four LINCS RPDC grantees may request continuation awards for one additional project year, through FY 2014, with FY 2013 funds Congress has appropriated under the current authority in section 243(2)(H) of the AEFLA.''

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 21, 2015.

**Johan E. Uvin,**

*Acting Assistant Secretary for Career, Technical, and Adult Education.*

[FR Doc. 2015–18222 Filed 7–23–15; 8:45 am]

**BILLING CODE 4000–01–P**

---

## DEPARTMENT OF ENERGY

**[FE Docket No. 15–45–LNG]**

## G2 LNG LLC; Application for Long-Term, Multi-Contract Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of application.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on March 19, 2015, by G2 LNG LLC (G2 LNG), requesting long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in a volume equivalent to approximately 672 billion cubic feet per year (Bcf/yr) of natural gas (1.84 Bcf/day). G2 LNG seeks to export the LNG from a proposed natural gas liquefaction project to be located along the Calcasieu Ship Channel in Cameron Parish, Louisiana (G2 LNG Project). G2 LNG requests authorization to export this LNG to any country with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas and with which trade is not prohibited by U.S. law or policy (non-FTA countries).[1] G2 LNG requests this authorization for a 30-year term commencing on the earlier of the date of first export or ten years from the date the authorization is granted. G2 LNG seeks to export this LNG on its own behalf and as agent for other entities who hold title to the LNG at the time of export. The Application was filed under section 3(a) of the Natural Gas Act (NGA). Additional details can be found in G2 LNG's Application, posted on the DOE/FE Web site at: *http://energy.gov/sites/prod/files/2015/03/f20/15_45_lng_nfta.pdf.*

Protests, motions to intervene, notices of intervention, and written comments are invited.

**DATES:** Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, September 22, 2015.

**ADDRESSES:**

*Electronic Filing by Email*

*fergas@hq.doe.gov.*

*Regular Mail*

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

*Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)*

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:**

Larine Moore or Marc Talbert, U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–7991.

Cassandra Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–9793.

**SUPPLEMENTARY INFORMATION:**

### DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and DOE will consider any issues required by law or policy. To the extent determined to be relevant, these issues will include the domestic need for the natural gas proposed to be exported, the adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE may also consider other factors bearing on the public interest, including the impact of the proposed exports on the U.S. economy (including GDP, consumers, and industry), job creation,

[1] In a separate application in FE Docket No. 15–44–LNG, G2 LNG also requests authorization to export LNG to any country with which the United States has a FTA requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (FTA countries). DOE/FE will review the request for a FTA export authorization separately pursuant to NGA § 3(c), 15 U.S.C. 717b(c).

the U.S. balance of trade, and international considerations; and whether the authorization is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements.

Additionally, DOE will consider the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014);[2] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014).[3]

Parties that may oppose this Application should address these issues in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

**Public Comment Procedures**

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Due to the complexity of the issues raised by the Applicant, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 15–45–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 15–45–LNG. **Please Note:** If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Division of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on July 17, 2015.

**John A. Anderson,**

*Director, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.*

[FR Doc. 2015–18227 Filed 7–23–15; 8:45 am]

**BILLING CODE 6450–01–P**

[2] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[3] The Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP15–529–000]**

### National Fuel Gas Supply Corporation; Notice of Request Under Blanket Authorization

Take notice that on July 9, 2015, National Fuel Gas Supply Corporation (National Fuel), filed in Docket No. CP15–529–000, a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA) and National Fuel's blanket authorization issued in Docket No. CP83–4–000. National Fuel seeks authorization to modify or remove piping and abandon one natural gas injection/withdrawal in National Fuel's Swede Hill Storage Field located in McKean County, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open for public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions concerning this application may be directed to: Janet R. Bayer, Senior Regulatory Analyst, National Fuel Gas Supply Corporation, 6363 Main Street, Williamsville, New York 142211–5887, by phone at (716) 857–7429, fax at (716) 857–7206 or email at *jrbferc@natfuel.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the

Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: July 17, 2015.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2015–18107 Filed 7–23–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. CP14–347–000; CP14–511–000]**

### Magnolia LNG, LLC; Kinder Morgan Louisiana Pipeline LLC; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Magnolia LNG and Lake Charles Expansion Projects

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) for the Magnolia LNG Project proposed by Magnolia LNG, LLC (Magnolia) and the Lake Charles Expansion Project proposed by Kinder Morgan Louisiana Pipeline LLC (Kinder Morgan) in the above-referenced dockets. The Magnolia LNG Project would include construction and operation of a liquefied natural gas (LNG) terminal that would include various liquefaction, LNG distribution, and appurtenant facilities. The Lake Charles Expansion Project would include reconfiguration of Kinder Morgan's existing pipeline system in order to accommodate Magnolia's request for natural gas service at the LNG terminal site. The projects would provide an LNG export capacity of 1.08 billion cubic feet per day of natural gas.

The draft EIS assesses the potential environmental effects of construction and operation of the Magnolia LNG and Lake Charles Expansion Projects in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed projects would result in limited adverse environmental impacts; however, these impacts would be reduced to less-than-significant levels with the implementation of Magnolia's and Kinder Morgan's proposed mitigation and the additional measures recommended in the draft EIS.

The U.S. Army Corps of Engineers, U.S. Coast Guard, U.S. Department of Energy, U.S. Department of Transportation, and U.S. Environmental Protection Agency participated as cooperating agencies in the preparation of the draft EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by a proposal and participate in the NEPA analysis. Although the cooperating agencies provided input on the conclusions and recommendations presented in the draft EIS, the agencies will present their own conclusions and recommendations in their respective records of decision or determinations for the projects.

The draft EIS addresses the potential environmental effects of the construction, modification, and operation of the following facilities associated with the two projects:

- A new LNG terminal that includes three liquefaction trains, two LNG storage tanks, liquefaction and refrigerant units, safety and control systems, and associated infrastructure;
- LNG truck loading facilities;
- LNG carrier and barge loading facilities;
- one new meter station;
- one new 32,000 horsepower compressor station;
- approximately 40 feet of 36-inch-diameter feed gas line to supply natural gas to the LNG terminal from Kinder Morgan's existing natural gas transmission pipeline;
- a new 1.2-mile-long, 36-inch-diameter low pressure natural gas header pipeline;
- a new 700-foot-long, 24-inch-diameter high pressure natural gas header pipeline;
- modifications at six existing meter stations; and
- construction of miscellaneous auxiliary and appurtenant facilities.

The FERC staff mailed copies of the draft EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners; other interested individuals and non-governmental organizations; newspapers and libraries in the project area; and parties to these proceedings. Paper copy versions of this EIS were mailed to those specifically requesting them; all others received a compact disk version. In addition, the draft EIS is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of hardcopies are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the draft EIS may do so. To ensure consideration of your comments on the proposal in the final EIS, it is important that the Commission receive your comments on or before September 8, 2015.

For your convenience, there are four methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number(s) (CP14–347–000 and

CP14–511–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project.

(2) You can file your comments electronically by using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type.

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend a public comment meeting its staff will conduct in the project area to receive comments on the draft EIS. We encourage interested groups and individuals to attend and present oral comments on the draft EIS. A transcript of the meeting will be available for review in eLibrary under the project docket numbers. The meeting will begin at 7:00 p.m. and is scheduled as follows:

| Date | Location |
|---|---|
| September 3, 2015 ..... | Historic Cash and Carry Building, 801 Enterprise Boulevard, Lake Charles, Louisiana 70601, (337) 310–0405. |

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (Title 18 Code of Federal Regulations Part 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding that no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

**Questions?**

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number(s) excluding the last three digits in the Docket Number field (*i.e.,* CP14–347 and CP14–511). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676; for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: July 17, 2015.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2015–18105 Filed 7–23–15; 8:45 am]

**BILLING CODE 6717–01–P**

[1] See the previous discussion on the methods for filing comments.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC15–9–000]**

### Commission Information Collection Activities (FERC–546); Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission, Energy.

**ACTION:** Notice of information collection and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–546 (Certificated Rate Filings).

**DATES:** Comments on the collection of information are due September 22, 2015.

**ADDRESSES:** You may submit comments (identified by Docket No. IC15–9–000) by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

**SUPPLEMENTARY INFORMATION:**

*Title:* FERC–546 (Certificated Rate Filings).

*OMB Control No.:* 1902–0155.

*Type of Request:* Three-year extension of the FERC–546 information collection requirements with no changes to the current reporting requirements.

*Abstract:* The Commission reviews the FERC–546 materials to decide whether to determine an initial rate associated with an application for a certificate under NGA section 7(c). FERC reviews FERC–546 materials in 4(f) storage applications to evaluate market power and decide whether to grant, deny, or condition market based rate authority for the applicant. The Commission uses the FERC–546 information to monitor jurisdictional transportation, natural gas storage, and unbundled sales activities of interstate

natural gas pipelines and Hinshaw [1] pipelines. In addition to fulfilling the Commission's obligations under the NGA, the FERC–546 enables the Commission to monitor the activities and evaluate transactions of the natural gas industry, and to ensure competitiveness, and improved efficiency of the industry's operations. In summary, the Commission uses the FERC–546 information to:

• Ensure adequate customer protections under section 4(f) of the NGA;

• review rate and tariff changes by natural gas companies for the transportation of gas, natural gas storage services;

• provide general industry oversight; and

• supplement documentation during its audits process.

Failure to collect this information would prevent the Commission from being able to monitor and evaluate transactions and operations of interstate pipelines and perform its regulatory functions.

*Type of Respondents:* Pipeline companies and storage operators.

*Estimate of Annual Burden:* [2] The Commission estimates the annual public reporting burden for the information collection as:

FERC–546 (CERTIFICATED RATE FILINGS)

| | Number of respondents (1) | Annual number of responses per respondent (2) | Total number of responses (1) * (2) = (3) | Average burden & cost per response [3] (4) | Total annual burden hours & total annual cost (3) * (4) = (5) | Cost per respondent ($) (5) ÷ (1) |
|---|---|---|---|---|---|---|
| Pipeline Companies | 50 | 1 | 50 | 40 hrs.; $2,880 | 2,000 hrs.; $144,000 | 2,880 |
| Storage Operators | 1 | 1 | 1 | 350 hrs.; $25,200 | 350 hrs.; $25,200 | 25,200 |
| Total | | | | | 2,350 hrs.; $169,200 | |

*Comments:* Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: July 16, 2015.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2015–17946 Filed 7–23–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER11–3643–000.
*Applicants:* PacifiCorp.
*Description:* Report Filing: Refund Report (Surcharge) to be effective N/A.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5126.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER14–693–004.
*Applicants:* Entergy Services, Inc.
*Description:* Tariff Amendment: EAI–ESI Response 7–16–2015 to be effective 12/31/9998.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5007.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER14–695–004.
*Applicants:* Entergy Services, Inc.
*Description:* Tariff Amendment: EAI–ESI Response 7–16–2015 to be effective 12/31/9998.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5205.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER14–696–004.
*Applicants:* Entergy Services, Inc.
*Description:* Tariff Amendment: EAI–ESI Response 7–16–2015 to be effective 12/31/9998.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5214.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER14–697–005.
*Applicants:* Entergy Services, Inc.
*Description:* Tariff Amendment: EAI–ESI Response 7–16–2015 to be effective 12/31/9998.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5006.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER14–699–004.
*Applicants:* Entergy Services, Inc.
*Description:* Tariff Amendment: EAI–ESI Response 7–16–2015 to be effective 12/31/9998.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5219.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER14–699–005.
*Applicants:* Entergy Services, Inc.
*Description:* Tariff Amendment: EAI–ESI Response 7–16–2015 to be effective 12/31/9998.

[1] Hinshaw pipelines are those that receive all out-of-state gas from entities within or at the boundary of a state if all the natural gas so received is ultimately consumed within the state in which it is received, 15 U.S.C. 717(c). Congress concluded that Hinshaw pipelines are ''matters primarily of local concern,'' and so are more appropriately regulated by pertinent state agencies rather than by FERC. The Natural Gas Act section 1(c) exempts Hinshaw pipelines from FERC jurisdiction. A Hinshaw pipeline, however, may apply for a FERC certificate to transport gas outside of state lines.

[2] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[3] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $72.00 per Hour = Average Cost per Response. The hourly cost figure comes from the 2015 FERC average salary and benefits (for one Full Time Equivalent) of $149,489/year. FERC staff believes that industry's hourly cost (salary and benefits) for this collection are similar to FERC staff costs.

*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5225.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER14–700–005.
*Applicants:* Entergy Services, Inc.
*Description:* Tariff Amendment: EAI–ESI Response 7–16–2015 to be effective 12/31/9998.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5221.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER14–701–004.
*Applicants:* Entergy Services, Inc.
*Description:* Tariff Amendment: EAI–ESI Response 7–16–2015 to be effective 12/31/9998.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5222.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER14–703–004.
*Applicants:* Entergy Services, Inc.
*Description:* Tariff Amendment: EAI–ESI Response 7–16–2015 to be effective 12/31/9998.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5223.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER14–704–004.
*Applicants:* Entergy Services, Inc.
*Description:* Tariff Amendment: EAI–ESI Response 7–16–2015 to be effective 12/31/9998.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5224.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER14–2574–005.
*Applicants:* California Independent System Operator Corporation.
*Description:* Compliance filing: 2015–07–16 FRAC MOO Compliance to be effective 11/1/2014.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5188.
*Comments Due:* 5 p.m. ET 8/6/15.
*Docket Numbers:* ER15–517–002.
*Applicants:* ISO New England Inc., Northeast Utilities Service Company (as, Cross-Sound Cable Company, LLC, New England Power Company, Fitchburg Gas and Electric Light Company.
*Description:* Compliance filing: Standards for Bus. Prac. & Comm. Protocols for Public Utilities ER15–517- to be effective 5/15/2015.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5227.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER15–524–001.
*Applicants:* Tucson Electric Power Company.
*Description:* Compliance filing: Order No. 676–H Compliance Filing to be effective 6/3/2015.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5206.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER15–525–001.
*Applicants:* UNS Electric, Inc.
*Description:* Compliance filing: Order 676–H Compliance Filing to be effective 5/15/2015.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5207.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER15–527–002.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* Compliance filing: Compliance Filing per 5/18/15 Order in Docket No. ER15–527–001 to be effective 5/15/2015.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5083.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER15–530–001.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* Compliance filing: 2015–07–17 Attachment Q Compliance Filing to be effective 5/15/2015.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5061.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER15–540–001.
*Applicants:* Alabama Power Company.
*Description:* Compliance filing: OATT Attachment O Order No. 676–H Second Compliance Filing to be effective 5/15/2015.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5107.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER15–543–001.
*Applicants:* Black Hills Power, Inc.
*Description:* Compliance filing: Compliance Filing to be effective 5/15/2015.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5106.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER15–545–001.
*Applicants:* Black Hills/Colorado Electric Utility Co.
*Description:* Compliance filing: Compliance Filing to be effective 5/15/2015.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5108.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER15–546–001.
*Applicants:* Cheyenne Light, Fuel and Power Company.
*Description:* Compliance filing: Compliance Filing to be effective 5/15/2015.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5109.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER15–644–001.
*Applicants:* Idaho Power Company.
*Description:* Compliance filing: Order No. 676–H Second Compliance Filing to be effective 7/17/2015.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5002.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER15–1675–001.
*Applicants:* Puget Sound Energy, Inc.
*Description:* Tariff Amendment: Blaine NITSA SA No. 785 Compliance Filing to be effective 3/1/2015.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5136.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER15–2127–001.
*Applicants:* Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
*Description:* Tariff Amendment: NMPC errata filing of amended and restated LGIA between National Grid and Sithe to be effective 6/30/2015.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5065.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER15–2218–000.
*Applicants:* Public Service Company of New Hampshire.
*Description:* Tariff Cancellation: Cancellation of PSNH FERC Rate Schedule No.SA–1 to be effective 7/1/2015.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5192.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER15–2219–000.
*Applicants:* EONY Generation Limited.
*Description:* Compliance filing: Baseline refile to be effective 7/17/2015.
*Filed Date:* 7/16/15.
*Accession Number:* 20150716–5208.
*Comments Due:* 5 p.m. ET 8/6/15.

*Docket Numbers:* ER15–2220–000.
*Applicants:* Southern California Edison Company.
*Description:* Tariff Cancellation: Notices of Cancellation GIA and Distrib Serv Agmt SunEdison IM Fontana Project to be effective 4/30/2015.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5003.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER15–2221–000.
*Applicants:* Southern California Edison Company.
*Description:* Tariff Cancellation: Notices of Cancellation SGIA and Distrib Service Agmt SunEdison 825 E. Project to be effective 7/1/2015.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5029.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER15–2222–000.
*Applicants:* Midcontinent Independent System Operator, Inc., ITC Midwest LLC.
*Description:* Section 205(d) Rate Filing: 2015–07–17_SA 2820 ITC Midwest-SMEC D–TIA to be effective 7/31/2015.

*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5110.
*Comments Due:* 5 p.m. ET 8/7/15.

*Docket Numbers:* ER15–2223–000.
*Applicants:* Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC, Wolverine Power Supply Cooperative, Inc.
*Description:* Section 205(d) Rate Filing: 2015–07–17_SA 2818 METC-Wolverine Power E&P (J392) to be effective 7/18/2015.
*Filed Date:* 7/17/15.
*Accession Number:* 20150717–5131.
*Comments Due:* 5 p.m. ET 8/7/15.

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: July 17, 2015.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2015–18106 Filed 7–23–15; 8:45 am]

**BILLING CODE 6717–01–P**

---

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2662–026]**

### FirstLight Hydro Generating Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions to Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request for Temporary Variance.
b. *Project No.:* 2662–026.
c. *Date Filed:* June 30, 2015.
d. *Applicant:* FirstLight Hydro Generating Company (licensee).
e. *Name of Project:* Scotland Hydroelectric Project.
f. *Location:* Windham County, Connecticut.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Richard Laudenat, Plant Manager, (860) 350–3617, or *richard.laudenat@gdfsuezna.com.*
i. *FERC Contact:* Alicia Burtner, (202) 502–8038, or *alicia.burtner@ferc.gov.*
j. Deadline for filing comments, motions to intervene, protests, and recommendations is 30 days from the issuance date of this notice by the Commission.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments.

Please include the project number (P–2662–026) on any comments, motions, or recommendations filed.

k. *Description of Request:* The licensee requests a one-year temporary variance from the operating requirements of the Commission's November 21, 2013 Order Issuing New License and Denying Competing License Application. Specifically, the licensee requests to operate its turbine in cycling mode, lower the flashboards and the operating range of the reservoir elevation, continuously spill 10 cubic feet per second, and keep the existing flow valve closed unless otherwise authorized by the Connecticut Department of Energy and Environmental Protection. Due to economic shifts, the licensee indicates that it is no longer feasible to install a low-flow turbine that had been paramount to being able to comply with the license conditions. The licensee requests this variance in order to maintain compliance while determining an appropriate alternative operating scenario.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project operations, which are the subject of the variance. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they

must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: July 17, 2015.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2015–18108 Filed 7–23–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Western Area Power Administration

### Boulder Canyon Project-Rate Order No. WAPA–171

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of Extension of Existing Rate-setting Formula and Approval of Fiscal Year (FY) 2016 Base Charge and Rates.

**SUMMARY:** This action extends the existing Boulder Canyon Project (BCP) rate-setting formula through September 30, 2020, and approves the base charge and rates for FY 2016. The existing Electric Service Rate Schedule, BCP–F8, is set to expire on September 30, 2015. The Electric Service Rate Schedule contains a rate-setting formula that is recalculated annually based on updated financial and sales data.

**DATES:** The first day of the first full billing period beginning on or after October 1, 2015, and extending through September 30, 2020, or until superseded by another rate schedule, whichever occurs earlier.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald E. Moulton, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 605–2453, email *moulton@wapa.gov,* or Mr. Jack Murray, Rates Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 605–2442, email *jmurray@wapa.gov.*

**SUPPLEMENTARY INFORMATION:** The existing Rate Schedule BCP–F8 under Rate Order No. WAPA–150[1] was approved for a five-year period beginning on October 1, 2010, and ending September 30, 2015.

Western proposed extending the existing rate-setting formula pursuant to 10 CFR part 903.23(a), Formula Rate Schedule BCP–F9 under Rate Order No. WAPA–171. The notice of proposed extension was published in the **Federal Register** on February 9, 2015 (80 FR 6955). As allowed by 10 CFR part 903.23(a), Western held a public information forum and public comment forum. The consultation and comment period ended May 11, 2015. All comments received during the comment period were considered in the development of the final rates.

By Delegation Order No. 00–037.00A, effective October 25, 2013, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the Administrator of Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to the Federal Energy Regulatory Commission (FERC).

Following review of Western's proposal within the Department of Energy, I hereby approve Rate Order No. WAPA–171, which extends the existing rate-setting formula through September 30, 2020, and approves the proposed BCP electric service base charge and rates for FY 2016. Rate Order No. WAPA–171 will be submitted to FERC for confirmation and approval on a final basis.

Dated: July 17, 2015.

**Elizabeth Sherwood-Randall,**

*Deputy Secretary.*

## DEPARTMENT OF ENERGY

## DEPUTY SECRETARY

In the matter of:

*Western Area Power Administration, Rate Extension for the Boulder Canyon Project, Electric Service Formula Rate Schedule*

Rate Order No. WAPA–171

### ORDER CONFIRMING AND APPROVING AN EXTENSION OF THE BOULDER CANYON PROJECT ELECTRIC SERVICE RATE-SETTING FORMULA AND FY 2016 BASE CHARGE AND RATES FORMULA RATE SCHEDULE

These rates were established in accordance with Section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152). This act transferred to and vested in the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts that specifically apply to the project involved.

By Delegation Order No. 00–037.00A, effective October 25, 2013, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the Administrator of Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). This extension is issued pursuant to the Delegation Order and DOE rate extension procedures at 10 CFR part 903.23(a).

### BACKGROUND

On December 9, 2010, in Docket No. EF10–7–000 at 133 FERC ¶ 62,229, FERC issued an order confirming, approving and placing into effect on a final basis Electric Service Rate Schedule BCP–F8 for the Boulder Canyon Project (BCP). Electric Service Rate Schedule BCP–F8, Rate Order No. WAPA–150, was approved for five years beginning October 1, 2010 through September 30, 2015.

Western followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions set forth in 10 CFR part 903.23(a) in extending the BCP rate-setting formula through September 30, 2020, and setting the new base charge and rates for Fiscal Year (FY) 2016. The steps Western took to involve interested parties in the rate process were:

1. On February 9, 2015, Western published a notice in the **Federal Register** (80 FR 6955) announcing the extension of the rate-setting formula and the proposed base charge and rates for BCP. Publication of this notice initiated the public consultation and comment period, and announced the public information and public comment forums. Western also announced the public forum dates and posted the BCP rate adjustment at *http://www.wapa.gov/dsw/pwrmkt/BCP/RateAdjust.htm.*

2. On March 11, 2015, Western hosted an informal customer meeting in Phoenix, Arizona. At this informal

[1] FERC confirmed and approved Rate Order No. WAPA–150 on December 9, 2010, in Docket No. EF10–7–000, *See* United States Department of Energy, Western Area Power Administration, Boulder Canyon Project, 133 FERC ¶ 62,229 (December 9, 2010).

meeting, Western explained the rationale for the adjustment in the proposed base charge and rates, and answered questions. Contractors were notified of the informal meeting at the BCP Engineering and Operating Committee meetings in October 2014 and January 2015.

3. On April 1, 2015, Western held a public information forum at the Desert Southwest Regional Office in Phoenix, Arizona. Western provided detailed explanations of the proposed base charge and rates for BCP, and answered questions. Western provided a copy of the rate presentation, supporting documentation, and informational handouts.

4. On April 29, 2015, Western held a comment forum to give the public an opportunity to comment for the record. Individuals representing multiple entities commented at this forum.

5. Western received two comment letters during the consultation and comment period, which ended May 11, 2015. All comments have been considered in preparing this Rate Order.

*Comments:*

Written comments were received from the following organizations: Metropolitan Water District of Southern California, California Irrigation & Electrical Districts Association of Arizona, Arizona

The comments and responses regarding the electric service base charge and rates, paraphrased for brevity when not affecting the meaning of the statement(s), are discussed below. Direct quotes from comment letters are used for clarification, where necessary.

*Comment:* Commenters expressed concern that many BCP Contractors, who will be new as of October 1, 2017, are not familiar with Western's existing rate-setting formula methodology. Western should consider reaching out to these new Contractors prior to October 1, 2017, and educate them on the methodology or, alternatively, alter the length of this proposed extension period so a new rate period will begin with the FY 2018 rate and base charge adjustment process.

*Response:* Western has been providing outreach and education opportunities to the new BCP Contractors through the Post-2017 remarketing and new electric service contracts negotiation processes. In addition, under the BCP Implementation Agreement, Western submits BCP rates to the Deputy Secretary of Energy for approval each year and with the proposed extension, the new Contractors will have an opportunity to participate and be educated in the annual rate process through informal customer meetings, as well as formal public information and comment forums.

*Comment:* The BCP Contractors have proposed a joint audit paid for by the contractors with funds from prior year carryover. This joint audit would be completed prior to the termination of the Hoover Electric Service Contracts.

*Response:* Western and Reclamation support the proposal of a joint audit prior to the termination of the existing Hoover Electric Service Contracts. Western and Reclamation also support the Contractors' proposal to fund the audit costs by reducing prior year carryover which effectively increases the FY 2016 base charge.

*Comment:* Contractors expressed their support for extending the existing rate-setting formula methodology and approval of the base charge and rates for FY 2016.

*Response:* Western appreciates the contractors expressing its support with the extension of the existing rate-setting formula methodology and calculation of the base charge and rates for FY 2016.

## DISCUSSION

On September 30, 2015, the BCP Electric Service Rate Schedule BCP–F8 will expire. This makes it necessary to extend the existing rate-setting formula and approve the FY 2016 Base Charge and Rates. With this approval, the existing rate-setting formula under Rate Schedule BCP–F9 will be extended under Rate Order No. WAPA–171.

The existing electric service rate-setting formula provides adequate revenue to pay all annual costs, including interest expense, and to repay investment within the cost recovery criteria as set forth in DOE Order RA 6120.2. Rate Order No. WAPA–171 extends the existing rate-setting formula through September 30, 2020, thereby continuing to ensure project repayment within the cost recovery criteria.

The existing base charge for FY 2015 is $61,008,518, the composite rate is 16.28 mills/kWh, the energy rate is 8.14 mills/kwh, and capacity rate is $1.61/kW/month.

The BCP increase in the electric service base charge and rates for FY 2016 is driven by three factors: 1) an increase of approximately $2 million in annual expenses, primarily estimated replacements and visitor center costs, and principal payments for uprating program and capitalized investments from FY 2015 to FY 2016; 2) a $1.5 million reduction in projected carryover between FY 2015 and FY 2016; and 3) a projected increase of $750K in other revenues, which acts as an offset to total expenses. The proposed base charge for FY 2016 is $63,735,856, composite rate is 18.33 mills/kWh, energy rate is 9.17 mills/kWh, and capacity rate is $1.72/kW/month. While there is an increase between FY 2015 and FY 2016, Western notes the base charge and rates for FY 2015 were artificially reduced due to actions taken by Contractors in FY 2014 and issues faced by Reclamation. During FY 2014, the BCP Contractors refinanced the highest interest rate debt on the visitor facilities and air slots investments, effectively eliminating them as a cost in the power repayment study. This transaction had the effect of increasing carryover by approximately $5 million at the end of FY 2014, and decreasing the base charge for FY 2015. At the same time, due to budget sequestration issues at the end of FY 2013, expenses at the end of FY 2013 were much lower than expected. The final results, received in mid-FY 2014, also served to increase the amount of carryover available to apply against the base charge and rates for FY 2015.

## AVAILABILITY OF INFORMATION

Information about this extension and adjustment of electric service base charge and rates, including power repayment studies, comments, letters, memoranda, and other supporting material made or kept by Western to develop the provisional base charge and rates, is available for public review in the Desert Southwest Customer Service Regional Office, Western Area Power Administration, 615 South 43 Avenue, Phoenix, Arizona.

Dated: July 17, 2015

Elizabeth Sherwood-Randall

Deputy Secretary

Formula Rate Schedule BCP–F9

(Supersedes Schedule BCP–F8)

## UNITED STATES DEPARTMENT OF ENERGY WESTERN AREA POWER ADMINISTRATION

### Boulder Canyon Project Desert Southwest Customer Service Region

### SCHEDULE OF RATES FOR ELECTRIC SERVICE

*Effective:*

The first day of the first full billing period beginning on or after October 1, 2015, and extending through September 30, 2020, or until superseded by another rate schedule, whichever occurs earlier.

*Available:*

In the marketing area serviced by the Boulder Canyon Project (BCP).

*Applicable:*

To power Contractors served by the BCP supplied through one meter, at one

point of delivery, unless otherwise provided by contract.

*Character and Conditions of Service:*

Alternating current at 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

*Base Charge:*

The total charge paid by a Contractor for annual capacity and energy based on the annual revenue requirement. The base charge shall be composed of an energy component and a capacity component:

ENERGY CHARGE: Each Contractor shall be billed monthly an energy charge equal to the rate year energy dollar multiplied by the Contractor's firm energy percentage multiplied by the Contractor's monthly energy ratio as provided by contract.

CAPACITY CHARGE: Each Contractor shall be billed monthly a capacity charge equal to the rate year capacity dollar divided by 12 multiplied by the Contractor's contingent capacity percentage as provided by contract.

*Forecast Rates:*

ENERGY: Shall be equal to the rate year energy dollar divided by the lesser of the total master schedule energy or 4,501.001 million kWhs. This rate is to be applied for use of excess energy, unauthorized overruns, and water pump energy.

CAPACITY: Shall be equal to the rate year capacity dollar divided by 1,951,000 kWs, to be applied for use of unauthorized overruns.

*Calculated Energy Rate:*

Within 90 days after the end of each rate year, a calculated energy rate shall be calculated. If the energy deemed delivered is greater than 4,501.001 million kWhs, then the calculated energy rate shall be applied to each Contractor's energy deemed delivered. A credit or debit shall be established based on the difference between the Contractor's energy dollar and the Contractor's actual energy charge, to be applied the following month or as soon as possible thereafter.

*Lower Basin Development Fund Contribution Charge:*

The contribution charge is 4.5 mills/kWh for each kWh measured or scheduled to an Arizona purchaser and 2.5 mills/kWh for each kWh measured or scheduled to a California or Nevada purchaser, except for purchased power.

*Billing for Unauthorized Overruns:*

For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual power obligations, such overrun shall be billed at 10 times the forecast energy rate and forecast capacity rate. The contribution charge shall also be applied to each kWh of overrun.

*Adjustments:*

None.

**ORDER**

In view of the foregoing and under the authority delegated to me, I hereby extend from October 1, 2015, through September 30, 2020, the existing BCP rate-setting formula and approve the base charge and rates for FY 2016, on an interim basis for the BCP. Formula Rate Schedule BCP–F9 shall remain in effect on an interim basis, pending FERC confirmation and approval of this extension or substitute rates on a final basis through September 30, 2020.

Dated: July 17, 2015

**Elizabeth Sherwood-Randall,**

*Deputy Secretary.*

[FR Doc. 2015–18237 Filed 7–23–15; 8:45 am]

BILLING CODE 6450–01–P

---

## DEPARTMENT OF ENERGY

### Western Area Power Administration

### Central Arizona Project—Rate Order No. WAPA–172

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of Proposed Transmission Rates.

**SUMMARY:** The Western Area Power Administration (Western), a power marketing administration within the Department of Energy (DOE), is proposing an adjustment to the Central Arizona Project (CAP) transmission rates for firm point-to-point transmission service, non-firm point-to-point transmission service, and Network Integration Transmission Service (NITS) on the CAP 115/230-kilovolt (kV) transmission lines. Current rates, under Rate Schedules CAP–FT2, CAP–NFT2 and CAP–NITS2, expire December 31, 2015. Western is not proposing any changes to the existing rate-setting formula through December 31, 2020, but is proposing to adjust the existing rates to provide sufficient revenue to cover all annual costs, including interest expenses, and to repay required investment within the allowable period. Western is also proposing to begin charging for short-term transmission service on the Navajo (500-kV) portion of the CAP under Rate Schedule CAP–NFT3. Western currently markets excess transmission service from the Navajo (500-kV) portion of the CAP on a short-term (less than 12 months) basis at current CAP 115/230-kV rates under Western's Administrator's authority to set rates for short-term sales (Department of Energy Delegation Order No. 00–037.00A, ¶1.5). Western will prepare and provide a brochure detailing information on the proposed rates. Proposed rates, under Rate Schedules CAP–FT3, CAP–NFT3, and CAP–NITS3, are scheduled to go into effect on January 1, 2016, and remain in effect through December 31, 2020. Publication of this **Federal Register** notice begins the formal process for the proposed rates.

**DATES:** The consultation and comment period begins today and will end October 22, 2015. Western will present a detailed explanation of the proposed rates at a public information forum on August 27, 2015, beginning at 10:00 a.m. MST, in Phoenix, Arizona. Western will accept oral and written comments at a public comment forum on September 24, 2015, beginning at 10:00 a.m. MST, in Phoenix, Arizona. Western will accept written comments any time during the 90-day consultation and comment period.

**ADDRESSES:** The public information forum and public comment forum will be held at the Desert Southwest Customer Service Regional Office, located at 615 South 43 Avenue, Phoenix, Arizona, on the dates cited above. Written comments should be sent to Mr. Ronald E. Moulton, Senior Vice President and Desert Southwest Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, Arizona 85005–6457, email *moulton@wapa.gov.* Written comments may also be faxed to (602) 605–2490, attention: Mr. Jack Murray, Rates Manager. Western will post official information about the rate process on its Web site at *http://www.wapa.gov/dsw/pwrmkt/CAPTRP/CAPTRP.htm.* Western will also post official comments received via letter, fax and email to this Web site. Western must receive written comments by the end of the consultation and comment period to ensure they are considered in Western's decision-making process. For more information regarding attending the forum, see the Attendance at the Forum section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jack Murray, Rates Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, Arizona 85005–

6457, telephone (602) 605–2442, email *jmurray@wapa.gov.*

**SUPPLEMENTARY INFORMATION:** The existing Rate Schedules CAP–FT2, CAP–NFT2, and CAP–NITS2, under Rate Order No. WAPA–124 [1], were approved for a 5-year period beginning on January 1, 2006, and ending December 31, 2010. The schedules received final approval from the Federal Energy Regulatory Commission (FERC) on June 29, 2006. Rate Order No. WAPA–153 [2] extended these rate schedules for a 2-year period, beginning January 1, 2011, through December 31, 2012. Rate Order No. WAPA–158 [3] extended these rate schedules for a 3-year period beginning January 1, 2013, through December 31, 2015. Western's Administrator, under the authority delegated to set rates for short-term sales, approved sales of excess Navajo transmission service at the effective CAP 115/230-kV transmission rate. This approval, which only applies to sales of short-term (less than 12 months) transmission service on the Navajo system, was approved effective September 1, 2011. Western is proposing a modification to the Applicability section of Rate Schedule CAP–NFT3 to include the marketing of short-term Navajo transmission service at the effective CAP transmission service rate.

Proposed rates for point-to-point transmission service and NITS on the CAP 115/230-kV transmission system are based on a revenue requirement that recovers the investment on the CAP transmission lines, costs for facilities associated with providing transmission service and non-facility costs allocated to transmission service. Proposed rates for point-to-point transmission service on the CAP 115/230-kV transmission system are determined by combining the average annual amortization costs with the average annual operations and maintenance costs, and dividing them by the average annual long-term firm transmission service reservations for the cost evaluation period (fiscal years 2016–2020).

TABLE 1—EXISTING AND PROPOSED RATES FOR FIRM AND NON-FIRM TRANSMISSION SERVICE

| Type of service | Existing rates January 1, 2015 through December 31, 2015 | Proposed rates CAP 115/230-kV system (Jan. 1, 2016) | Percent change |
|---|---|---|---|
| Firm Transmission Service | $13.56/kW-year | $14.88/kW-year | 10 |
| Non-firm Transmission Service | 1.55 mills/kWh | 1.70 mills/kWh | 10 |

The table above compares the existing and proposed rates for transmission service. The proposed rates result in a firm point-to-point CAP 115/230-kV transmission rate of $14.88 per kilowattyear and a non-firm point-to point CAP 115/230-kV transmission rate of 1.70 mills/kilowatthour (kWh). The proposed CAP rate reflects a 10 percent rate increase compared to the FY 2015 rate due primarily to an increase in construction costs to replace the aging ED2-Saguaro line. The construction started in 2015 and the costs are expected to be spread over a 5-year period. These proposed rates are based on the most current financial data available. Prior to their effective date of January 1, 2016, these proposed rates are subject to change, consistent with the procedures of 10 CFR part 903 if relevant and material financial data not previously considered becomes available prior to the publication of the final rates.

NITS allows a transmission customer to integrate, plan, economically dispatch, and regulate its network resources to serve its native load in a manner comparable to how a transmission provider uses its own transmission system to service its native load customers. The monthly charge methodology for NITS on the CAP 115/230-kV transmission lines is the product of the transmission customer's load-ratio share multiplied by one-twelfth of the annual transmission revenue requirement. The customer's load-ratio share is calculated on a rolling 12-month basis. The customer's load-ratio share is equal to that customer's hourly load coincident with the CAP 115/230-kV transmission lines' monthly transmission system peak divided by the resultant value of the CAP 115-kV and 230-kV transmission lines' coincident peak for all firm point-to-point transmission service plus the CAP 115/230-kV transmission lines' firm point-to-point transmission service reservations. The proposed rates include the costs for scheduling, system control, and dispatch service. Western's existing rate formula requires recalculation of the rates annually based on updated financial data.

## Attendance at the Forum

Access to Western facilities is controlled. U.S. citizen's need to bring an official form of identification (that meets the requirement of the Real ID Act), such as a U.S. driver's license, U.S. passport, U.S. Government ID, or U.S. Military ID, which you will be asked to show prior to signing in.

Foreign nationals planning to attend need to contact Mr. Jack Murray, Rates Manager, (602) 605–2442, email *jmurray@wapa.gov,* immediately to obtain the necessary form for admittance. This form must be completed at least 30 days in advance for visitors from non-sensitive countries; and 45 days in advance for visitors from sensitive countries. Failure to complete this approval process may result in denial of admittance.

## Legal Authority

Since the proposed rates constitute a major adjustment as defined by 10 CFR part 903, Western will hold both a public information forum and a public comment forum. Western will review all timely public comments and make amendments or adjustment to the proposal, as appropriate, consistent with 10 CFR part 903.

Western is establishing rates for transmission service for CAP under the Department of Energy Organization Act (42 U.S.C. 7152); the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts that specifically apply to the project involved.

By Delegation Order No. 00–037.00, effective October 25, 2013, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis

[1] FERC confirmed and approved Rate Order No. WAPA–124 on June 29, 2006, in Docket No. EF06–5111–000. *See United States Department of Energy, Western Area Power Administration, Central Arizona Project,* 115 FERC ¶ 62,326.

[2] 76 FR 548 (January 5, 2011).

[3] 78 FR 18335 (March 26, 2013).

to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

**Availability of Information**

All brochures, studies, comments, letters, memorandums, and other documents that Western initiated or used to develop the proposed rates are available for inspection and copying at the Desert Southwest Customer Service Regional Office, Western Area Power Administration, located at 615 South 43 Avenue, Phoenix, Arizona 85009–5313. Many of these documents and supporting information are also available on Western's Web site at: *http://www.wapa.gov/dsw/pwrmkt/CAPTRP/CAPTRP.htm.*

**Ratemaking Procedure Requirements**

**Environmental Compliance**

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321–4347); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western is in the process of determining whether an environmental assessment or an environmental impact statement should be prepared or if this action can be categorically excluded from those requirements.

**Determination Under Executive Order 12866**

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: July 17, 2015.

**Mark A. Gabriel,**

*Administrator.*

[FR Doc. 2015–18235 Filed 7–23–15; 8:45 am]

BILLING CODE 6450–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2015–0276 and EPA–HQ–OPP–2015–0302; FRL–9930–91]**

## Extension of Comment Periods for the Draft Series 810—Product Performance Test Guidelines and the Proposed Antimicrobial Pesticide Use Site Index

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; extension of comment periods.

**SUMMARY:** EPA is hereby extending the comment periods for the following two notices: the notice that issued in the **Federal Register** of June 17, 2015, entitled *''Draft Test Guidelines; Series 810—Product Performance Test Guidelines; Notice of Availability and Request for Comments''* (''Draft Test Guidelines'') and the notice that issued in the **Federal Register** of July 1, 2015, entitled *''Proposed Antimicrobial Pesticide Use Site Index; Notice of Availability and Request for Comment''* (''Proposed Use Site Index''). This document extends the comment periods for those two notices in response to requests from stakeholders for additional time to review and provide comments.

**DATES:** Comments for the Draft Test Guidelines must be identified by docket identification (ID) number EPA–HQ–OPP–2015–0276 and must be received on or before October 1, 2015. Comments for the Proposed Use Site Index must be identified by docket ID number EPA–HQ–OPP–2015–0302 and must be received on or before August 31, 2015.

**ADDRESSES:** Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of either June 17, 2015 (80 FR 34638) (FRL–9927–37) or July 1, 2015 (80 FR 37610) (FRL–9929–42), as applicable.

**FOR FURTHER INFORMATION CONTACT:** As listed in the applicable **Federal Register** document the contacts for the Draft Test Guidelines are as follows: For general information contact: Melissa Chun, Regulatory Coordination Staff (7101M), Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–1605; email address: *chun.melissa@epa.gov.* For technical information contact: Stephen Tomasino, Biological and Economic Analysis Division (7503P), Office of Pesticide Programs, Environmental Protection Agency, Environmental Science Center, 701 Mapes Road, Ft. Meade, MD 20755–5350; telephone number: (410) 305–2976; email address: *tomasino.stephen@epa.gov.*

The contact for the Proposed Use Site Index is Steven Weiss, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 308–8293; email address: *weiss.steven@epa.gov.*

**SUPPLEMENTARY INFORMATION:** EPA is hereby extending the comment periods for the following two notices in response to requests for additional time that were received from stakeholders.

1. In the notice that issued in the **Federal Register** of June 17, 2015, entitled *''Draft Test Guidelines; Series 810—Product Performance Test Guidelines; Notice of Availability and Request for Comments''* (80 FR 34638) (FRL–9927–37), EPA sought public comment on several non-binding draft test guidelines developed by the Office of Chemical Safety and Pollution Prevention (OCSPP). The test guidelines provide guidance on conducting testing by the public and companies that are subject to EPA data submission requirements under OCSPP's major statutory mandates. The end of the comment period is hereby being extended from August 17, 2015 to October 1, 2015. See docket ID number EPA–HQ–OPP–2015–0276 at *http://www.regulations.gov.*

2. In the notice that issued in the **Federal Register** of July 1, 2015, entitled *''Proposed Antimicrobial Pesticide Use Site Index; Notice of Availability and Request for Comment''* (80 FR 37610) (FRL–9929–42), EPA sought public comment on a proposed guidance document called the Antimicrobial Pesticide Use Site Index. The Agency developed this document to provide guidance about antimicrobial pesticide use sites and general antimicrobial pesticide use patterns. This guidance document is intended to assist antimicrobial pesticide applicants and registrants by helping them to identify the 40 CFR part 158 subpart W data requirements that are necessary to register their product(s), and will likewise be used by Agency staff evaluating pesticide applications. The end of the comment period is hereby being extended from July 31, 2015 to August 31, 2015. See docket ID number EPA–HQ–OPP–2015–0302 at *http://www.regulations.gov.*

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the applicable **Federal Register** document of either June 17, 2015 (80 FR 34638) (FRL–9927–37) for the Draft Test Guidelines or July 1, 2015 (80 FR 37610) (FRL–9929–42) for the Proposed Use Site Index.

If you have questions, consult with someone listed under **FOR FURTHER INFORMATION CONTACT**.

**Authority:** 7 U.S.C. 136 *et seq.;* 15 U.S.C. 2601 *et seq.;* 21 U.S.C. 301 *et seq.*

Dated: July 20, 2015.

**James Jones,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2015–18232 Filed 7–23–15; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–9022–1]**

### Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564–7146 or *http://www2.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements

Filed 07/13/2015 Through 07/17/2015

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: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20150198, Draft, USAF, OR, Proposed Establishment and Modification of Oregon Military Training Airspace, comment period ends: 09/08/2015, Contact: Kevin Marek 240–612–8855.

EIS No. 20150199, Draft, OSM, Other, Stream Protection Rule, comment period ends: 09/15/2015, Contact: Robin Ferguson 202–208–2802.

EIS No. 20150200, Draft, USFWS, CA, South Bay Salt Pond Restoration Project Phase 2, comment period ends: 09/22/2015, Contact: Anne Morkill 510–792–0222.

EIS No. 20150201, Draft, FERC, LA, Magnolia Liquefied Natural Gas (LNG) and Lake Charles Expansion Projects, comment period ends: 09/08/2015, Contact: Janine Cefalu 202–502–8271.

EIS No. 20150202, Final, FHWA, LA, ADOPTION—I–12 to Bush, Louisiana Proposed Highway, review period ends: 08/24/2015, Contact: Carl Highsmith 225–757–7615.

The U.S. Department of Transportation's Federal Highway Administration (FHWA) and Louisiana Department of Transportation has adopted the U.S. Army Corps of Engineers' final EIS #20120055, filed 02/29/2012 with EPA. The FHWA was not a cooperating agency for the above EIS. Therefore recirculation of the EIS is necessary under the CEQ Regulations Section 1506.3.

Dated: July 21, 2015.

**Dawn Roberts,**

*Management Analyst, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2015–18204 Filed 7–23–15; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2013–0677; FRL–9930–72]**

### Receipt of Test Data Under the Toxic Substances Control Act

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA is announcing its receipt of test data submitted pursuant to a test rule issued by EPA under the Toxic Substances Control Act (TSCA). As required by TSCA, this document identifies each chemical substance and/or mixture for which test data have been received; the uses or intended uses of such chemical substance and/or mixture; and describes the nature of the test data received. Each chemical substance and/or mixture related to this announcement is identified in Unit I. under **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:**

*For technical information contact:* Kathy Calvo, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8089; email address: *calvo.kathy@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:**

#### I. Chemical Substances and/or Mixtures

Information about the following chemical substances and/or mixtures is provided in Unit IV.: *1-Propanesulfonic acid, 2-hydroxy-3-(2-propen-1-yloxy)-, sodium salt (1:1)* (*CAS RN 52556–42–0*).

#### II. Federal Register Publication Requirement

Section 4(d) of TSCA (15 U.S.C. 2603(d)) requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under TSCA section 4 (15 U.S.C. 2603).

#### III. Docket Information

A docket, identified by the docket identification (ID) number EPA–HQ–OPPT–2013–0677, has been established for this **Federal Register** document that announces the receipt of data. Upon EPA's completion of its quality assurance review, the test data received will be added to the docket for the TSCA section 4 test rule that required the test data. Use the docket ID number provided in Unit IV. to access the test data in the docket for the related TSCA section 4 test rule.

The docket for this **Federal Register** document and the docket for each related TSCA section 4 test rule is available electronically at *http://www.regulations.gov* or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

#### IV. Test Data Received

This unit contains the information required by TSCA section 4(d) for the test data received by EPA. *1-Propanesulfonic acid, 2-hydroxy-3-(2-propen-1-yloxy)-, sodium salt (1:1)* (*CAS RN 52556–42–0*).

1. *Chemical Uses:* Polymerizable surfactant for vinylic systems; antistatic properties; promotes adhesion of pigments; emulsion polymerization in paper, textile, fiber, and adhesives industries.

2. *Applicable Test Rule:* Chemical testing requirements for third group of high production volume chemicals (HPV3), 40 CFR 799.5089.

3. *Test Data Received:* The following listing describes the nature of the test data received. The test data will be added to the docket for the applicable TSCA section 4 test rule and can be found by referencing the docket ID number provided. EPA reviews of test data will be added to the same docket upon completion.

*Mammalian Toxicity Genotoxicity (E1) (E2).* The docket ID number assigned to this data is EPA–HQ–OPPT–2009–0112.

**Authority:** 15 U.S.C. 2601 *et seq.*

Dated: July 17, 2015.

**Lynn Vendinello,**

*Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 2015–18234 Filed 7–23–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9929–41–ORD]**

## Final Release of EPA's Report on the Environment (ROE)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is announcing the availability of the final web-based, ''Report on the Environment (ROE)'' (EPA/600/R–15/142). The ROE was prepared by the National Center for Environmental Assessment within EPA's Office of Research and Development, working in collaboration with EPA Program and Regional offices. The ROE is a comprehensive source of scientific indicators that describe the status and trends in the nation's environment and human health condition. The indicators help to answer important questions for EPA about the current status and historical trends in U.S. air, water, land, human health, and ecological condition at the national and regional levels. These indicators are based on data collected by EPA, other federal and state agencies, and non-governmental organizations and meet high standards for data quality, objectivity, and utility. The ROE reports status and trends; it does not analyze or diagnose the reasons for, and relationships between, trends in stressors and environmental and health outcomes.

The final ROE can be accessed at the following Web site: *http://www.epa.gov/roe.*

**DATES:** EPA released the report publicly on July 20, 2015.

**ADDRESSES:** The ROE is web-based and is available solely via the Internet at: *http://www.epa.gov/roe.*

**FOR FURTHER INFORMATION CONTACT:** For additional information concerning the ROE, contact Dr. Patricia Murphy, NCEA; telephone: 732–906–6830; facsimile: 732–452–6640; or email: *murphy.patricia@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Information About the Project/Document

EPA's Report on the Environment (ROE) is a comprehensive source of scientific indicators that describe the status and trends in the nation's environment and human health condition. The indicators help to answer important questions for EPA about the current status and historical trends in U.S. air, water, land, human health, and ecological conditions at the national and, where possible, regional levels. These indicators are based on data collected by EPA, other federal and state agencies, and non-governmental organizations and meet high standards for data quality, objectivity, and utility. The ROE reports status and trends; it does not analyze or diagnose the reasons for, and relationships between, trends in stressors and environmental and health outcomes.

Since its earliest release in 2003, the ROE has undergone periodic updates and restructurings. The latest version features several significant changes, the most notable being that the ROE is fully online, allowing it to be more interactive and accessible. Users can customize graphics and pan and zoom on maps. For certain indicators, users can now choose to view statistical information about the data by simply clicking display options. Additionally, new indicators fill information gaps, which previously lacked reliable, long-term data. The draft ROE 2014 was released in March 2014 and was peer-reviewed by EPA's Science Advisory Board in July 2014. The final ROE can be found at: *http://www.epa.gov/roe.*

Dated: July 14, 2015.

**Chris Saint,**

*Acting Deputy Director, National Center for Environmental Assessment.*

[FR Doc. 2015–18226 Filed 7–23–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL 9931–17–ORD]**

## Environmental Laboratory Advisory Board; Notice of Charter Renewal

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of charter renewal.

Notice is hereby given that the Environmental Protection Agency (EPA) has determined that, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Environmental Laboratory Advisory Board (ELAB) is a necessary committee, which is in the public interest. Accordingly, ELAB will be renewed for an additional two-year period. The purpose of the ELAB is to provide advice and recommendations to the Administrator of EPA on issues associated with enhancing EPA's measurement programs and the systems and standards of environmental accreditation. Inquiries may be directed to Lara P. Phelps, Designated Federal Officer, U.S. Environmental Protection Agency, Office of the Science Advisor, 109 T.W. Alexander Drive (E243–05), Research Triangle Park, NC 27709 or by email: *phelps.lara@epa.gov.*

Dated: June 1, 2015.

**Thomas A. Burke,**

*EPA Science Advisor, Office of Research and Development.*

[FR Doc. 2015–18216 Filed 7–23–15; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0139]**

## Information Collection Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the

PRA that does not display a valid OMB control number.

**DATES:** Written PRA comments should be submitted on or before September 22, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0139.

*Title:* Application for Antenna Structure Registration.

*Form Number:* FCC Form 854.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Individuals or households, business or other for-profit entities, not-for-profit institutions, and State, local, or Tribal governments.

*Number of Respondents and Responses:* 2,400 respondents; 57,100 responses.

*Estimated Time per Response:* .33 hours to 2.5 hours.

*Frequency of Response:* On occasion reporting requirement, recordkeeping requirement and third party disclosure reporting requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 2, 4(i), 303, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 303, and 309(j), section 102(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4332(C), and section 1506.6 of the regulations of the Council on Environmental Quality, 40 CFR 1506.6.

*Total Annual Burden:* 25,682 hours.

*Total Annual Cost:* $1,176,813.

*Privacy Act Impact Assessment:* Yes. This information collection contains personally identifiable information on individuals which is subject to the Privacy Act of 1974. Information on the FCC Form 854 is maintained in the Commission's System of Records, FCC/WTB–1, ''Wireless Services Licensing Records.'' These licensee records are publicly available and routinely used in accordance of subsection b of the Privacy Act, 5 U.S.C. 552a(b), as amended. Taxpayer Identification Numbers (TINs) and materials that are afforded confidential treatment pursuant to a request made under 47 CFR 0.459 of the Commission's rules will not be available for public inspection.

*Nature and Extent of Confidentiality:* Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

The Commission has in place the following policy and procedures for records retention and disposal: Records will be actively maintained as long as the entity remains a tower owner. Paper records will be archived after being keyed or scanned into the Antenna Structure Registration (ASR) database and destroyed when twelve (12) years old.

*Needs and Uses:* As discussed below, the Commission is revising the FCC Form 854 to implement measures adopted in a recent Report and Order, and is seeking Office of Management and Budget (OMB) approval for this information collection as revised. The Commission is also reporting a change in the annual burden and annual cost due to a small increase in the number of responses. After the comment period, the Commission will submit the revised information collection to OMB to obtain the full three year clearance.

The purpose of the FCC Form 854 is to register antenna structures (radio towers) that are used for communication services regulated by the Commission; to make changes to existing antenna structure registrations or pending applications for registration; or to notify the Commission of the completion of construction or dismantlement of such structures, as required by Title 47 of the Code of Federal Regulations (CFR), chapter 1. In addition, for proposed new antenna structures, the FCC Form 854 is used to facilitate a pre-application public notification process, including a required 30-day period of local and national notice to provide members of the public with a meaningful opportunity to comment on the environmental effects of proposed antenna structures that require registration with the Commission.

The Commission is revising this current information collection due to the adoption of a Report and Order, FCC 14–117, which streamlined and eliminated outdated provisions of the Commission's part 17 rules governing the construction, marking, and lighting of antenna structures. The changes to this collection are necessary to implement two of the updates adopted in the Report and Order. The first change, to section 17.4(j), requires owners of certain antenna structures to file FCC Form 854 with the Commission if there is any change or correction in the overall height of one foot or greater or in the coordinates of one second or greater in longitude or latitude of a registered antenna structure. The second change, to section 17.4(b), requires owners to note on FCC Form 854 that the registration is voluntary, if the antenna structure is otherwise not required to be registered under section 17.4.

As a result, there will be a small increase in the number of FCC Form 854s filed each year, as well as an additional question added to the form itself which will permit qualified applicants to indicate that they are voluntarily registering their antenna structures. These changes will enable the Commission to further modernize its rules while adhering to its statutory responsibility to prevent antenna structures from being hazards to air navigation.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2015–18090 Filed 7–23–15; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0207]**

## Information Collection Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to

further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before September 22, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0207.

*Title:* Part 11—Emergency Alert System (EAS), Sixth Report and Order, FCC 12–7.

*Form Number:* N/A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities, not-for-profit institutions, and state, local or tribal government.

*Number of Respondents:* 63,080 respondents; 3,569,028 responses.

*Estimated Time per Response:* 43 hours.

*Frequency of Response:* On occasion reporting requirement and recordkeeping requirement.

*Obligation to Respond:* Obligatory for all entities required to participate in EAS.

*Total Annual Burden:* 82,008 hours.

*Total Annual Cost:* No cost.

*Privacy Impact Assessment:* No impact.

*Nature and Extent of Confidentiality:* Filings will be given the presumption of confidentiality. The Commission will allow test data and reports containing individual test data to be shared on a confidential basis with other Federal agencies and state governmental emergency management agencies that have confidentiality protection at least equal to that provided by the Freedom of Information Act (FOIA). *See* 5 U.S.C. 552 (2006), amended by OPEN Government Act of 2007, Public Law 110–175, 121 Stat. 2524 (stating the FOIA confidentiality standard, along with relevant exemptions).

*Needs and Uses:* Part 11 contains rules and regulations addressing the nation's Emergency Alert System (EAS). The EAS provides the President with the capability to provide immediate communications and information to the general public at the national, state and local area level during periods of national emergency. The EAS also provides state and local governments and the National Weather Service with the capability to provide immediate communications and information to the general public concerning emergency situations posing a threat to life and property.

The FCC is now submitting this information collection as a revision to the Office of Management and Budget (OMB) to establish a mandatory Electronic Test Reporting System (ETRS) that EAS Participants must utilize to file identifying and test result data as part of their participation in the second nationwide EAS test. Although the ETRS adopted in this *Sixth Report and Order* in EB Docket No. 04–296, FCC 15–60, largely resembles the version used during the first nationwide EAS test, it also contains certain improvements, such as support for pre-population of form data, and integration of form data into an EAS ''Mapbook.'' ETRS will continue to collect such identifying information as station call letters, license identification number, geographic coordinates, EAS designation (LP, NP, *etc.*), EAS monitoring assignment, and emergency contact information. EAS Participants will submit this identifying data prior to the test date. On the day of the test, EAS Participants will input test results into ETRS (*e.g.*, whether the test message was received and processed successfully). They will input the remaining data called for by our reporting rules (*e.g.*, more detailed test results) within 45 day of the test. The Commission believes that structuring ETRS in this fashion will allow EAS Participants to timely provide the Commission with test data in a minimally burdensome fashion. As the subsequent analysis indicates, this revised collection will cause no change in the burden estimates or reporting and record keeping requirements that the Commission submitted (and which OMB subsequently approved) for the 2011 system. The revised information collection requirements contained in this collection are as follows:

Section 11.21(a) requires EAS Participants to provide the identifying information required by the EAS Test Reporting System (ETRS) no later than sixty days after the publication in the **Federal Register** of a notice announcing the approval by the Office of Management and Budget of the modified information collection requirements under the Paperwork Reduction Act of 1995 and an effective date of the rule amendment, or within sixty days of the launch of the ETRS, whichever is later, and shall renew this identifying information on a yearly basis or as required by any revision of the EAS Participant's State EAS Plan filed pursuant to section 11.21 of this part, and consistent with the requirements of paragraph 11.61(a)(3)(iv) of this part, section 11.61(a)(3)(iv) requires Test results as required to be logged by all EAS Participants into the EAS Test Reporting System (ETRS) as determined by the Commission's Public Safety and Homeland Security Bureau, subject to the following requirements. EAS Participants shall provide the identifying information required by the ETRS initially no later than sixty days after the publication in the **Federal Register** of a notice announcing the approval by the Office of Management and Budget of the modified information collection requirements under the Paperwork Reduction Act of 1995 and an effective date of the rule amendment, or within sixty days of the launch of the ETRS, whichever is later, and shall renew this identifying information on a yearly basis or as required by any revision of the EAS Participant's State EAS Plan filed pursuant to section 11.21 of this part. EAS Participants must also file ''Day of test'' data in the ETRS within 24 hours of any nationwide test or as otherwise required by the Public Safety and Homeland Security Bureau.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2015–18091 Filed 7–23–15; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[MB Docket No. 15–158; DA 15–784]**

## Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is required to report annually to Congress on the status of competition in markets for the delivery of video programming. This document solicits data, information, and comment on the status of competition in

the market for the delivery of video programming for the Commission's Seventeenth Report (17th Report). The 17th Report will provide updated information and metrics regarding the video marketplace in 2014. Comments and data submitted in response to this document in conjunction with publicly available information and filings submitted in relevant Commission proceedings will be used for the report to Congress.

**DATES:** Interested parties may file comments, on or before August 21, 2015, and reply comments on or before September 21, 2015.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Danny Bring, Media Bureau (202) 418–2164, or email at *danny.bring@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's document, *Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming.* The complete text of the document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554.

## Synopsis of Notice of Inquiry

1. This Public Notice (*Notice*) solicits data, information, and comment on the state of competition in the delivery of video programming for the Commission's Seventeenth Report (17th Report). We seek to update the information and metrics provided in the Sixteenth Report (*16th Report*) and report on the state of competition in the video marketplace in 2014.

2. Section 19 of the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act) amended the Communications Act of 1934, as amended (Act or Communications Act) and directed the Commission to establish regulations for the purpose of increasing competition and diversity in multichannel video programming distribution, increasing the availability of satellite delivered programming, and spurring the development of communications technologies. To measure progress toward these goals, Congress required the Commission to report annually on ''the status of competition in the market for the delivery of video programming.''

3. In 1992, when Congress first required the Commission to report on the status of competition in the market for the delivery of video programming, most consumers had the limited choice of receiving over-the-air broadcast television stations or subscribing to the video services their local cable company offered. From the consumer perspective, head-to-head competition in multichannel video programming distribution (MVPD) began in 1994 with the introduction of direct broadcast satellite (DBS) video services. In 2005 an additional competitive alternative for MVPD services became available to consumers when telephone companies began offering video services in some areas cable operators already served. More recently, most consumers have additional alternatives for the delivery of video programming from online video distributors' (OVDs) offerings of video content over the Internet.

*Scope of the Report*

4. In the 17th Report, we expect to continue using the analytical framework used in the *16th Report.* Under this framework, we categorize entities that deliver video programming in one of three groups—MVPDs, broadcast television stations, or OVDs. We also plan to examine consumer premises equipment that enables consumers to view programming on their television sets and on other residential or mobile devices (*e.g.,* smartphones and tablets). In addition, we plan to discuss the deployment of new technologies and services, as well as innovation and investment in the marketplace for the delivery of video programming.

*Analytic Framework*

5. We categorize entities that deliver video programming into one of three groups: MVPDs, broadcast television stations, or OVDs. Within each of the three groups, we describe the group's:

- *Providers,* which may include the number, size, and footprint of the entities in the group, horizontal and/or vertical concentration, regulatory and market conditions affecting entry, and any recent entry or exit from the group;
- *Business models and competitive strategies,* which may include the technologies entities employ to deliver programing, pricing plans, and product and service differences; and
- *Selected Operating and Financial Statistics,* which may include statistics related to the number of subscribers or viewers, revenue, and other financial indicators.

6. In the 17th Report, we plan to report on a calendar year-end basis. We request data as of year-end 2014 (*i.e.,* December 31, 2014).

## I. Providers of Delivered Video Programming

*Multichannel Video Programming Distributors*

1. MVPD Providers

7. The vast majority of MVPD subscribers rely on cable, DBS, or telephone MVPDs to provide their video services and this report will focus on these entities. For cable, DBS, and telephone MVPDs, we seek data on the number of providers, the number of homes passed, the number of subscribers for delivered video programming, the number of linear channels and amount of non-linear programming offered, and the ability of subscribers to watch programming on multiple devices both inside and outside the home. Are there differences in the number and types of MVPDs between rural and urban areas?

8. We request updated information on the number of markets where DBS operators provide local-into-local broadcast service. With respect to non-contiguous states and U.S. territories, do DBS MVPDs offer the same video packages at the same prices as they offer in the 48 contiguous states? Do subscribers need different or additional equipment to receive DBS MVPD services?

9. *Horizontal Concentration.* In the *16th Report,* we estimated the number of housing units nationwide with access to two, three, and four or more MVPDs. We seek data, information, and comment on this measure of horizontal concentration and on any other measure proposed by commenters. We also invite analysis regarding the relationship between the number of MVPDs available to a consumer and competition.

10. *Vertical Integration.* In the *16th Report,* we identified the national video programming networks, regional video programming networks, and regional sports networks affiliated with one or more MVPDs. We seek data, information, and comment on these categories of vertical integration and on any other categories proposed by commenters. We also invite analysis regarding the relationship between vertical integration and competition.

11. *Regulatory and Market Conditions Affecting Competition.* Regulations and market conditions affect competition in the marketplace for the delivery of video programming. We seek data, information, and comment on the impact of the Communications Act and Commission rules on competition, innovation and investment. We recognize that the regulations applicable to cable operators may differ from the

regulations applicable to DBS systems and telephone MVPDs. How do regulatory disparities affect competition? What specific actions could the Commission take to facilitate competition in the marketplace for the delivery of video programming?

12. We seek comment on the impact of marketplace conditions on MVPD competition. We also request data, information, and comment regarding the entry and exit of MVPDs in 2014. We are specifically interested in entry that increases the number of MVPDs available to consumers and exit that reduces the number of MVPDs available to consumers.

2. MVPD Business Models and Competitive Strategies

13. MVPDs may choose from a variety of business models and competitive strategies to attract and retain subscribers and viewers. We seek descriptions of MVPD business models and competitive strategies in the marketplace for the delivery of video programming. How do MVPDs attract new subscribers and retain existing subscribers? How do MVPDs distinguish their video services from their closest competitors? Do bundles of video, Internet, and voice services help attract and retain video subscribers? Do cable and telephone MVPDs offering bundles over wireline facilities with two-way capability have competitive advantages over DBS MVPDs offering video using satellites with one-way capability and Internet and phone services using cooperative arrangements with other entities? Is there a trend to unbundle or offer smaller, less expensive video packages? Some MVPDs are now offering skinny bundles that include Internet and video packages with a relatively small number of video channels. Are skinny bundles attracting cord cutters (households that have cancelled MVPD service) and cord nevers (households that have never had MVPD service) or helping to retain existing subscribers that may have been thinking about cutting the cord?

14. Do some MVPDs, such as those of a certain size, have a competitive advantage in the marketplace for the delivery of video programming? Do some MVPDs pay lower prices for video programming? Do the competitive strategies of certain MVPDs include arrangements with content providers that make it more difficult for competitors to acquire programming on reasonable terms? To the extent that any of these answers is yes, please describe the characteristics of such MVPDs.

15. Have vertically integrated MVPDs (*i.e.,* MVPDs with ownership interest in video programming) made it more difficult for competitors to acquire programming by restricting access or raising prices? What is the impact of rising programming prices and rising retransmission consent fees on MVPD business models and competitive strategies?

16. To enhance their competitive position in the marketplace for the delivery of video programming, MVPDs have deployed TV Everywhere, which allows MVPD subscribers to access both linear and video-on-demand (VOD) programs on a variety of in-home and mobile Internet-connected devices. In addition to TV Everywhere, which requires an MVPD subscription, some MVPDs are offering online video packages, which do not require an MVPD subscription, to attract cord cutters and cord nevers. We request comment on the competitive strategies of MVPDs launching online video services separate from their MVPD services.

17. Some MVPDs have added various video-related fees to monthly billing statements. Such fees include, for instance, a broadcast fee to partially recoup retransmission consent fees charged by local broadcast stations and a sports fee to defray the cost of sports programming. We seek comment on the competitive strategy associated with adding video-related fees as opposed to raising monthly subscription prices. Do such fees enable MVPDs to better attract new subscribers and retain existing subscribers?

18. We request information on MVPDs' deployment of new technologies, including transitioning to all-digital distribution, adding Internet Protocol (IP)-delivered video programming, deploying more efficient video encoding technologies (*e.g.,* MPEG–4 and High Efficiency Video Coding (HEVC)), developing and testing enhanced transmission technologies (*e.g.,* DOCSIS 3.1) and expanding 3–D and 4K services.

19. We are interested in the extent of substitution between MVPD services, OVD services, and over-the-air broadcast television. We realize that substitution represents only part of the competitive interaction between MVPDs, broadcasters, and OVDs. Consumers may also use OVDs and broadcast stations to supplement (*i.e.,* add to) and complement (*i.e.,* combine with) their MVPD services. Our primary focus, however, is substitution. What video services do MVPDs offer that OVDs and broadcast stations do not? To what extent do the prices of MVPD services lead households to substitute OVD services and over-the-air broadcast services for MVPD services? When marketing their video services, have MVPDs encouraged households to switch away from OVD services and over-the-air broadcast services and rely more on MVPD services? What actions have MVPDs taken in response to actual or potential competition from OVDs and broadcast stations?

3. Selected MVPD Operating and Financial Statistics

20. In the *16th Report,* we provided the following MVPD operating and financial statistics: Video packages and pricing, number of video subscribers and penetration rates, and revenue. We expect to report comparable statistics in the 17th Report. We seek data on the number of housing units passed nationally, the number of subscribers, and the penetration rates. We seek data on MVPD subscriber losses and the factors leading to those losses, especially competition from OVDs. We request data on MVPD revenue. We recognize that cable and telephone MVPDs also provide Internet and phone services using their own facilities. Our focus, however, is the market for the delivery of video programming, and commenters submitting data for operating and financial statistics should separate video from non-video services.

*Broadcast Television Stations*

4. Broadcast Television Station Providers

21. Providers of broadcast television services include both individual and group-owned stations that hold licenses to broadcast video programming to consumers. Broadcast stations deliver video programming over the air to consumers. How many households view broadcast programming over-the-air exclusively, and how many households receive such programming over the air on some televisions not connected to an MVPD service? How many households use a combination of over-the-air stations and OVD services?

22. *Horizontal Concentration.* Commission rules limit the number of broadcast television stations an entity can own in a DMA, depending on the number of independently owned stations in the market. Does group ownership strengthen the competitive position of broadcast stations in the marketplace for the delivery of video programming, either through increased advertising revenue or lower prices for video programming? Does it affect the prices, terms or conditions of carriage agreements with MVPDs? What is the impact of group ownership on the

competitive position of independently-owned stations?

23. *Vertical Integration.* Does vertical integration strengthen a broadcast station's ability to negotiate carriage rights with MVPDs? Are vertically integrated broadcast stations stronger competitors in the marketplace for the delivery of video programming?

24. *Regulatory and Market Conditions Affecting Competition.* The Commission's spectrum allocation and licensing policies affect broadcast television by limiting the number of stations located in a given geographic area. Commission rules limit the number of broadcast television stations an entity can own in a DMA as well as limit the aggregate national audience reach of commonly owned broadcast television stations. The Commission's territorial exclusivity rule restricts the geographic area in which a television broadcast station may obtain exclusive rights to video programming. We seek data, information, and comment on the impact of these regulations, the impact of the upcoming incentive auction, and the potential impact of our recent Declaratory Ruling regarding foreign broadcast investment on competition in the marketplace for the delivery of video programming.

5. Broadcast Television Station Business Models and Competitive Strategies

25. What competitive strategies are broadcast television stations using to distinguish themselves from other broadcast television stations? What competitive strategies are broadcast stations using to strengthen their competitive position in the market for the delivery of video programming? We seek data, information, and comment on the use of multicast streams, the amount of HD programming, mobile TV, and broadcast station Web sites. We seek comment regarding the ability of broadcast stations to secure MVPD carriage of their multicast signals and the impact of such carriage on the financial viability of their multicast operations. What effect does the ability to offer HD or ultra HD programming have on a broadcast station's ability to compete in the marketplace for the delivery of video programming? What progress has been made regarding mobile TV? In what ways are broadcasters using their stations' Web sites to strengthen their competitive position in the marketplace for the delivery of video programming?

26. To what extent do broadcast stations market themselves as providing unique services, such as local news, sports, weather and emergency alerts, to increase viewership? Do joint sales agreements (JSAs), local marketing agreements (LMAs), and shared services agreements (SSAs) affect the provision of local news offered by broadcast stations, and if so, how? Has online delivery contributed to increased investment in broadcast station local news and information programming?

27. For many years, broadcast television networks used their local broadcast television-affiliated stations as their primary distributor of programming. Broadcast network programming, however, has become increasingly available from OVDs. In addition, broadcast networks are increasingly providing OVD services themselves to strengthen their competitive position in the market for delivery of video programming. Are other broadcast networks planning to offer subscription VOD and live programming, either as standalone OVD services or through joint ventures like Hulu and Hulu Plus? How successful are their subscription offerings, relative to their free offerings? When networks offer their programming as OVDs, how does this impact the financial well-being of affiliated stations that previously offered such programming to the public on an exclusive basis? Have local broadcast stations adapted their business models and competitive strategies in ways that indicate that they view MVPDs and OVDs as competitors? We seek comment generally on the effect of the broadcast networks' increasing provision of OVD service. In particular, what effect is this having on the relationship between broadcast networks and their affiliates? What competitive strategies are broadcast stations using to remain important to broadcast networks for program distribution?

28. We are interested in the extent of substitution between over-the-air services and MVPDs and between over-the-air services and OVDs. Do broadcast stations compare their video services to MVPD and OVD services? To what extent do broadcast stations market themselves as substitutes for MVPD and OVD services? What specific marketing activities have broadcast stations used, if any, to encourage households to switch away from MVPDs and OVDs and rely more on over-the-air services?

6. Selected Broadcast Television Station Operating and Financial Statistics

29. In the *16th Report,* we provided the following broadcast television station operating and financial statistics: Audiences; revenue from advertising, network compensation, retransmission consent fees, ancillary services, and online services; cash flow estimates and pre-tax profits; and capital expenditures. We seek data on the viewership of broadcast television stations from over-the-air reception, MVPD carriage, online viewing, and mobile TV. Has multicasting, online viewing, and/or mobile TV increased broadcast station viewership in the marketplace for the delivery of video programming? We seek data on broadcast television station revenues from advertising, network compensation, retransmission consent fees, ancillary services, and subscription fees from OVD offerings. We seek information and comment on the impact, if any, of JSAs, LMAs and SSAs on retransmission consent negotiations and fees.

*Online Video Distributors*

7. OVD Providers

30. In the video marketplace, Internet-delivered video services are expanding and evolving quickly and significantly. Linear programming is becoming increasingly available. And new OVD service offerings are provided by both new entrants to the marketplace and existing industry participants developing new products. The Commission has in the past defined an ''OVD'' as any entity that offers video content by means of the Internet or other Internet Protocol (IP)-based transmission path provided by a person or entity other than the OVD. Pursuant to the definition, an OVD has not included an MVPD inside its MVPD footprint or an MVPD to the extent it is offering online video content as a component of an MVPD subscription to customers whose homes are inside its MVPD footprint. As these developments continue apace, the Commission may wish to consider modifying the definition of ''OVD'' it has used in previous Reports to better reflect the evolving marketplace. For instance, some traditional MVPDs are offering or considering offering Internet-delivered services that would not be restricted to subscribers to their traditional MVPD services. Moreover, the Commission has opened a proceeding to consider whether an Internet-delivered service that offers linear programming, as DISH's Sling TV, for example, does, should be considered to be an MVPD as that term is defined in the Communications Act. We will want to consider any revised definition of OVD in coordination with any action the Commission may take in the MVPD proceeding. In the meantime, for purposes of the 17th Report we seek data on services that fall within our previous definition of OVD and on other

Internet-delivered services that are available or are becoming available that should be considered in an assessment of the state of competition in this segment of the marketplace.

31. In the *16th Report,* we categorized and discussed OVD providers in terms of the types of services offered (*e.g.,* subscription, advertising-supported, rental, electronic sell-through, and sports). We expect to follow a similar approach in the 17th Report. Because OVDs are relatively new entities in the video marketplace, data regarding this category tends to be more dispersed and less standardized and reliable, relative to more long-established data for the MVPD and broadcast station categories. We seek comment on the most comprehensive and most reliable data sources for OVDs, individually and as a group.

32. *Horizontal Concentration.* Because OVDs may be accessed wherever consumers can connect to high-speed Internet, we assume that OVDs compete with one another in a national marketplace. In the *16th Report,* we noted the difficulty of measuring OVD market shares as many OVDs are subsidiaries or divisions of companies that do not report data separately for OVD services. We seek comment on an appropriate measure of OVD horizontal concentration.

33. *Vertical Integration.* Some OVDs are vertically integrated with MVPDs, video content creators and aggregators, and manufacturers of devices used for viewing video programming. In addition, some OVDs provide video storage services and operate content delivery networks (CDNs). Do these vertical relationships strengthen the competitive positions of OVDs? We seek data, information, and comment regarding OVD vertical integration and its impact on competition in the marketplace for the delivery of video programming.

34. *Regulatory and Marketplace Conditions Affecting Competition.* We request data, information, and comment on regulatory and marketplace conditions that affect OVDs' ability to compete for the delivery of video programming. OVD regulations include possible reclassification of some OVDs as MVPDs, Open Internet rules, and IP closed captioning requirements for video programming. OVDs depend on ISPs to deliver video content to consumers. To what extent does this dependence impact the ability of OVDs to compete in the marketplace for the delivery of video programming? Are ISPs providing consumers with sufficient Internet speeds to view OVD programming whenever, and wherever, and on whatever devices they choose? Do ISPs that are also MVPDs have incentives to disadvantage OVDs? What specific actions are OVDs and ISPs taking individually or cooperatively to improve video streaming quality and facilitate the viewing of video online? Do OVDs encounter unique issues (relative to MVPDs and broadcast stations) when acquiring content rights?

8. OVD Business Models and Competitive Strategies

35. We seek information on the business models and competitive strategies OVDs use to compete in the marketplace for the delivery of video programming. How do OVDs differentiate their services and attract consumers? What are the key differences in terms of the video service offerings, picture quality, original programming, distinctive content, linear programming, video streaming quality, enabling viewing on multiple devices, pricing, and revenue sources?

36. We are interested in the extent of substitution between OVDs and MVPDs and between OVDs and over-the-air broadcast services. We seek data, information, and comment on the extent of substitution between OVDs and MVPDs and between OVDs and over-the-air broadcast services. Do OVDs compare their video services to MVPD and over-the-air services? To what extent do OVDs market themselves as substitutes for MVPD and over-the-air services? What specific marketing activities have OVDs used, if any, to encourage households to rely more on the video services of OVDs than on MVPDs and over-the-air broadcast stations? Substitution involves both the video content offered and relative prices. What effects have the prices charged by OVDs had on substitution?

9. Selected OVD Operating and Financial Statistics

37. In the *16th Report,* we provided the following OVD operating and financial statistics: Usage, viewership, subscribership, revenue, investment, and profitability. In the 17th Report, we again plan to report on these operating and financial statistics. We seek information concerning the amount and type of video programming OVDs offer (*e.g.,* television programs, movies, and sports). We seek data on the number of consumers who view OVD programming, the number of programs they view, and the amount of time they spend viewing. We seek data on OVD revenue from subscriptions, advertising, and fees for video rentals and sales.

**II. Consumer Premises Equipment**

38. Consumer premises equipment (CPE) refers to devices that enable consumers to watch video content delivered by MVPDs, broadcast stations, and OVDs. We seek comment on the major developments in CPE devices that affect competition in the marketplace for the delivery of video programming. What new CPE products have been introduced? What are the major technological developments in CPE?

39. While consumers have traditionally leased the set-top boxes necessary for viewing MVPD programming, they purchase most other CPE devices. We seek comment on the competitive strategies associated with leasing set-top boxes. We also seek comment on the effects of set top box leasing on innovation and investment in CPE devices. To what extent do the set-top boxes provided by MVPDs limit the ability to access programming offered by OVDs? What are the consumer benefits and costs of leased set-top boxes? What alternatives do MVPD subscribers have to leasing a set-top box? We seek information and comment on the availability of retail alternatives to leased set-top boxes. Are consumers able to receive the full suite of an MVPD's video services via these retail alternatives?

**III. Consumer Behavior**

40. We request data on the number or percentage of households that have HD televisions, ultra HD televisions, Internet-connected televisions, DVRs, and mobile video devices (*e.g.,* laptops, tablets, and smartphones). We also seek data on trends that compare consumer viewing of linear video programming with time-shifted programming. To what extent are consumers dropping or limiting MVPD services in favor of OVDs or a combination of OVDs and over-the-air television? Do some consumers view OVD services separately, or in conjunction with over-the-air broadcast television services as a potential substitute for some or all MVPD services? Do consumers who do not subscribe to MVPD services share common characteristics? We seek comment on the relationship between consumer behavior (*e.g.,* binge viewing, time shifting, viewing outside the home, viewing on multiple devices) and the business models and competitive strategies of entities in the marketplace for the delivery of video programming.

41. MVPD, OVDs, and broadcast stations use television, newspapers, mailings, and Web sites to reach potential consumers and provide information about video services and

prices. Do consumers have sufficient information to easily compare video services and price offerings? What do consumers value most when choosing between and among MVPDs, broadcast stations, and OVDs? What reasons do consumers give for switching from MVPD services to reliance on OVDs and/or over-the-air services (*e.g.,* price, programming)?

**IV. Additional Issues**

42. With this *Notice,* we seek data, information, and comment on a wide range of issues in order to report on the status of competition in the market for the delivery of video programming. To make the 17th Report as useful as possible, are there other issues, additional information, or data we should include in the report? In the interest of streamlining the report, we request comment on issues, information, and data that could be modified or eliminated without impairing the value of the 17th Report to Congress on the status of competition in the marketplace for the delivery of video programming.

**Procedural Matters**

43. Ex Parte Rules. There are no ex parte or disclosure requirements applicable to this proceeding pursuant to 47 CFR 1.204(b)(1).

44. Comment Information. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 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). All filings concerning matters referenced in this document should refer to MB Docket No. 12–203.

45. Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*

46. 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 Street 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 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:* Contact the FCC 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).

47. For further information about this *Notice,* please contact Dan Bring at (202) 418–2164, *danny.bring@fcc.gov,* or Marcia Glauberman at (202) 418–7046, *marcia.glauberman@fcc.gov.*

Federal Communications Commission.

**Thomas Horan,**

*Chief of Staff.*

[FR Doc. 2015–18215 Filed 7–23–15; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL RESERVE SYSTEM

**[Docket No. R–1503]**

## Application of Enhanced Prudential Standards and Reporting Requirements to General Electric Capital Corporation

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final order applying enhanced prudential standards and reporting requirements to General Electric Capital Corporation.

**SUMMARY:** General Electric Capital Corporation (GECC) is a nonbank financial company that the Financial Stability Oversight Council (Council) has designated under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) for supervision by the Board of Governors of the Federal Reserve System (Board). Section 165 of the Dodd-Frank Act provides that the Board must, as part of its supervision of a nonbank financial firm designated by the Council, adopt enhanced prudential standards for the firm that help prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress or failure of the firm. This final order establishes these enhanced prudential standards for GECC. In light of the substantial similarity of GECC's activities and risk profile to that of a similarly sized bank holding company, the enhanced prudential standards adopted by the Board are similar to those that apply to large bank holding companies, including capital requirements; capital-planning and stress-testing requirements; liquidity requirements; risk-management and risk-committee requirements; and reporting requirements. The Board has tailored these standards to reflect GECC's risk profile and its ongoing plan to divest certain assets and business lines and reorganize its operations. The Board has also deferred application of the enhanced capital, liquidity, governance, and reporting provisions until January 1, 2018.

**DATES:** The final order is effective in two phases. Phase I Requirements, as described more fully below, are effective on January 1, 2016. Phase II Requirements, as described more fully below, are effective on January 1, 2018, unless otherwise noted.

**FOR FURTHER INFORMATION CONTACT:** Ann Misback, Associate Director, (202) 452–3799, Jyoti Kohli, Senior Supervisory Financial Analyst, (202) 452–2539, or Elizabeth MacDonald, Senior Supervisory Financial Analyst, (202) 475–6316, Division of Banking Supervision and Regulation; or Laurie Schaffer, Associate General Counsel, (202) 452–2277, Tate Wilson, Counsel, (202) 452–3696, or Dan Hickman, Attorney, (202) 973–7432, Legal Division.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I. Introduction
II. Framework for Supervision of GECC and Enhanced Prudential Standards
A. Phase I Requirements
1. Capital Requirements
2. Liquidity Requirements
B. Phase II Requirements
1. Risk-Management and Risk Committee Requirements
2. Capital Requirements—Additional Risk-Based and Leverage Capital Requirements
3. Capital Planning Requirements—Capital Plan Rule
4. Stress Testing Requirements
5. Liquidity Requirements
6. Other Prudential Standards: Restrictions on Intercompany Transactions
7. Future Standards

C. Reporting Requirements
1. Phase I Requirements
2. Phase II Requirements
III. Paperwork Reduction Act
IV. Final Order

## I. Introduction

General Electric Capital Corporation (GECC) is a major financial company with approximately $482 billion in total assets as of March 31, 2015, approximately 55 percent of which are in the United States. It provides a wide variety of credit and other financial products to consumers and businesses in the United States and overseas. These include commercial loans and leases, equipment financing, consumer mortgages, various types of consumer loans, commercial real estate financing, auto loans, credit cards, private mortgage insurance, and other financial services. GECC also operates two large insured depository institutions, Synchrony Bank and GE Capital Bank, with combined total assets of approximately $74 billion as of March 31, 2015. In addition to the funding obtained by these insured depository institutions through collection of deposits, GECC is a large issuer of commercial paper, with approximately $25 billion outstanding as of March 31, 2015. GECC is wholly owned by General Electric Company (GE).

After reviewing the activities, structure, size, scope, and risks of GECC's operations and activities, the Financial Stability Oversight Council (Council) determined that GECC should be subject to supervision by the Board in order to help mitigate the risks that the failure of GECC might pose to financial stability in the United States. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) provides the Board with the authority to examine GECC, including its operations, activities and risk management, and to take a variety of supervisory actions to protect the financial stability of the United States. As a result of this designation, the Federal Reserve has already initiated a program to examine and supervise the operations, activities, and risk management of GECC. In addition, because GECC has for some time controlled and currently continues to control a savings association, GECC is a savings and loan holding company subject to examination, supervision, and other regulatory requirements under the Home Owners' Loan Act, as amended.[1]

In addition to these supervisory and regulatory requirements, section 165 of the Dodd-Frank Act directs the Board to establish enhanced prudential standards for nonbank financial companies that the Council has determined should be supervised by the Board (as well as for certain bank holding companies) in order to prevent or mitigate risks to U.S. financial stability that could arise from the material financial distress or failure, or ongoing activities of, these companies.[2] By statute, the enhanced prudential standards must include risk-based and leverage capital requirements, liquidity requirements, risk-management and risk-committee requirements, resolution-planning requirements, single-counterparty credit limits, stress-test requirements, and a debt-to-equity limit under certain circumstances.[3] Section 165 also permits the Board to establish additional enhanced prudential standards, including a contingent capital requirement, an enhanced public disclosure requirement, a short-term debt limit, and any other prudential standards that the Board determines are appropriate.[4]

In prescribing enhanced prudential standards, section 165(a)(2) of the Dodd-Frank Act permits the Board to tailor the enhanced prudential standards among companies on an individual basis, taking into consideration their ''capital structure, riskiness, complexity, financial activities (including the financial activities of their subsidiaries), size, and any other risk-related factors that the Board of Governors deems appropriate.'' [5] In addition, under section 165(b)(3) of the Dodd-Frank Act, the Board is required to take into account differences among bank holding companies covered by section 165 and nonbank financial companies supervised by the Board.[6]

The Board has issued by rule an integrated set of enhanced prudential standards for large bank holding companies and foreign banking organizations. These enhanced prudential standards include a capital planning rule,[7] a stress testing rule,[8] a resolution plan rule,[9] and enhanced liquidity requirements.[10] The Board also adopted an enhanced supplementary leverage ratio for the largest, most complex bank holding companies and has proposed a risk-based capital surcharge framework for U.S. global systemically-important banks (G–SIBs).[11] This integrated set of standards is designed to enhance the resiliency of these companies and mitigate the risk that their failure or material financial distress could pose to U.S. financial stability. The Board may issue additional standards through rulemakings in the future.

In considering the application of enhanced prudential standards to nonbank financial companies supervised by the Board, the Board has stated that it intends to take account of the business model, capital structure, risk profile, and systemic footprint of a designated company.[12] Consistent with this approach, in November 2014, the Board proposed a number of enhanced prudential standards for GECC.[13]

In light of the substantial similarity of GECC's current activities and risk profile to that of a similarly sized bank holding company, the Board proposed to apply enhanced prudential standards to GECC that are similar to those that apply to large bank holding companies. Specifically, the Board proposed to apply: (1) Capital requirements; (2) capital-planning and stress-testing requirements; (3) liquidity requirements; and (4) risk-management and risk-committee requirements. The Board also proposed certain additional enhanced prudential standards for GECC in light of the unique aspects of GECC's activities, risk profile, and structure. These included certain independence requirements for GECC's board of directors and restrictions on intercompany transactions between GECC and its parent, GE, and certain affiliates. In addition, the Board proposed to require GECC to file certain reports with the Board that are similar to the reports required of bank holding companies. GECC was separately required by rule to submit a resolution plan.[14]

[1] 12 U.S.C. 1461, *et. seq.*

[2] 12 U.S.C. 5365.

[3] 12 U.S.C. 5365(b)(1)(A), (e), and (i). The debt-to-equity limit applies if the Council also determines the firm poses a grave threat to the financial stability of the United States, a finding the Council has not made in the case of GECC. *See* 12 U.S.C. 5365(j).

[4] 12 U.S.C. 5365(b)(1)(B).

[5] 12 U.S.C. 5365(a)(2).

[6] 12 U.S.C. 5365(b)(3).

[7] 12 CFR 225.8.

[8] 12 CFR part 252.

[9] 12 CFR part 243. The Board's resolution plan rule applies by its terms to all nonbank financial companies supervised by the Board, including GECC. *See* 12 CFR 243.1(b), .2(f)(1)(i).

[10] *See* 12 CFR part 249; *see also* 79 FR 17240, 17252 (March 27, 2014).

[11] *See* 79 FR 24528 (May 1, 2014); 79 FR 75473 (December 18, 2014).

[12] *See* Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking organizations, 79 FR 17240, 17245 (March 27, 2014).

[13] Application of Enhanced Prudential Standards and Reporting Requirements to General Electric Capital Corporation, 79 FR 71768 (December 3, 2014) (Proposed Order).

[14] 12 CFR 243.3(a).

The Board invited comment on this proposal from the public.[15] The Board received 21 comments on the proposed order including comments from certain of GE's directors, GECC, other companies, industry associations, and individuals. Several commenters supported application of the proposed enhanced prudential standards to GECC, and asserted that it was appropriate to require GECC to comply with standards similar to those applicable to bank holding companies. In its comments, GECC recognized the importance of the Federal Reserve's supervision in ensuring the safety and soundness of the U.S. financial system, and the purpose of enhanced prudential standards generally for a large, interconnected, and complicated financial firm such as the current GECC.

Some commenters, including GECC, asserted however that the proposed standards were not sufficiently tailored to GECC. For example, GECC and a financial services trade association suggested that standards for G–SIBs should not be applied to GECC because they believed GECC's business model, capital structure, risk profile, and systemic footprint were unlike those of the U.S. G–SIBs. Several commenters, including GECC, investment advisers, and corporate governance associations also criticized the corporate governance standards in the proposed order, arguing that they were inconsistent with Delaware law and inappropriate for GECC. In addition, GECC and financial services trade associations requested that GECC be granted additional time for compliance with the standards and the reporting requirements set forth in the proposed order in order to help GECC address operational and technological challenges associated with compliance. Some commenters, including trade associations for insurance companies, argued that it was inappropriate to issue an order for a specific nonbank financial company.[16] These commenters also expressed concern that the Board might apply similar standards to nonbank financial companies with predominantly insurance activities. A detailed discussion of the comments on particular aspects of the proposal is provided below.

In April 2015, after the Board invited comment on its proposed order regarding GECC, GE and GECC announced plans to significantly reorganize and refocus GECC. Under this proposal, GECC would divest or liquidate much of its commercial lending and leasing operations and all of its consumer lending businesses, including its U.S. banking operations, and shrink its total assets from approximately $482 billion to approximately $140 billion by year-end 2017. The divestitures are subject to a detailed plan with a definitive timeline. GECC has already begun to implement this plan, including by selling an indirect interest in its savings association and selling a significant amount of commercial real estate assets, and GECC has stated that it expects to complete its reorganization plan within three years. GECC plans to retain only those businesses directly related to GE's core industrial businesses, which it identifies as aviation, energy, and health-care. As part of this divestiture plan, GECC has indicated that it intends to seek rescission of the Council designation when appropriate.[17]

## II. Framework for Supervision of GECC and Enhanced Prudential Standards

The Board is required to consider a variety of factors when establishing enhanced prudential standards for large bank holding companies and nonbank financial companies supervised by the Board and to adapt those standards as appropriate in light of the predominant lines of business of the companies.[18] The Board is also permitted by statute to tailor application of enhanced prudential standards based on the capital structure, riskiness, complexity, financial activities, size, and other risk factors regarding the company as the Board deems appropriate.[19]

The Board has taken these factors into account, as well as information and views provided by GE and the public commenters, in establishing enhanced prudential standards for GECC. One commenter asserted that GECC differs substantially from bank holding companies and that standards for bank holding companies were inappropriate for GECC. This commenter asserted that, because GECC is a financing arm of an industrial company, its activities, objectives, and risk profile differ from those of a bank holding company. The commenter also asserted that the proposal would adversely affect financing for businesses and consumers that purchase products from GE. Several other commenters argued, on the other hand, that standards developed for bank holding companies are appropriate for GECC, and urged the Board to strengthen standards further for both bank holding companies and GECC.

As a starting point for assessing appropriate prudential standards, the Board notes that GECC engages in financial activities that are very similar to those of the largest bank holding companies. GECC's leverage, off-balance-sheet exposures, risk profile, asset composition, interconnectedness with other large financial firms, and mix of activities are substantially similar to those of many large bank holding companies. GECC is a significant participant in financing activities, including as a provider of consumer and commercial credit in the United States. As noted above, like many of the largest bank holding companies, GECC focuses its activities primarily on lending and leasing to commercial companies and on consumer financing and deposit products. GECC holds a large portfolio of on-balance sheet financial assets, such as commercial and consumer loans and investment securities, that is comparable to those of the largest bank holding companies.

Moreover, GECC borrows in the wholesale funding markets by issuing commercial paper and long-term debt to wholesale counterparties, and makes significant use of derivatives to hedge interest rate risk, foreign exchange risk, and other financial risks. GECC currently controls two insured depository institutions that offer traditional banking products to both consumer and commercial customers.[20] Similar to the insured depository institutions of large bank holding companies, GECC's subsidiary insured depository institutions serve as a significant source of funding and as a source of credit for a portion of its lending activities.

To address the similarities in these risks, structure, and activities, and to account for the unique characteristics of GECC and its ongoing restructuring plan, the Board has determined to establish a supervisory program and framework of enhanced prudential

[15] Proposed Order, 79 FR at 71769.

[16] Some commenters, in particular trade associations for insurance companies, asserted that, while they did not have any particular view on GECC's structure or the appropriateness of bank holding company standards for GECC, the Board should develop standards for insurance companies that are specific to the insurance industry, and should propose those standards through a public rulemaking process. The Board followed a public comment process in proposing and adopting enhanced prudential standards for GECC. The Board expects to follow a public comment process when proposing and establishing enhanced prudential standards for other companies designated by the Council, and will determine the appropriate process and appropriate enhanced prudential standards based on each case.

[17] GE Press Release, April 10, 2014 (GE Announcement), *available at: http://www.genewsroom.com/press-releases/ge-create-simpler-more-valuable-industrial-company-selling-most-ge-capital-assets.*

[18] 12 U.S.C. 5365(b)(3).

[19] 12 U.S.C. 5365(a)(2).

[20] As discussed above, GECC intends to divest Synchrony Bank and GE Capital Bank.

standards for GECC that would proceed in two stages.[21]

As explained more fully below, in order to ensure that GECC has adequate capital and liquidity to support its current operations and to mitigate the risk to financial stability that might occur if GECC were to come under stress while implementing its divestiture plan, effective January 1, 2016, the final order applies capital standards applicable to bank holding companies, liquidity standards applicable to the largest bank holding companies, and certain reporting requirements. These Phase I Requirements require GECC to comply with the standardized risk-based capital requirements, restrictions on distributions and certain discretionary bonus payments associated with the capital conservation buffer, the traditional balance-sheet leverage ratio requirement in the Board's regulatory capital framework, as well as with the liquidity coverage ratio rule (LCR rule) applicable to bank holding companies with $250 billion or more in total consolidated assets or $10 billion or more in on-balance-sheet foreign exposures (advanced approaches banking organizations), as described further below. Beginning January 1, 2016, GECC would also be required to comply with certain reporting requirements that support the risk-based capital requirements, the leverage ratio, the LCR rule, and the Board's supervision of GECC to mitigate risks to the financial stability of the United States.

GECC is currently subject to a number of statutory, regulatory, and supervisory requirements, and will continue to be subject to these requirements in addition to the Phase I Requirements. GECC is subject to examination by the Federal Reserve, the enforcement authority of the Board, resolution planning requirements, and approval requirements for expansion proposals.[22] GECC is also subject to limits on concentrations that generally prohibit GECC from merging with or acquiring another company if the resulting company's liabilities upon consummation would exceed 10 percent of the aggregate liabilities of all financial companies.[23] The Board has been supervising GECC pursuant to the consolidated supervision framework for large financial companies.[24] Finally, the final order does not preempt or otherwise alter the Board's authority to supervise GE, GECC, and GE Consumer Finance, as savings and loan holding companies under the Home Owners' Loan Act,[25] so long as they control a savings association.

The Board also believes that certain enhanced prudential standards should be applied in the supervision of GECC. These Phase II Requirements are more stringent than the minimum requirements applicable to bank holding companies. At the same time, the Board has tailored the enhanced standards to account for certain unique structures and risks at GECC. Moreover, in light of the reorganization plan currently underway at GECC and the amount of resources and systems necessary to implement these enhanced prudential standards, the Board has delayed the imposition of these standards until January 1, 2018.

As explained more fully below, these enhanced prudential standards include general risk management standards, enhanced capital standards, capital planning, stress testing, enhanced liquidity risk management standards, and restrictions on intercompany transactions. They also include requirements to file additional reports with the Board.

The delayed timing of the Phase II Requirements reflects the public commitment that GE and GECC have made to their divestiture and reorganization plans, progress observed to date on GECC's execution of its plans, and other changes at GE and GECC since issuance of the proposed order. GECC has noted that it intends to request that the Council rescind its designation in 2016.[26] If the designation of GECC is rescinded prior to January 1, 2018, these enhanced prudential standards would not apply to GECC. In the event that GECC is unable to complete or implement the divestiture plan as expected or if the Council does not rescind GECC's designation, the effective date of January 1, 2018, for the Phase II Requirements provides GECC with sufficient time to prepare for compliance with the requirements of the final order.

The Board expects to continue to monitor and assess GECC's activities and risk profile, and, in accordance with the requirements of section 165 of the Dodd-Frank Act, to take into account any additional factors or considerations, as necessary, in the adoption of future standards, or in tailoring of any standards imposed in the future.

*A. Phase I Requirements*

1. Capital Requirements

The Board has long held the view that a bank holding company generally should maintain capital that is commensurate with its risk profile and activities so that the firm can meet its obligations to creditors and other counterparties, as well as continue to serve as a financial intermediary, through periods of financial and economic stress.[27] Bank holding companies that are comparable in size, complexity, activities, and risk to GECC are subject to a capital framework that includes a minimum common equity tier 1 risk-based capital ratio of 4.5 percent, a minimum tier 1 risk-based capital ratio of 6 percent, a minimum total risk-based capital ratio of 8 percent, a common equity tier 1 capital conservation buffer of 2.5 percent of risk-weighted assets, a standardized methodology for calculating risk-weighted assets, and a 4 percent minimum leverage ratio of tier 1 capital to average total consolidated assets (the generally applicable leverage ratio).

Because GECC's activities and balance sheet are substantially similar to those of a large bank holding company, the Board proposed to apply the same capital framework to GECC. The final order requires GECC, beginning on January 1, 2016, to maintain the minimum risk-based capital ratios and the generally applicable leverage ratio described above, to comply with restrictions on capital distributions and certain discretionary bonus payments associated with the capital conservation buffer, and to calculate risk-weighted assets using the standardized methodology.[28] These regulatory capital requirements will help to ensure that GECC maintains high-quality regulatory capital in amounts commensurate with

[21] The final order applies to GECC and to any successor to GECC, without further action by the Board.

[22] *See* 12 U.S.C. 5361(b) (establishing examination authority); 5362 (establishing enforcement authority), 5365(d) (requiring submission of a resolution plan), and 5363(b) (requiring the prior approval of the Board for certain acquisitions).

[23] *See* 12 CFR part 251.

[24] *See* Supervision and Regulation Letter SR 12–17, *Consolidated Supervision Framework for Large Financial Institutions* (December 17, 2012) (SR 12–17) (establishing risk-management guidance and supervisory expectations for nonbank financial companies supervised by the Board), *available at: http://www.federalreserve.gov/bankinforeg/srletters/sr1217.htm.*

[25] 12 U.S.C. 1467a, *et. seq.*

[26] Letter from Keith S. Sherin, Chairman & CEO, GECC, to Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, May 4, 2015, available at: *http://www.federalreserve.gov/SECRS/2015/May/20150506/R-1503/R-1503_050415_129930_568761743161_1.pdf.*

[27] *See* 12 CFR part 217; 12 CFR 225.8; SR 12–17, *supra* note 24; Supervision and Regulation Letter 99–18, *Assessing Capital Adequacy in Relation to Risk at Large Banking Organizations and Others with Complex Risk Profiles* (July 1, 1999) (SR 99–18), *available at: http://www.federalreserve.gov/boarddocs/srletters/1999/SR9918.HTM.*

[28] *See* 12 CFR part 217, subpart D.

its risk as it executes its divestiture plan. Compliance with these basic capital requirements should not require substantial incremental operational investments by GECC.

2. Liquidity Requirements

On September 3, 2014, the Board adopted the LCR rule, which implements a quantitative liquidity requirement consistent with the liquidity coverage ratio (LCR) standard established by the Basel Committee on Banking Supervision.[29] The LCR rule is designed to promote the resilience of the short-term liquidity risk profile of large complex banking organizations, thereby improving the banking sector's ability to measure and manage liquidity risk and to absorb shocks arising from financial and economic stress. The LCR rule requires a company subject to the rule to maintain an amount of high-quality liquid assets (HQLA) (the numerator of the ratio) that is equal to or greater than its total expected net cash outflows over a prospective 30 calendar-day period (the denominator of the ratio).

The LCR rule does not by its terms apply automatically to nonbank financial companies supervised by the Board such as GECC. Rather, the Board indicated when it adopted the LCR rule that, following designation of a nonbank financial company for supervision by the Board, the Board would assess the business model, capital structure, and risk profile of the designated company to determine whether the LCR rule should apply to the company, and, if appropriate, would tailor application of the rule's requirements by order or regulation to that nonbank financial company or to a category of nonbank financial companies.

The Board proposed to apply to GECC the requirements in the LCR rule that apply to advanced approaches banking organizations beginning July 1, 2015. The proposed order would have adopted the same transition periods and compliance timelines for GECC as applied to advanced approaches banking organizations that have less than $700 billion in total consolidated assets and less than $10 trillion in assets under custody. These transition periods would have permitted GECC to conduct LCR calculations on a monthly (rather than daily) basis until July 1, 2016, and would have required GECC to maintain an LCR of at least 80 percent from July 1, 2015 to December 31, 2015, an LCR of at least 90 percent from January 1, 2016 to December 31, 2016, and an LCR of at least 100 percent thereafter.[30]

In comments on the proposed order, GECC requested that the Board defer the requirement to calculate its LCR daily until January 1, 2018. GECC also requested that application of the LCR rule to GECC be tailored to reflect GECC's inability to hold significant Federal Reserve Bank balances and its holding of substantial amounts of deposits at third-party banks. GECC noted that it maintains a greater proportion of its cash liquidity in third-party commercial bank deposits that are not credited as HQLA and are subject to a 75 percent cap on net inflows. GECC requested that the LCR requirements as applied to GECC count GECC's deposits in third-party commercial banks as inflows in the denominator of the LCR, consistent with the LCR that applies to bank holding companies, and that the inflows not be subject to the 75 percent cap if the third-party commercial bank or its holding company is subject to the full LCR or a foreign equivalent and the deposits are not concentrated in any one affiliated group of banks.

The final order requires GECC to comply with the LCR rule beginning January 1, 2016, to maintain an LCR of at least 90 percent from January 1, 2016 to December 31, 2016, and to maintain an LCR of at least 100 percent thereafter. The January 1, 2016, effective date for the 90 percent requirement is consistent with the proposed order and with the liquidity levels already maintained by GECC. The ability to rapidly monetize HQLA is expected to assist GECC in meeting its liquidity needs during a period of acute short-term liquidity stress and therefore both improve the firm's resiliency and reduce the likelihood of fire-sales of less liquid assets, which can damage financial stability. Because the LCR rule applies outflow and inflow rates that are based on the particular risk profile and activities of a company subject to the rule, the LCR requirements would be appropriately tailored to GECC's activities, balance sheet, and risk profile, and would help ensure that GECC holds a sufficient amount of HQLA to meet its expected net cash outflows over a 30 calendar-day stress period.[31]

As noted above, GECC requested that the Board tailor the application of the LCR rule to reflect its inability to hold significant Federal Reserve Bank balances and its greater proportion of liquidity maintained in third-party commercial banks. Central bank reserves are not, however, the only qualifying HQLA under the LCR rule. Various high-credit-quality securities are also counted as HQLA under the LCR rule. Further, reducing the cash inflow cap and allowing GECC to rely heavily on inflows from deposits at third-party banks to offset cash outflows would increase the interconnectedness of the financial system and could reduce systemic stability. As the Board noted in the preamble to the final LCR rule,[32] such deposits do not meet the Board's LCR criteria for HQLA because during a liquidity stress event many commercial banks may exhibit the same liquidity stress correlation and wrong-way risk. Further, adopting GECC's modification regarding third-party commercial bank deposits could reduce the value of horizontal comparisons between GECC and other companies with similar balance sheets and risk profiles. The final order therefore adopts this aspect of the proposal without change.

In recognition of the infrastructure necessary for daily LCR calculations, the Board has determined to defer requiring GECC to perform daily LCR calculations until January 1, 2018. Accordingly, the final order provides that GECC may calculate its LCR monthly on each calculation date that is the last business day of the applicable calendar month until January 1, 2018.

*B. Phase II Requirements*

1. Risk-Management and Risk Committee Requirements

Sound enterprise-wide risk management by a large financial company reduces the likelihood of its material distress or failure and thus promotes financial stability. Section 165(b)(1)(A) of the Dodd-Frank Act requires the Board to establish enhanced risk-management requirements for nonbank financial companies supervised by the Board and bank holding companies with total consolidated assets of $50 billion or more.[33] In addition, section 165(h) directs the Board to issue regulations requiring publicly traded nonbank financial companies and publicly traded

[29] 79 FR 61440 (October 10, 2014); *see* 12 CFR part 249.

[30] 12 CFR 249.50(b).

[31] As indicated in the supplementary information section of the LCR rule, the Board anticipated separately seeking comment on proposed regulatory reporting requirements and instructions pertaining to the LCR. 79 FR 61440, 61445 (October 10, 2014). In December 2014, the Board proposed revisions to liquidity reporting requirements that would relate to the LCR calculation. The Board proposed these reporting requirements and instructions to apply to any nonbank financial company supervised by the Board that the Board has required by rule or order to comply with the LCR. 79 FR 71416, 71417 (December 2, 2014).

[32] *See* 79 FR 61440, 61457 (October 10, 2014).

[33] 12 U.S.C. 5365(b)(1)(A)(iii).

bank holding companies with total consolidated assets of $10 billion or more to establish risk committees.[34] Section 165(h) requires the risk committee to be responsible for the oversight of the enterprise-wide risk-management practices of the company, to have such number of independent directors as the Board determines appropriate, and to include at least one risk-management expert with experience in identifying, assessing, and managing risk exposures of large, complex firms.[35]

The Board has adopted risk-management standards in Regulation YY that require a covered bank holding company to tailor its compliance framework to the particular size, complexity, structure, risk profile, and activities of the organization. The Board has required all bank holding companies with $50 billion or more in total consolidated assets to establish a risk committee that is an independent committee of the company's board of directors, is chaired by an independent director, and has at least one member who has experience in identifying, assessing and managing risk exposures of large, complex financial firms.[36] The risk committee is required to approve and periodically review the risk-management policies of the bank holding company's global operations, oversee the operation of the bank holding company's global risk-management framework, and oversee the bank holding company's compliance with the liquidity risk-management requirements of Regulation YY.[37] In addition, a covered bank holding company is required to appoint a chief risk officer with experience in identifying, assessing and managing risk exposures of large, complex financial firms, and who has responsibility for establishing enterprise-wide risk limits for the company and monitoring compliance with such limits.[38]

Under Regulation YY, each covered bank holding company is required to establish a global risk-management framework that is commensurate with the company's structure, risk profile, complexity, activities, and size.[39] The risk-management framework is required to include policies and procedures for the establishment of risk-management governance and risk-control infrastructure of the company's global operations. In addition, the risk-management framework must include processes and systems for identifying and reporting risk-management deficiencies in an effective and timely manner, must establish managerial and employee responsibilities for risk management, must ensure the independence of the risk-management function, and must integrate risk management and associated controls with management goals and with the compensation structure for the global operations of the company.[40]

The proposed order would have required GECC to adopt a risk management framework that is consistent with the supervisory expectations established for bank holding companies of a similar size beginning July 1, 2015. The proposal also included a requirement that GECC establish a dedicated risk committee at GECC that would be responsible for the oversight of GECC's risk management.

The Board noted in the proposed order that in implementing these requirements, GECC would be expected to tailor its risk-management framework to suit the company's structure. The proposed order would also have applied additional risk-management requirements that were tailored to reflect GECC's structure as an intermediate holding company of a larger, publicly traded company.[41] To ensure that GECC's board of directors included members who were independent of GE, and whose attention was focused on the business operations and safety and soundness of GECC, the proposed order would have required that two or more of the directors of GECC be independent of GECC's management and of GE's management and board of directors. One of these directors would have been required to serve as the chair of GECC's risk committee.[42]

In addition, consistent with Regulation YY, GECC would have been required to maintain at least one director with expertise in ''identifying, assessing, and managing risk exposures of large, complex financial firms'' on its risk committee.[43]

Commenters, including GECC and the independent directors of GE, as well as several investment advisers and corporate governance associations, recognized the importance and heightened obligations of management of large financial firms for risk management and supported heightened enterprise wide risk management requirements, including a risk committee with expertise and independent leadership. GECC and the independent directors of GE pointed out that GE and GECC already have adopted several of the requirements in the Board's proposed order.

Several commenters, including GECC and the independent directors of GE, argued, however, that the proposal to require GECC to maintain at least two directors independent of GE's board of directors as well as GE and GECC management would create uncertainty about the responsibilities of those independent directors, who would be expected under the Board's proposed order to focus on the risks at GECC alone, and who simultaneously would owe a fiduciary duty under Delaware law to GE as the sole shareholder of GECC. Some commenters also questioned the Board's authority under the Dodd-Frank Act to impose this requirement.[44] GECC and the independent directors of GE proposed, instead, that independent directors on the GE board be permitted to comprise the majority of GECC's board of directors. They argued that this would ensure that the majority of directors at GECC were independent of both management of GE and management of GECC. GECC and the independent directors of GE asserted that the independent directors currently offer strong oversight of GECC's risk management that is independent of the management of either GE or GECC, and are well informed about the risks to GECC, including risks posed by the interactions between GE and GECC.

After considering the public comments, including those provided by GECC and GECC's current independent directors, the Board believes that requiring a specific number of individuals to serve on the GECC board who are not also members of the GE board is unnecessary in this case for achieving the overarching supervisory interest of ensuring that GECC board members are capable of dedicating time and resources to the unique issues and risks of GECC and focusing appropriate attention on ensuring that its operations are safe and sound and consistent with financial stability. The Board understands that GE has established a dedicated risk committee that oversees the risk management of GE and GECC. In this regard, the GE independent directors have devoted a significant

[34] 12 U.S.C. 5365(h); *see also* 12 CFR 252.2(p) (defining publicly traded).

[35] 12 U.S.C. 5365(h)(3).

[36] 12 CFR 252.33(a)(3), (4).

[37] 12 CFR 252.33(a).

[38] 12 CFR 252.33(b).

[39] 12 CFR 252.33(a)(2).

[40] *Id.*

[41] Proposed Order, 79 FR at 71778.

[42] 12 CFR 252.33(a)(4).

[43] *Id.*

[44] Although GECC does not have publicly traded shares of common equity, the company has debt securities that are publicly traded on the New York Stock Exchange under section 12(b) of the Securities Exchange Act of 1934.

amount of time over the past three years to providing the type of independent oversight contemplated by the Dodd-Frank Act and have demonstrated the willingness and ability to continue to remain fully engaged in their oversight of GECC.

Accordingly, the final order modifies the proposed risk-management requirements to require that a majority of the GECC board of directors be independent directors, unaffiliated with GE management or GECC management, with an independent director chair of the board and risk committee at GECC. This provision becomes effective on January 1, 2018. The final order does not require that the independent directors on GECC's board also be independent of the GE board.[45]

The final order also requires GECC to comply with the risk committee and risk-management framework requirements in section 252.33 of the Board's Regulation YY, beginning January 1, 2018.[46] The Board believes that consistent with the designation of GECC as a nonbank financial company, GECC's risk-management framework should have a dedicated risk committee at the company that is solely responsible for the oversight of GECC's risk management. In addition, the final order requires the entire GECC risk committee to be comprised of independent directors, unaffiliated with GE management or GECC management.

The Board believes these requirements satisfy the requirements of section 165(b)(1)(A) and (h) of the Dodd-Frank Act and establish a risk management structure that can be effective in identifying, monitoring, and mitigating risks at GECC. These requirements ensure that the perspectives of qualified individuals independent of the management of GE and GECC will have a strong voice in the governance of GECC and counterbalance any tendency to operate GECC in a manner that, while advantageous to GE as the sole shareholder of GECC, may pose risks to the financial stability of the United States.

2. Capital Requirements—Additional Risk-Based and Leverage Capital Requirements

In the proposed order, the Board would have required GECC, beginning on July 1, 2015, to comply with the regulatory capital framework applicable to a large bank holding company, including the minimum common equity tier 1, tier 1, and total risk-based capital ratios, the minimum generally-applicable leverage ratio, and any restrictions on capital distributions or discretionary bonus payments associated with the capital conservation buffer, described above. In addition to the generally applicable capital adequacy requirements described above, the capital framework contains supplemental measures applicable to the largest, most interconnected bank holding companies. For advanced approaches banking organizations, these include the advanced approaches risk-based capital rule, a supplementary leverage ratio of tier 1 capital to total leverage exposure of 3 percent, a requirement to include accumulated other comprehensive income (AOCI) in tier 1 capital, and a countercyclical capital buffer. The proposed order would also have applied these requirements, except for the requirement to comply with the advanced approaches rule.[47]

In comments on the proposed order, GECC requested that the enhanced capital requirements be deferred pending completion of GE and GECC's divestiture plan. In the alternative, GECC requested that the Board allow it to exclude recognition of AOCI in regulatory capital relating to investment securities held by legacy insurance businesses that it is winding-down. GECC argued that these securities are generally held for the long term, are used to support future payment obligations on outstanding insurance contracts, and are subject to fluctuations in value that can result in volatility in AOCI.

The Board believes that the enhanced capital framework adopted for the largest bank holding companies, including the requirement to recognize most elements of AOCI in regulatory capital, is an appropriate capital framework for GECC because of the similarities in activities, size, risk, and exposures of GECC to large bank holding companies. The maintenance of a strong base of capital by GECC, which the Council has designated as systemically important, is particularly important because capital shortfalls at GECC could endanger the financial health of the firm and contribute to systemic distress. Thus, the Board believes the regulatory capital framework applicable to advanced approaches bank holding companies represents the appropriate enhanced prudential standard for GECC, with the exception noted above regarding compliance with the advanced approaches rule. The Board notes that GECC appears to meet or exceed minimum levels required in the enhanced capital framework for the largest bank holding companies. However, as explained below, the Board has deferred application of these requirements until January 1, 2018, in light of GECC's ongoing restructuring efforts.

The proposed order also would have required GECC to meet a supplementary leverage ratio of 5 percent (eSLR) in order to avoid restrictions on capital distributions and discretionary bonus payments to executive officers.[48] The eSLR is designed to minimize leverage at banking organizations that pose substantial systemic risk, thereby strengthening the ability of such organizations to remain going concerns during times of economic stress and minimizing the likelihood that problems at these organizations would contribute to financial instability.[49]

GECC asserted that subjecting GECC to the eSLR was inappropriate because GECC does not meet the size threshold for application of the eSLR and should be exempt from the eSLR just as a bank holding company of similar size and risks. In the alternative, GECC argued that the Board should tailor the ratio to GECC's smaller systemic footprint. GECC also requested that, for purposes of calculation of the eSLR and other reporting requirements, GECC be permitted to phase in the daily averaging of on-balance sheet exposures beginning on July 1, 2018. GECC suggested that a phase-in schedule would allow GECC the time to implement all of the operational infrastructure necessary to complete daily averaging.

Consistent with the Dodd-Frank Act's requirement to apply enhanced leverage requirements to nonbank financial companies supervised by the Board, the final order retains the eSLR standard for GECC, but tailors the standard to GECC's risk profile, complexity, activities, and size. Specifically, the final order requires GECC to exceed a 4 percent supplementary leverage ratio in order to avoid restrictions on capital distributions and certain discretionary bonus payments, as opposed to the 5 percent supplementary leverage ratio required for other institutions subject to the eSLR. The lower requirement in the final order is intended to reflect GECC's

[45] The Board intends to monitor the effectiveness of GECC's independent directors and if the facts and circumstances indicate that the independent directors are unable to focus their attention on the business operations and safety and soundness of GECC, then the corporate governance and risk management requirements may be revised.

[46] 12 CFR 252.33.

[47] Proposed Order, 79 FR at 71772.

[48] 12 CFR 217.11(a)(4).

[49] *See* 79 FR 24528 (May 1, 2014).

smaller systemic footprint compared to other banking organizations subject to the eSLR, while still minimizing leverage at GECC and reducing the likelihood that problems at GECC would cause it to fail in a manner that affects financial stability. The Board has also determined to defer application of the eSLR until January 1, 2018. Because GECC will not be required to comply with either the SLR or the eSLR prior to January 1, 2018, the Board will not require daily averaging prior to that time.

With the exception of an eSLR, the Board is not through this order applying to GECC other standards established for G–SIBs. Accordingly, the Board would not, without further action, impose the proposed G–SIB risk-based capital surcharge to GECC or otherwise define GECC as a G–SIB. As the Board adopts additional standards for G–SIBs, the Board will consider whether it is appropriate to require GECC to comply with these additional standards and would seek notice and comment prior to applying such standards to GECC. Most commenters supported this approach.

3. Capital Planning Requirements—Capital Plan Rule

The recent financial crisis highlighted a need for large bank holding companies to incorporate into their capital planning forward-looking assessments of capital adequacy under stressed conditions. The crisis also underscored the importance of strong internal capital planning practices and processes among large bank holding companies. The Board issued the capital plan rule to ensure that large bank holding companies have robust systems and processes that incorporate forward-looking projections of revenue and losses to monitor and maintain their internal capital adequacy. By helping to ensure that the largest bank holding companies have sufficient capital to withstand significant stress and to continue to operate, the capital plan rule helps to ensure that the financial system as a whole can continue to function under stressed conditions.

The capital plan rule requires each bank holding company with $50 billion or more in total consolidated assets to develop an annual capital plan describing its planned capital actions and demonstrating its ability to meet a 5 percent tier 1 common capital ratio and maintain capital ratios above the regulatory minimum requirements under both baseline and stressed conditions over a forward-looking planning horizon.[50] A capital plan must also include an assessment of a bank holding company's sources and expected uses of capital, reflecting the size, complexity, risk profile, and scope of operations of the company, assuming both expected and stressed conditions. In addition, each bank holding company must describe its process for assessing capital adequacy, its capital policy, and provide a discussion of any expected changes to the bank holding company's business plan that are likely to have a material impact on the company's capital adequacy or liquidity.

Under the capital plan rule, the Board annually evaluates a large bank holding company's capital adequacy and capital planning practices and the comprehensiveness of the capital plan, including the strength of the underlying analysis. The Comprehensive Capital Analysis and Review (CCAR) is the Board's supervisory process for reviewing capital plans submitted by bank holding companies under the capital plan rule. As part of CCAR, the Board conducts a quantitative assessment of each large bank holding company's capital adequacy under an assumption of stressed conditions and conducts a qualitative assessment of the company's internal capital planning practices. If the Board objects to a bank holding company's capital plan, the company may not make any capital distribution other than those approved in writing by the Board or the appropriate Reserve Bank. A bank holding company that receives an objection may submit a revised capital plan for review by the Board.

To ensure that GECC continues to maintain sufficient capital and has internal processes for assessing its capital adequacy that appropriately account for the company's risks, the proposed order would have required GECC to comply with the Board's capital plan rule[51] for the capital plan cycle beginning January 1, 2016, and to submit its first submission under the capital plan rule on April 5, 2016.

Several commenters, including GECC and a public interest group, agreed generally that the application of capital planning to GECC would be appropriate. In particular, GECC acknowledged that capital planning would be an effective tool for ensuring its capital strength and safeguarding it in its interactions with GE. GECC, however, requested that the Board defer implementation of capital planning in order to allow it sufficient time to develop necessary internal systems and to focus its capital plan compliance efforts on the business and assets it intends to retain after the divestiture plan.

The Board has determined to adopt the capital planning requirements. As described above, GECC's activities, risk profile, and balance sheet are similar to those of large bank holding companies. Requiring GECC to comply with the Board's capital plan rule as if it were a large bank holding company will help ensure that GECC holds capital that is commensurate with its risk profile and activities, can meet its obligations to creditors and other counterparties, and can continue to serve as a financial intermediary through periods of financial and economic stress.[52]

The Board recognizes that, unlike domestic bank holding companies, GECC is an intermediate holding company of a larger, publicly-traded company. However, GECC is itself a significant entity designated by the Council for supervision by the Federal Reserve because of the threat posed by the material financial distress of GECC to financial stability. Notwithstanding the recently announced guarantee of much of GECC's debt, GE is not obligated to provide capital or other financial support to GECC and, during a period of stress, may not be able to provide that support. A robust capital planning process at GECC will help ensure that GECC manages its capital, and any capital distributions to its parent, in a manner that is commensurate with its risks and consistent with its safety and soundness.[53] The capital plan rule acts as a counterweight to pressures that a company may face to make capital distributions during a period of economic stress, thereby helping to mitigate the risk of material financial distress at GECC.

To account for the efforts that GE and GECC are undergoing to reorganize their operations, the Board has also determined to make the capital planning requirements effective beginning January 1, 2018. The Board recognizes that GECC likely will need time to build and implement the internal systems and infrastructure necessary fully to meet the requirements of the capital plan rule and the CCAR process. Moreover, for GECC's first capital plan cycle

[50] *See* 12 CFR 225.8.

[51] 12 CFR 225.8.

[52] *See* 12 CFR part 217; 12 CFR 225.8; SR 12–17, *supra* note 24; SR 99–18, *supra* note 27.

[53] In addition to GECC, other intermediate holding companies are subject to the capital plan rule. Notably, some U.S. bank holding company subsidiaries of foreign banking organizations participate in CCAR. In addition, under the Board's Regulation YY, all foreign banking organizations with $50 billion or more in U.S. non-branch assets are required to form a U.S. intermediate holding company subject to the capital plan rule. *See* 12 CFR 252, subpart O.

beginning on January 1, 2018, the quantitative assessment of GECC's capital plan under the capital plan rule will not be based on supervisory stress test estimates conducted pursuant to the Board's stress test rules.[54] Instead, the Board intends to conduct a more limited quantitative assessment of GECC's capital plan based on GECC's own stress scenario and any scenarios provided by the Board and a qualitative assessment of GECC's capital planning processes and supporting practices. This approach would be consistent with the capital plan review process that the Board used to evaluate the initial capital plan submissions of bank holding companies that were subject to the capital plan rule but that did not participate in the 2009 Supervisory Capital Assessment Program.

The Board also expects to communicate to GECC the Board's expectations on capital planning practices and capital adequacy processes in connection with its first capital plan submission. The Board intends to tailor its supervisory expectations on capital planning practices and capital adequacy processes for GECC to account for any material changes in the size, scope of activities, and risks of the company that result from the implementation of its divestiture plan.

4. Stress Testing Requirements

Section 165 of the Dodd-Frank Act requires the Board to conduct annual supervisory stress tests of each nonbank financial company supervised by the Board and requires the Board to issue regulations that require those companies to conduct company-run stress tests semi-annually.[55] In 2012, the Board, in coordination with the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Federal Insurance Office, adopted stress testing rules under section 165(i) of the Dodd-Frank Act (stress test rules).[56] The stress test rules establish a framework for the Board to conduct annual supervisory stress tests and require covered companies to conduct semi-annual company-run stress tests.

The stress tests conducted under the Board's stress test rules are complementary to the Board's review of a company's capital plan in the CCAR process. The Board's stress test rules require the use of stylized capital action assumptions to calculate the post-stress capital ratios, while the CCAR post-stress capital ratios use the company's planned capital actions in the baseline scenario provided by the Board under the stress test rules. The capital action assumptions in the Board's stress test rules are intended to make the results of the stress tests more comparable across institutions, which enhances the quality of the required public disclosure of the stress-testing results. Under the stress test rules, covered companies are also subject to mid-cycle company-run stress tests, in which companies develop and employ their own baseline, adverse, and severely adverse scenarios in conducting internal stress tests. For both the annual and mid-cycle company-run stress tests, covered companies must disclose the results of their company-run stress test conducted under the severely adverse scenario.

The proposed order would have required GECC to comply with the stress-testing requirements applicable to bank holding companies with $50 billion or more in total consolidated assets under the stress test rules[57] in the cycle beginning January 1, 2017. Several commenters, including GECC and a public interest group, agreed generally with the application of stress testing to GECC, asserting that it would be an important safeguard for GECC in its interactions with GE. GECC also acknowledged that stress testing would be an effective tool for ensuring its capital strength. GECC requested, however, that the Board defer implementation of stress testing requirements to January 1, 2018, in order to allow it sufficient time to develop the necessary internal systems and, ultimately, focus its stress-testing efforts on the business and assets it intends to retain after the divestiture plan.

The Board has determined to apply the stress test rules to GECC in the same manner as they currently apply to large bank holding companies because of the similarity in activities, risk profile, and balance sheet composition between GECC and large bank holding companies. Compliance with the stress testing requirements would enhance the capital planning process for GECC and regularly test the adequacy of GECC's capital against hypothetical stressed situations to ensure that its capital raising and capital distribution efforts adequately prepare the firm for potential stress environments. The stress testing requirements under the Board's stress test rules thus would enhance the resiliency of GECC and lessen the potential that its failure would have a significant adverse effect on financial stability. Because the supervisory stress tests are conducted on the basis of standardized scenarios and capital assumptions, supervisory stress testing of GECC would also allow supervisors and markets to assess GECC's capital adequacy compared with that of large bank holding companies that have comparable activities, risk profiles, and balance sheets.

The stress testing rules require a rigorous analysis and are dependent on accurate and detailed information regarding the composition, historical performance, and sensitivity to stress of the assets held by the company. GECC has not been subject to the stress-testing information collection requirements to date and its current divestiture efforts could have a significant impact on its ability to collect and report data that will reflect the nature of the company's activities during the nine-quarter period for the stress test. Consequently, to account for the divestiture plan and to allow GECC time to develop systems and processes for conducting stress tests and allow the Board adequate time to further assess the activities and risk profile of GECC and appropriately tailor the stress testing requirements based on GECC's systemic footprint, the Board has determined to require GECC to comply with the stress testing requirements starting with the stress testing cycle beginning January 1, 2019.

5. Liquidity Requirements

Section 165(b) of the Dodd-Frank Act directs the Board to adopt enhanced liquidity requirements for nonbank financial companies supervised by the Board as well for as bank holding companies with total consolidated assets of $50 billion or more.[58] Liquidity is measured by a company's capacity to efficiently meet its expected and unexpected cash outflows and collateral needs at a reasonable cost without adversely affecting the daily operations or the financial condition of the company. As noted above, the financial crisis of 2008–2009 illustrated that liquidity can evaporate quickly and cause severe stress at financial firms and in the financial markets, and demonstrated that even solvent financial companies may experience material financial distress if they do not manage their liquidity in a prudent manner. Through recent rulemakings and guidance, the Board has established quantitative liquidity requirements and qualitative liquidity risk-management standards in order to ensure the

[54] *See* 12 CFR part 252, subpart E.

[55] 12 U.S.C. 5365(i).

[56] 77 FR 62378 (October 12, 2012); 12 CFR part 252, subparts E and F.

[57] 12 CFR part 252, subparts E and F.

[58] 12 U.S.C. 5365(b)(1)(A)(ii).

resiliency of financial companies during periods of financial market stress.

To complement the LCR requirements described above, the proposed order would have applied the individualized liquidity risk-management requirements established in Regulation YY to GECC beginning July 1, 2015. The liquidity risk-management requirements of Regulation YY include requirements that the board of directors of a covered bank holding company approve an acceptable level of liquidity risk that the bank holding company may assume in connection with its operating strategies (liquidity risk tolerance), receive and review information from senior management regarding the company's compliance with the established liquidity risk tolerance, and approve and periodically review liquidity risk-management strategies, policies, and procedures established by senior management.[59] Regulation YY requires senior management of a covered bank holding company to establish and implement liquidity risk-management strategies, policies, and procedures, approved by the company's board of directors; review and approve new products and business lines; and evaluate liquidity costs, benefits and risks related to new business lines and products.[60] In addition, Regulation YY requires a covered bank holding company to establish and maintain procedures for monitoring collateral, legal entity exposures, and intraday liquidity risks, and requires an independent review of a covered bank holding company's liquidity risk-management processes and its liquidity stress-testing processes and assumptions.[61]

Regulation YY also requires covered bank holding companies to produce comprehensive cash-flow projections that project cash flows arising from assets, liabilities, and off-balance sheet exposures over short-term and long-term horizons.[62] In addition, a covered bank holding company must establish and maintain a contingency funding plan that sets forth strategies for addressing liquidity and funding needs during liquidity stress events.[63]

The liquidity requirements in Regulation YY are designed to complement the requirements of the LCR rule. The internal liquidity stress-test requirements in Regulation YY provide a view of an individual firm under multiple scenarios and include assumptions tailored to the idiosyncratic aspects of a firm's liquidity risk profile, while the standardized measure of liquidity adequacy under the LCR is designed to facilitate a transparent assessment of a covered bank holding company's liquidity position under a standard stress scenario and to facilitate comparisons across firms.

Finally, the Board also proposed to apply SR Letter 10–6, Interagency Policy Statement on Funding and Liquidity Risk Management (SR 10–6) to GECC, and to require compliance with the guidance outlined in that letter by July 1, 2015.[64] SR 10–6 provides guidance on sound practices for managing the funding and liquidity risks of depository institutions. The guidance also explains the expectation that institutions manage liquidity risk using processes and systems that are commensurate with the institution's complexity, risk profile, and scope of operations.

In comments on the proposed order, GECC argued that the Board should not apply intraday liquidity monitoring requirements, asserting that GECC's business mix does not result in high intraday liquidity volatility. GECC also argued that any intraday liquidity monitoring requirement should be applied only after an evaluation of whether such a requirement is necessary in light of GECC's liquidity profile and the costs required to develop and maintain such a monitoring system.

In order to promote the resilience of GECC, improve its ability to withstand financial and economic stress, and mitigate the potential adverse effects on other financial firms and markets, the Board has determined to require GECC to manage its liquidity in a manner that is comparable to a bank holding company subject to Regulation YY and SR 10–6.[65] GECC, like a large bank holding company, is primarily a lender and lessor to commercial entities and consumers, and is substantially involved in the provision of credit in the United States. Similar to large bank holding companies, GECC is also an active participant in the capital markets and relies on wholesale funding, such as commercial paper held by institutional investors and committed lines of credit provided by large commercial banks, exposing the company to liquidity risks.

The firm-specific liquidity risk management and stress testing requirements of Regulation YY would enhance the resilience of GECC and mitigate the potential risks to U.S. financial stability by helping to ensure that GECC develops the necessary risk management infrastructure to evaluate the liquidity risk profile of its operations on a continuing basis, including in stressed environments. The liquidity risk management and stress testing requirements of Regulation YY require each covered company to tailor its compliance framework to the particular size, complexity, structure, risk profile, and activities of the organization. Thus, in implementing these requirements, GECC would be expected to tailor its risk management framework to suit the company's liquidity risks.

Intraday monitoring is an important liquidity risk management process that is designed to address the risk that a large banking organization is unable to receive or make critical payments, which can lead to systemic disruptions. A company's procedures for monitoring and managing intraday liquidity positions should, however, reflect in stringency and complexity the scope of operations of the company. Consistent with Regulation YY, under the final order, GECC may tailor its intraday liquidity monitoring procedures to its business mix and risk.

In order to account for the effect that the divestitures proposed under the GECC reorganization plan will have on the liquidity needs and sources for GECC and the time required to establish the necessary monitoring systems, the Board has determined to defer these requirements until January 1, 2018.

6. Other Prudential Standards: Restrictions on Intercompany Transactions

Section 165(b)(1)(B) of the Dodd-Frank Act allows the Board to establish additional enhanced prudential standards for nonbank financial companies supervised by the Board and for bank holding companies with assets of $50 billion or more.[66] The Board proposed to apply as an enhanced prudential standard certain restrictions on transactions between GECC and its affiliated entities that are not under GECC's control. In particular, the Board proposed that GECC comply with the

[59] 12 CFR 252.34(a).

[60] 12 CFR 252.34(c).

[61] 12 CFR 252.34(d), (h).

[62] 12 CFR 252.34(e).

[63] 12 CFR 252.34(f).

[64] Supervision and Regulation Letter SR 10–6, *Interagency Policy Statement on Funding and Liquidity Risk Management* (March 17, 2010) (SR 10–6), *available at: http://www.federalreserve.gov/boarddocs/srletters/2010/sr1006.htm.* SR 10–6 reiterates the process that institutions should follow to appropriately identify, measure, monitor, and control their funding and liquidity risk. In particular, the guidance re-emphasizes the importance of cash-flow projections, diversified funding sources, stress testing, a cushion of liquid assets, and a formal well-developed contingency funding plan as primary tools for measuring and managing liquidity risk.

[65] *See* 12 CFR 252.34, .35.

[66] 12 U.S.C. 5365(b)(1)(B).

requirements of section 23B of the Federal Reserve Act and the corresponding provisions of Regulation W (subpart F of 12 CFR part 223) in all transactions between GECC (or any of its subsidiaries) with any other affiliate, as if GECC (or any of its subsidiaries) were a ''member bank'' and GE (or any of its subsidiaries other than GECC and subsidiaries of GECC) were an ''affiliate.'' [67] This requirement has the effect of requiring that all transactions between GECC (or any of its subsidiaries) and an affiliate of GECC be on market terms or, if a market does not exist for the transaction, on terms that are at least as favorable to GECC as those in a transaction between GECC and an unaffiliated third party.

GECC acknowledged that the proposed restriction on affiliate transactions was an appropriate safeguard that could protect GECC from conflicts of interest and inappropriate transfers of risk from GE to GECC. GECC requested, however, that the Board apply those requirements only on a prospective basis. GECC argued that retroactive application of these requirements to transactions that already exist between GECC and GE affiliates would disturb existing contractual relationships, and would be time-consuming, costly, and of limited benefit.

The application of section 23B of the Federal Reserve Act to transactions between GECC and its affiliates is designed to enhance the safety and soundness of GECC and to reduce the risk of material financial distress at GECC by ensuring that GECC is not engaging in transactions with affiliates on terms unfavorable to GECC, or in transactions that would not have been conducted, but for the affiliation between the companies. The Board believes that ensuring the long-term safe and sound operation of GECC is served by requiring all affiliate transactions to comply with the requirements of section 23B of the Federal Reserve Act and the corresponding provisions of Regulation W. While the Board recognizes that there could be costs in conforming existing arrangements to section 23B, the costs exist only to the extent that GE and its affiliates have received terms in transactions with GECC that are not at least as favorable to GECC as would be available in the marketplace. At the same time, these transactions result in GECC providing a subsidy to GE or is affiliates, thereby increasing the cost and risk to GECC. Accordingly, the Board has determined to require that certain transactions that are outstanding between GECC and any of its affiliates on January 1, 2018, be conformed to the requirements of section 23B and all transactions between GECC and its affiliates initiated on or after that date be in conformance with section 23B.

7. Future Standards

The Board continues to consider whether it would be appropriate to develop additional standards for nonbank financial companies supervised by the Board and large bank holding companies, and if it proposes to adopt additional standards, the Board will do so in a process that allows for public participation.[68]

As noted above, if the Council rescinds its determination under section 113 of the Dodd-Frank Act that GECC should be subject to supervision by the Board and enhanced prudential standards, the enhanced prudential standards imposed by the Board order will no longer apply to GECC. No further action by the Board will be necessary to terminate the order's application to GECC or any successor. So long as GE or GECC controls a savings association, they are subject to the requirements and supervisory standards applicable under the Home Owners' Loan Act, as amended.

*C. Reporting Requirements*

Section 161(a) of the Dodd-Frank Act authorizes the Board to require a nonbank financial company supervised by the Board, and any subsidiary thereof, to submit reports to the Board related to the financial condition of the company or subsidiary, systems of the company or subsidiary for monitoring and controlling financial, operating, and other risks, and the extent to which the activities and operations of the company or subsidiary pose a threat to the financial stability of the United States.[69] The Board may also require reports in order to monitor compliance by the company or subsidiary with the requirements of Title I of the Dodd-Frank Act, which includes the enhanced prudential standards to which nonbank financial companies are subject.[70]

Pursuant to this authority, the Board proposed to require GECC to file the reports identified below. Other than the FR Y–14 series reporting forms, the proposed order would have required GECC to file each of the reports identified below beginning on July 1, 2015. The Board proposed to require GECC to file the FR Y–14A on April 5, 2016, and the FR Y–14Q and Y–14M reports as of one calendar year before the as-of date of its first supervisory and company-run stress test under the Board's stress test rules. In comments on the proposed order, GECC requested that, for those subsidiaries that would be unwound or sold as part of the divestiture plan, GECC be permitted to defer the quarterly and annual reporting of standalone financial statements until the first quarter of 2018. As is discussed more fully below, the Board is adopting reporting requirements that align with the effective dates of the Phase I and Phase II Requirements to support the respective standards adopted as part of each phase.

1. Phase I Requirements

Beginning on January 1, 2016, GECC must file the following reports with the Board (in accordance with the timelines set forth in the applicable instructions to each reporting form):

a. FR Y–6 report (Annual Report of Holding Companies);

b. FR Y–9C report (Consolidated Financial Statements for Holding Companies) and FR Y–9LP report (Parent Company Only Financial Statements for Large Holding Companies);

c. FR Y–10 report (Report of Changes in Organizational Structure); and

d. FR Y–11 report and FR Y–11S report (Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies).

GECC is already filing each of the reports listed above and must continue to file each of these reports in accordance with the timelines set forth in their respective reporting instructions for as long as GECC is supervised by the Board. The Board intends to confer with GECC on a case-by-case basis to identify any report schedules that may not be necessary for GECC to provide based on its risk profile, structure, activities, or other characteristics.[71] In addition, if

[67] 12 U.S.C. 371c–1; 12 CFR part 223, subpart F.

[68] For example, the Board's initial proposed rules to implement the requirements of section 165 and 166 of the Dodd-Frank Act included single-counterparty credit limits and early remediation requirements for the companies covered under sections 165 and 166 of the Dodd-Frank Act.

[69] 12 U.S.C. 5361(a).

[70] *Id.*

[71] GECC is currently a savings and loan holding company supervised by the Board. So long as GECC remains a registered savings and loan holding company, GECC continues to be subject to all reporting requirements applicable to a savings and loan holding company. Consistent with section 161(a)(2) of the Dodd-Frank Act, the Board intends to confer with GECC as to whether the information requested in the required reports may be available from other sources, and, to the extent any reporting requirements overlap, GECC will not be subjected to duplicative reporting requirements as both a savings and loan holding company and a nonbank financial company supervised by the Board. 12 U.S.C. 5361(a)(2). In the event that GECC is deregistered as a savings and loan holding company

Continued

GECC sells, distributes, or otherwise disposes of any of its subsidiaries during the applicable reporting period for a particular form, GECC should consult with the appropriate Reserve Bank to determine whether it is necessary to submit information regarding the subsidiary.

The FR Y–6 (Annual Report of Holding Companies) is an annual information collection of financial data, an organization chart, verification of domestic branch data, and information about certain shareholders. The FR Y–9C (Consolidated Financial Statements for Holding Companies) and FR Y–9LP (Parent Company Only Financial Statements for Large Holding Companies) reports are standardized financial statements and consist of consolidated data from filers. The FR Y–9LP collects basic financial data on a consolidated, parent-only basis in the form of a balance sheet, an income statement, and supporting schedules relating to investments, cash flow, and certain memoranda items. The FR Y–10 (Report of Changes in Organizational Structure) is an event-generated information collection that captures changes to a filer's regulated investments and activities. The information in this report, in conjunction with the information in the FR Y–6, will capture the legal entity structure of GECC. The FR Y–11 and FR Y–11S (Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies) reports collect financial information for individual non-functionally regulated subsidiaries on a quarterly basis. These reports consist of a balance sheet and income statement; information on changes in equity capital, changes in the allowance for loan and lease losses, off-balance-sheet items, and loans; and a memoranda section. The information collected through the FR Y–11 and FR Y–11S reports serves to identify material legal entities.

The Board expects to use the information collected through reports to monitor the financial condition and activities of GECC. This information will also be used by the Board to monitor the extent to which the activities and operations of GECC pose a threat to the financial stability of the United States and GECC's compliance with the requirements of Title I of the Dodd-Frank Act, the enhanced prudential standards that are imposed on GECC, and other relevant law. In addition, this information will be used to capture the legal entity structure of GECC and monitor progress by GECC in implementing its divestiture plan. The Board also expects to use this information to monitor intercompany transactions.

2. Phase II Requirements

Except as otherwise noted below, beginning on January 1, 2018, GECC must file the following reports with the Board (in accordance with the timelines set forth in the applicable instructions to each reporting form):

a. FR Y–14A, FR Y–14Q, and FR Y–14M reports (Capital Assessments and Stress Testing);

b. FR Y–15 report (Banking Organization Systemic Risk Report);

c. FR 2314 and FR 2314S reports (Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations);

d. FFIEC 009 report (Country Exposure Report) and FFIEC 009a report (Country Exposure Information Report); and

e. FFIEC 102 report (Market Risk Regulatory Report for Institutions Subject to the Market Risk Capital Rule).[72]

Submitted as part of the Board's CCAR and stress testing processes, the FR Y–14A, FR Y–14M, and FR Y–14Q (Capital Assessments and Stress Testing) reports collect detailed financial information, including quantitative projections of balance sheet, income, losses, and capital across a range of macroeconomic scenarios and qualitative information on methodologies used to develop internal projections of capital across scenarios, with certain projections and information collected on a semi-annual basis. The FR Y–14A report is an annual collection of quantitative projections of balance sheet, income, losses, and capital across a range of macroeconomic scenarios and qualitative information on methodologies used to develop internal projections of capital across scenarios, with certain projections and information collected on a semi-annual basis. The FR Y–14M report is a monthly submission that comprises three loan- and portfolio-level collections of data concerning domestic residential mortgages, domestic home equity loans and home equity lines of credit, and domestic credit card loans, and one detailed address-matching collection to supplement two of the loan- and portfolio-level collections. The FR Y–14Q report is a quarterly collection of granular data on various asset classes and pre-provision net revenue for the reporting period, including information pertaining to securities, retail loans, wholesale loans, mortgage servicing rights, regulatory capital instruments, operational risk, and trading, private equity, and other fair-value assets. Collectively, the Y–14 data is used to assess the capital adequacy of filers using forward-looking projections of revenue and losses, and to support supervisory stress test models and continuous monitoring efforts. GECC is required to file its first FR Y–14A submission on April 5, 2018, as part of its capital plan. In addition, GECC is required to submit its first FR Y–14Q and Y–14M reports by December 31, 2017, which is one calendar year before the as of date of its first supervisory and company-run stress test under the Board's stress test rules. The FR Y–15 report (Banking Organization Systemic Risk Report) collects consolidated systemic risk data. The FR 2314 and FR 2314S (Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations) reports collect financial information for non-functionally regulated direct or indirect foreign subsidiaries on a quarterly or annual basis. The FR 2314 and FR 2314S reports consist of a balance sheet and income statement; information on changes in equity capital, changes in the allowance for loan and lease losses, off-balance-sheet items, and loans; and a memoranda section. The FFIEC 009 (Country Exposure Report) and FFIEC 009a (Country Exposure Information Report) reports are quarterly information collections currently submitted for countries in which GECC has $30 million or more in claims on residents of foreign countries. The FFIEC 009 collects detailed information on the distribution, by country, of claims on local residents held by GECC. The FFIEC 009a is a supplement to the FFIEC 009 that provides specific information about GECC's exposures to particular countries. This information may be used to analyze the extent to which GECC's credit exposures pose a threat to the financial stability of the United States.

The FFIEC 102 (Market Risk Regulatory Report for Institutions Subject to the Market Risk Capital Rule) report is designed to implement the reporting requirements for institutions that are subject to the federal banking agencies' market risk capital rule under the revised capital framework.[73] The

by the Board, GECC would still be subject to the reporting requirements required in the final order.

[72] GECC would become subject to the FFIEC 102 report in the event the company meets the aggregate trading assets and trading liabilities threshold for application of the Board's market risk capital rule. *See* 12 CFR 217.201(b).

[73] *See* 12 CFR part 217, subpart F. The Federal Financial Institutions Examination Council (FFIEC) is a formal interagency body empowered to

reports are quarterly information collections used to assess the reasonableness and accuracy of a market risk institution's calculation of its minimum capital requirements under the market risk capital rule and to evaluate such an institution's capital in relation to its risks. Although GECC would not currently be subject to the Board's market risk capital rule because it does not meet the applicable aggregate trading assets and trading liabilities thresholds, the order requires GECC to submit the FFIEC 102 as a Phase II Requirement in order to determine whether GECC becomes subject to the Board's market risk capital rule.

The Board expects to use the information collected in these reports to assess GECC's internal assessments of its capital adequacy under a stressed scenario, and to conduct the Federal Reserve's supervisory stress tests that assess GECC's ability to withstand stress in a manner consistent with bank holding companies subject to the Board's capital plan and stress testing rules. In addition, this information will be used to support ongoing monitoring of changes in GECC's risk profile and composition. The data from the reports regarding foreign activities will be used to identify current and potential problems at the foreign subsidiaries of GECC and to monitor their activities. The information collected through these reports also will allow the Federal Reserve and GECC to monitor exposures to counterparties, the types of claim being reported, and credit derivative exposure.

**III. Paperwork Reduction Act**

Certain provisions of the Board's final order contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521). In accordance with the requirements of the PRA, the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed the final order under the authority delegated to the Board by OMB. The Board received no comments on the PRA section of the proposed order.

The final order contains reporting requirements subject to the PRA and would require GECC to submit the following reporting forms in the same manner as a bank holding company:

(1) Country Exposure Report and Country Exposure Information Report (FFIEC 009 and FFIEC 009a; OMB No. 7100–0035);

(2) Market Risk Regulatory Report for Institutions Subject to the Market Risk Capital Rule (FFIEC 102; OMB No. 7100–0365);

(3) Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations; and Abbreviated Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations (FR 2314 and FR 2314S; OMB No. 7100–0073);

(4) Annual Report of Holding Companies (FR Y–6; OMB No. 7100–0297);

(5) Consolidated Financial Statements for Holding Companies (FR Y–9C; OMB No. 7100–0128);

(6) Parent Company Only Financial Statements for Large Holding Companies (FR Y–9LP; OMB No. 7100–0128);

(7) Report of Changes in Organizational Structure (FR Y–10; OMB No. 7100–0297);

(8) Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies; and Abbreviated Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies (FR Y–11 and FR Y–11S; OMB No. 7100–0244);

(9) Capital Assessments and Stress Testing (FR Y–14A, FR Y–14M, and FR Y–14Q; OMB No. 7100–0341); and

(10) Banking Organization Systemic Risk Report (FR Y–15; OMB No. 7100–0352).

The final order contains reporting, recordkeeping, or disclosure requirements subject to the PRA and would require GECC to comply with the following information collections in the same manner as a bank holding company:

(1) Funding and Liquidity Risk Management Guidance (FR 4198; OMB No. 7100–0326). See the Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations final rule (79 FR 17239) published on March 27, 2014.

(2) Risk-Based Capital Standards: Advanced Capital Adequacy Framework Information Collection (FR 4200; OMB No. 7100–0313). See the Regulatory Capital Rules final rule (78 FR 62017) published on October 11, 2013, and the Regulatory Capital Rules final rule (79 FR 57725) published on September 26, 2014.

(3) Risk-Based Capital Guidelines: Market Risk (FR 4201; OMB No. 7100–0314). See the Regulatory Capital Rules final rule (78 FR 62017) published on October 11, 2013.

(4) Recordkeeping and Reporting Requirements Associated with Regulation Y (Capital Plans) (Reg. Y–13; OMB No. 7100–0342). See the Capital Plans final rule (76 FR 74631) published on December 1, 2011, the Supervisory and Company-Run Stress Test Requirements for Covered Companies final rule (77 FR 62377) published on October 12, 2012, and the Capital Plan and Stress Test Rules final rule (79 FR 64025) published on October 27, 2014.

(5) Reporting and Recordkeeping Requirements Associated with Regulation WW (Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards, and Monitoring) (Reg. WW; OMB No. 7100–0367). See the Liquidity Coverage Ratio final rule (79 FR 61439) published on October 10, 2014.

(6) Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation YY (Enhanced Prudential Standards) (Reg. YY; OMB No. 7100–0350). See the Supervisory and Company-Run Stress Test Requirements for Covered Companies final rule (77 FR 62377) published on October 12, 2012, and the Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations final rule (79 FR 17239) published on March 27, 2014.

The Board has a continuing interest in the public's opinions of collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

**IV. Final Order**

**FEDERAL RESERVE SYSTEM**

General Electric Capital Corporation
Norwalk, Connecticut

Order Imposing Enhanced Prudential Standards and Reporting Requirements

**I. Background**

In July 2013, the Financial Stability Oversight Council (Council) determined that material financial distress at General Electric Capital Corporation (GECC) could pose a threat to U.S. financial stability and that GECC should be subject to supervision by the Board of Governors of the Federal Reserve

prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by the Board, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Consumer Financial Protection Bureau and to make recommendations to promote uniformity in the supervision of financial institutions.

System (Board) and to enhanced prudential standards.[1] The Council's basis for its final determination noted GECC's interconnections with financial intermediaries through its financing activities and its funding model as well as a large portfolio of on-balance-sheet assets comparable to those of the largest U.S. bank holding companies. In particular, the Council noted GECC's significant use of wholesale funding, including short-term wholesale funding (commercial paper), and use of long-term debt and securitization debt, which could expose other large financial institutions to GECC's distress, among other reasons for its determination.[2] GECC became subject to the Board's supervision immediately upon the Council's final determination.

Since July 2013, the Board's supervisory program for GECC has been based on previously published supervisory guidance for consolidated supervision of large financial institutions (SR 12–17).[3] The SR 12–17 framework provides core areas of focus (capital, liquidity, governance, and recovery and resolution) and supervisory expectations that enhance the resiliency of large financial institutions and reduce the impact on the financial system and the broader economy of a large financial institution's failure or material financial distress. Consistent with the SR 12–17 framework, the supervision of GECC has focused on capital and liquidity planning and positions, corporate governance, recovery planning, and resolution planning. The Board also maintains a GECC-dedicated supervisory team that regularly meets with senior management and the boards of directors of General Electric Company (GE) and GECC, reviews management information systems, and engages in a broad range of continuous monitoring efforts.

In April 2015, GE and GECC announced plans to sell or otherwise distribute much of GECC's commercial lending and leasing operations and all of its consumer lending businesses, including the entirety of its U.S. depository institution operations. GECC plans to retain only those businesses directly related to GE's core industrial businesses.[4] The divestitures are subject to a detailed plan with a definitive timeline. GECC has begun executing the plan and has made demonstrable progress. GE also announced an intent to further reduce GECC's use of commercial paper to $5 billion by the end of 2015 and amended its income maintenance agreement with GECC to guarantee all tradable senior and subordinated debt securities and all commercial paper issued or guaranteed by GECC.[5] The Board is closely monitoring the asset sales and other proposed changes under the divestiture and reorganization plans and any impact they may have on GECC's systemic footprint and the Board's supervision of GECC and its subsidiaries.

Related to the divestiture plan and other announced changes, GECC has indicated that it will seek rescission of the Council's designation in 2016. In light of the reorganization plan currently underway at GECC and the amount of resources and systems necessary to implement enhanced prudential standards, the Board is implementing the enhanced prudential standards in two phases—Phase I and Phase II.

In Phase I, beginning January 1, 2016, in order to ensure that GECC has adequate capital and liquidity to support its current operations and mitigate the risk to financial stability that may occur if GECC were to experience material financial distress while implementing its divestiture plan, GECC shall comply with certain capital, liquidity, and reporting standards (Phase I Requirements). The Phase I Requirements require GECC to comply with the standardized risk-based capital requirements and the balance-sheet leverage requirement in the Board's regulatory capital framework, as described further below, as well as with the liquidity coverage ratio rule (LCR rule) applicable to bank holding companies with $250 billion or more in total consolidated assets or $10 billion or more in on-balance-sheet foreign exposures (advanced approaches banking organizations). GECC is also required to file certain reports that support the Phase I Requirements and the Board's supervision of GECC.

In Phase II, beginning January 1, 2018, GECC shall comply with certain additional standards, including risk management, capital, capital planning, stress testing, liquidity risk management, and restrictions on intercompany transactions (Phase II Requirements). GECC is required to file certain additional reports with the Board, generally beginning January 1, 2018, that support the Phase II requirements.

## II. Enhanced prudential standards

### a. Phase I Requirements

GECC shall comply with the following requirements beginning January 1, 2016.

*Capital*

To ensure that GECC continues to maintain sufficient capital and has internal processes for assessing its capital adequacy that appropriately account for the company's risks, GECC shall comply with the Board's capital framework, set forth in 12 CFR part 217 (Regulation Q), including the deductions required under 12 CFR 248.12, as applicable, as if GECC were a bank holding company that calculates risk-weighted assets solely under the standardized approach (subpart D to 12 CFR part 217), including the leverage ratio in 12 CFR 217.10(b)(4).

At this time, GECC's activities, risk profile, and balance sheet are similar to those of large bank holding companies supervised by the Board. Accordingly, requiring GECC to comply with the Board's Regulation Q will help ensure that GECC holds capital that is commensurate with its risk profile and activities, can meet its obligations to creditors and other counterparties, can continue to serve as a financial intermediary through periods of financial and economic stress, and meets capital standards that help prevent or mitigate the risk to U.S. financial stability that could arise from the material financial distress or failure of GECC.

*Liquidity*

To ensure that GECC maintains sufficient liquidity to absorb shocks it may experience under stress, GECC shall comply with the LCR rule, set forth in 12 CFR part 249, as a covered nonbank company (as that term is defined in 12 CFR 249.3), pursuant to 12 CFR 249.1(b)(1)(iv) and 12 CFR 249.3, subject to the transition periods set forth under 12 CFR 249.50(b). GECC shall calculate and maintain an LCR of at least 90 percent from January 1, 2016, to December 31, 2016, and calculate and

[1] Financial Stability Oversight Council, Basis of the Financial Stability Oversight Council's Final Determination Regarding General Electric Capital Corporation, Inc. (July 8, 2013) (GECC Determination). The GECC Determination did not conclude that GECC was experiencing material financial distress. Rather, consistent with the statutory standard for determinations by the Council under section 113 of the Dodd-Frank Act, the Council determined that material financial distress at GECC, if it were to occur, could pose a threat to U.S. financial stability.

[2] *Id.,* at pp. 2, 6–8.

[3] *See* Supervision and Regulation Letter 12–17, *Consolidated Supervision Framework for Large Financial Institutions* (December 12, 2012) (SR 12–17), *available at: http://www.federalreserve.gov/bankinforeg/srletters/sr1217.htm.*

[4] GE Press Release, April 10, 2014 (GE Announcement), *available at: http://www.genewsroom.com/press-releases/ge-create-simpler-more-valuable-industrial-company-selling-most-ge-capital-assets.*

[5] *Id.*

maintain an LCR of at least 100 percent thereafter. Until January 1, 2018, GECC may calculate its LCR monthly on each calculation date that is the last business day of the applicable calendar month, after which time it must calculate its LCR daily.[6]

The application of the LCR rule to GECC will help promote the resilience of the short-term liquidity risk profile of GECC, thereby improving its ability to measure and manage liquidity risk and to absorb shocks arising from financial and economic stress. Because the LCR rule applies cash outflow and inflow rates that are based on the particular risk profile and activities of companies like GECC, the LCR requirements are tailored to and appropriate for GECC's activities, balance sheet, and risk profile. The application of the LCR rule will help ensure that GECC holds a sufficient amount of high-quality liquid assets based on its activities to meet its net cash outflows over a 30-calendar-day stress period.

**b. Phase II Requirements**

GECC shall comply with the following requirements beginning January 1, 2018, except as may be otherwise noted below.

*Risk-Management and Risk-Committee Standards*

To reduce the likelihood of GECC experiencing material financial distress and to promote financial stability, beginning January 1, 2018, GECC shall comply with the risk-committee and risk-management standards under section 252.33 of the Board's Regulation YY as though it were a bank holding company with $50 billion or more in total consolidated assets.[7] In addition, beginning January 1, 2018, GECC shall comply with the following additional risk-management standards: (1) GECC must maintain a board of directors with a majority of directors who do not hold management positions at either GE or GECC (independent directors); (2) the chair of GECC's board of directors must be an independent director; and (3) all members of the risk committee of the GECC board of directors, established pursuant to Regulation YY, must be independent directors. The risk-management standards in Regulation YY require a company subject to its provisions to implement a risk-management framework that is commensurate with the company's capital structure, risk profile, complexity, activities, size, and other appropriate risk-related factors, and GECC is expected to tailor its risk-management framework accordingly.

Application of the risk-management standards in Regulation YY and the risk-management guidance and supervisory expectations for nonbank financial companies supervised by the Board[8] will strengthen GECC's ability to prevent and respond to material distress or failure and promote financial stability. The additional measures related to GECC's board of directors and risk committee will help ensure that GECC's independent directors are able to focus appropriate attention on the unique businesses and complexities of GECC, that GECC's operations are safe and sound, and that perspectives of qualified individuals independent of the management of GE and GECC have a strong voice in the governance of GECC.

*Risk-Based and Leverage Capital*

Beginning January 1, 2018, GECC shall comply with the Board's capital framework, set forth in Regulation Q, including the deductions required under 12 CFR 248.12, as applicable, as if GECC were a bank holding company that is an advanced approaches Board-regulated institution and a covered BHC (as each term is defined under 12 CFR 217.2); *provided, however,* that notwithstanding 12 CFR 217.100(b), GECC is not required to comply with subpart E of 12 CFR part 217 or to calculate an advanced measure for market risk under 12 CFR 217.204.[9] To strengthen GECC's ability to remain a going concern during times of stress and to minimize the likelihood that distress at GECC would contribute to financial instability, GECC shall maintain a supplementary leverage ratio in excess of 4 percent (eSLR) in order to avoid restrictions on capital distributions and discretionary bonus payments to executive officers.[10]

The enhanced capital framework adopted for advanced approaches bank holding companies, including the requirement to recognize most elements of accumulated other comprehensive income in regulatory capital, is an appropriate capital framework for GECC because of the similarities in its activities, size, risk, and exposures to those of large bank holding companies. The 4 percent eSLR is intended to reflect GECC's smaller systemic footprint compared to other banking organizations subject to a 5 percent eSLR, while still minimizing leverage at GECC and reducing the likelihood that problems at GECC would cause it to fail in a manner that affects financial stability. The maintenance of a strong base of capital by GECC is particularly important because a capital shortfall has the potential to result in significant adverse economic consequences and to contribute to systemic distress.

*Capital Planning*

For the capital plan cycle beginning January 1, 2018, GECC shall comply with the capital plan rule set forth in 12 CFR 225.8 (capital plan rule) as a nonbank financial company supervised by the Board (as that term is defined in 12 CFR 225.8(d)(9)), pursuant to 12 CFR 225.8(b)(1)(iv).

The recent financial crisis highlighted a need for certain financial institutions, such as GECC, to incorporate into their capital planning forward-looking assessments of capital adequacy under stressed conditions. The capital plan rule will help ensure that GECC has robust systems and processes that incorporate forward-looking projections of revenue and losses to monitor and maintain its internal capital adequacy.

The capital plan rule requires GECC to submit an annual capital plan to the Board describing its planned capital actions and demonstrating its ability to meet a 5 percent tier 1 common capital ratio and to maintain capital ratios above the Board's minimum regulatory capital requirements under both baseline and stressed conditions over a forward-looking planning horizon.[11] GECC's capital plan must include an assessment of the company's sources and expected uses of capital that reflects the size, complexity, risk profile, and scope of operations, assuming both expected and stressed conditions. In addition, GECC must describe its process for assessing capital adequacy and its capital policy and must provide a discussion of any expected changes to the company's business plan that are likely to have a material impact on its capital adequacy.

Under the capital plan rule, the Board will annually evaluate GECC's capital adequacy and capital planning practices and the comprehensiveness of the capital plan, including the strength of the underlying analysis. The Comprehensive Capital Analysis and Review (CCAR) is the Board's supervisory process for reviewing capital plans submitted by companies under the capital plan rule. As part of CCAR, the Board conducts a quantitative assessment of each company's capital adequacy under an

[6] *See* 12 CFR part 249.

[7] 12 CFR 252.33.

[8] *See* SR 12–17, *supra* note 3.

[9] Pursuant to Regulation Q, GECC's computation of capital shall take into account any off-balance-sheet activities of the company. *See* 12 CFR 217.10 and 217.33; *see also* 12 U.S.C. 5365(k).

[10] 12 CFR 217.11(a)(2)(v).

[11] *See* 12 CFR 225.8.

assumption of stressed conditions and conducts a qualitative assessment of the company's internal capital planning practices, each of which can provide a basis on which the Board may object to a company's capital plan.

The Federal Reserve conducts its quantitative assessment of a company's capital plan based on the supervisory stress test conducted under the Board's rules implementing the stress tests required under the Dodd-Frank Act combined with the company's planned capital actions under the baseline scenario. This assessment will help determine whether GECC would be capable of meeting supervisory expectations for its regulatory capital ratios even if stressed conditions emerge and the company does not reduce planned capital distributions. The Board will evaluate GECC's risk-identification, risk-measurement, and risk-management practices supporting the capital planning process, including estimation practices used to produce stressed loss, revenue, and capital ratios, as well as the governance and controls around these practices. In reviewing GECC's capital plan, the Board will consider the comprehensiveness of the capital plan, the reasonableness of the company's assumptions and analysis underlying the capital plan, and the company's methodologies for reviewing the robustness of its capital adequacy process.

*Stress Testing*

To ensure that GECC develops the necessary systems and processes to evaluate its capital adequacy on an ongoing basis, starting with the stress testing cycle beginning on January 1, 2019, GECC shall comply with the stress testing requirements set forth in subparts E and F of Regulation YY (12 CFR part 252, subparts E and F) (together, the stress test rules) as a nonbank financial company supervised by the Board (as that term is defined in 12 CFR 252.42(i) and 252.52(j), respectively), pursuant to 12 CFR 252.43(a)(1)(iii) and 12 CFR 252.53(a)(1)(iii).

The Board is applying its stress test rules to GECC in the same manner that it applies them to large bank holding companies due to the similarity in activities, risk profiles, and balance sheets between GECC and large bank holding companies. Moreover, because the Board's supervisory stress tests are conducted on the basis of standardized scenarios and capital assumptions, application of the Board's stress test rules to GECC allows the Board to compare GECC's capital adequacy against that of large bank holding companies that have comparable activities, risk profiles, and balance sheets. The stress tests conducted under the Board's stress test rules are complementary to the Board's review of GECC's capital plan in CCAR.

*Liquidity*

Beginning January 1, 2018, GECC shall comply with the liquidity requirements, set forth in sections 252.34 and 252.35 of the Board's Regulation YY,[12] as though it were a bank holding company with $50 billion or more in total consolidated assets. GECC shall also comply with the Board's supervisory guidance on funding and liquidity risk management (SR 10–6).[13] The liquidity risk management and stress testing requirements of Regulation YY complement the LCR requirements and require a company subject to its provisions to tailor compliance to the company's size, complexity, structure, risk profile, and activities. In complying with Regulation YY, GECC is expected to tailor its liquidity risk-management framework to suit the organization's structure. Additionally, as discussed above, GECC will be required to calculate its LCR daily beginning January 1, 2018.

GECC, like a large bank holding company, is primarily a lender and lessor to commercial entities and consumers and is substantially involved in the provision of credit in the United States. Similar to large bank holding companies, GECC is also an active participant in the capital markets and relies on wholesale funding, such as commercial paper, exposing the company to liquidity risks. The Board is requiring GECC to manage its liquidity in a manner that is comparable to a bank holding company subject to the LCR rule, Regulation YY, and SR 10–6 to ensure that GECC has sufficient liquidity to meet outflows during a period of significant financial stress, to improve its ability to withstand financial and economic stress, and to mitigate the potential adverse effects on other financial firms and markets.[14]

*Restrictions on Intercompany Transactions*

Beginning January 1, 2018, GECC shall comply with the requirements of section 23B of the Federal Reserve Act and the corresponding provisions of Regulation W (12 CFR part 223, subpart F)[15] as if GECC (or any of its subsidiaries) were a member bank and GE (or any of its subsidiaries other than GECC and subsidiaries of GECC) were an affiliate (as each term is defined in section 23B of the Federal Reserve Act and Regulation W) for all transactions:

1. Described in 12 U.S.C. 371c(b)(7)(A) or (E) that existed prior to January 1, 2018, and remain outstanding on or after January 1, 2018; and

2. Described in 12 U.S.C. 371c–1(a)(2) that occur on or after January 1, 2018.

This standard does not apply to any transaction between GECC and any person unaffiliated with GECC involving proceeds that are used for the benefit of, or transferred to, an affiliate of GECC, which would otherwise be a covered transaction under section 23A(a)(2) of the Federal Reserve Act and section 223.16 of Regulation W.[16]

*Future Standards*

Nothing in this order limits the Board's authority to impose additional enhanced prudential standards on GECC in the future. The Board reserves the right to modify or supplement these standards, if appropriate, to ensure the safe and sound operation of GECC or to promote financial stability.

**c. Reporting**[17]

*Phase I Requirements*

Beginning on January 1, 2016, GECC shall file the following reports with the Board (in accordance with the timelines set forth in the applicable instructions to each reporting form):

a. FR Y–6 report (Annual Report of Holding Companies);

b. FR Y–9C report (Consolidated Financial Statements for Holding Companies) and FR Y–9LP report (Parent Company Only Financial Statements for Large Holding Companies);

c. FR Y–10 report (Report of Changes in Organizational Structure); and

d. FR Y–11 and FR Y–11S reports (Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies).

*Phase II Requirements*

Except as otherwise noted below, beginning on January 1, 2018, GECC shall file the following reports with the Board (in accordance with the timelines

[12] 12 CFR 252.34 and 252.35.

[13] Board of Governors of the Federal Reserve System, Division of Banking Supervision and Regulation (2010), ''Interagency Policy Statement on Funding and Liquidity Risk Management,'' Supervision and Regulation Letter SR 10–6 (March 17, 2010); 75 FR 13656 (March 22, 2010); *available at: http://www.federalreserve.gov/boarddocs/srletters/2010/sr1006.pdf.*

[14] *See* 12 CFR 252.34 and 252.35.

[15] 12 U.S.C. 371c–1; 12 CFR part 223, subpart F.

[16] 12 U.S.C. 371c(a)(2); 12 CFR 223.16.

[17] Reporting requirements are adopted pursuant to section 161(a) of the Dodd-Frank Act. 12 U.S.C. 5361(a).

set forth in the applicable instructions to each reporting form):

a. FR Y–14A, FR Y–14Q, and FR Y–14M reports (Capital Assessments and Stress Testing);

b. FR Y–15 report (Banking Organization Systemic Risk Report);

c. FR 2314 and FR 2314S reports (Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations);

d. FFIEC 009 report (Country Exposure Report) and FFIEC 009a report (Country Exposure Information Report); and

e. FFIEC 102 report (Market Risk Regulatory Report for Institutions Subject to the Market Risk Capital Rule).[18]

The FR Y–14Q and Y–14M reports support the stress testing standard and must be filed by December 31, 2017. Likewise the FR Y–14A report supports capital planning and must be filed by April 5, 2018, as part of the capital plan.

The Board intends to confer with GECC to determine whether GECC should modify any reporting schedules that may not be necessary for GECC to provide, based on its profile, structure, activities, risks, or other characteristics. In addition, if GECC sells, distributes, or otherwise disposes of any of its subsidiaries during the applicable reporting period for a particular form, GECC should consult with the Reserve Bank to determine whether it is necessary to submit information regarding the subsidiary.

## III. Other requirements

GECC remains subject to a number of other statutory and regulatory requirements and the Board's existing supervisory framework, notwithstanding the application of enhanced prudential standards implemented through this order pursuant to section 165 of the Dodd-Frank Act. Nothing in this order limits the applicability of those requirements, rules, and authorities. These other requirements include, but are not limited to, the following matters:

*Examinations*

Pursuant to section 161(b) of the Dodd-Frank Act, the Board has examination authority over nonbank financial companies supervised by the Board, including GECC.[19] This examination authority is to inform the Board of (A) the nature of the operations and financial condition of the company and its subsidiaries; (B) the financial, operational, and other risks of the company and its subsidiaries that may pose a threat to the safety and soundness of the company or its subsidiaries or to the financial stability of the United States; (C) the systems for monitoring and controlling such risk; and (D) compliance by the company or its subsidiaries with Title I of the Dodd-Frank Act.

*Resolution Planning*

Pursuant to section 165(d) of the Dodd-Frank Act, all nonbank financial companies supervised by the Board shall report periodically to the Board the plan of such company for rapid and orderly resolution in the event of material financial distress or failure (Resolution Plan).[20] As a nonbank financial company supervised by the Board, GECC is required to submit a Resolution Plan for review by the Board and the Federal Deposit Insurance Corporation (FDIC).[21] The Resolution Plan must describe GECC's strategy for rapid and orderly resolution under the U.S. bankruptcy code in the event of material financial distress or failure of the company.

*Single-Counterparty Credit Limits*

Pursuant to section 165(e) of the Dodd-Frank Act, the Board has proposed standards that limit single-counterparty credit exposure.[22] The Board continues to develop single-counterparty credit limits and will in the future prescribe limits that may apply to GECC.

*Acquisitions of Financial Companies*

Pursuant to section 163(b) of the Dodd-Frank Act, nonbank financial companies supervised by the Board, including GECC, shall not acquire direct or indirect ownership or control of any voting shares of any company (other than an insured depository institution) that is engaged in activities described in section 4(k) of the BHC Act having total consolidated assets of $10 billion or more without providing prior written notice to the Board.[23]

*Concentration Limits on Large Financial Companies*

Pursuant to section 622 of the Dodd-Frank Act (which amended the Bank Holding Company Act of 1956 (BHC Act) to add a new section 14), GECC is prohibited from merging or consolidating with, or acquiring, another company if the resulting company's liabilities upon consummation would exceed 10 percent of the aggregate liabilities of all financial companies.[24]

*Supervisory Letter SR 12–17 (Consolidated Supervision Framework for Large Financial Institutions)*

GECC remains subject to the Board's risk-management guidance and supervisory expectations for nonbank financial companies, which include expectations concerning capital and liquidity planning, corporate governance, recovery planning, management of core business lines, and resolution planning.[25]

## IV. Applicability

All references to GECC in this order include any successor to GECC, and if GECC is succeeded by or replaced with another company controlled by GE this order shall apply to that company. No further action by the Board will be necessary to apply these enhanced prudential standards or any of the Board's other statutory authorities and powers related to the Board's supervision of GECC to that company.

If the Council rescinds its determination under section 113 of the Dodd-Frank Act that GECC should be subject to supervision by the Board and to enhanced prudential standards, this order shall no longer apply to GECC. No further action by the Board will be necessary to terminate the order's application to GECC (or any successor).

By order of the Board of Governors of the Federal Reserve System,[26] effective July ____, 2015.

Robert deV. Frierson
*Secretary of the Board*

[18] GECC shall become subject to the FFIEC 102 report in the event the company meets the aggregate trading assets and trading liabilities threshold for application of the Board's market risk capital rule. *See* 12 CFR 217.201(b).

[19] 12 U.S.C. 5361(b).

[20] 12 U.S.C. 5365(d). *See* 12 CFR part 243.

[21] GECC was required to submit its initial Resolution Plan to the Board by July 1, 2014, and did so. GECC must file subsequent Resolution Plan submissions by December 31 of each year. The Board anticipates providing feedback and guidance to GECC prior to the submission of its next Resolution Plan.

[22] 12 U.S.C. 5365(e). *See* 77 FR 594, 612 (January 5, 2012) (proposing single-counterparty credit limits pursuant to section 165(e) of the Dodd-Frank Act); 79 FR 17240, 17243 (March 27, 2014) (indicating that the Board continues to study and develop single-counterparty credit limits). The Board has previously indicated that it will coordinate development of credit exposure reports pursuant to section 165(d)(2) of the Dodd-Frank Act, 12 U.S.C. 5365(d)(2), with the single-counterparty credit exposure limits. *See* 76 FR 67323, 67327 (November 1, 2011).

[23] 12 U.S.C. 5363(b). Pursuant to section 163(b)(2) of the Dodd-Frank Act, the prior-notice requirement does not apply to the acquisition of shares that would qualify for the exemptions in section 4(c) or section 4(k)(4)(E) of the BHC Act. *See* 12 U.S.C. 5363(b)(2).

[24] *See* 12 U.S.C. 1852; *see also* 12 CFR part 251 (the Board's regulation implementing section 622 of the Dodd-Frank Act and section 14 of the BHC Act).

[25] SR 12–17, *supra* note 3.

[26] Voting for the action: [ ].

By order of the Board of Governors of the Federal Reserve System, July 20, 2015.

**Robert deV. Frierson,**

*Secretary of the Board.*

[FR Doc. 2015–18124 Filed 7–23–15; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60-Day–FY–15AWA; Docket No. CDC–2015–0055]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection entitled ''Screening and Counseling of Male EVD Survivors to reduce Risk of Sexually Transmitting Ebola Virus''. This activity will collect information on participants' laboratory results and sexual activity prior to and during participation in the screening program.

**DATES:** Written comments must be received on or before September 22, 2015.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2015–0055 by any of the following methods:

- *Federal eRulemaking Portal: Regulation.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov.*

**Please note:** All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

**Proposed Project**

Screening and Counseling of Male EVD Survivors to reduce Risk of Sexually Transmitting Ebola Virus—New—Center for Global Health (CGH), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Much progress has been made in the year since the CDC first responded to the Ebola outbreak in West Africa, but the agency's efforts must continue until there are zero new cases of Ebola virus disease (EVD). In order to reach the international goal of zero new EVD cases in 2015, the agency must intensify its efforts to identify and prevent every potential route of human disease transmission and to understand the most current community barriers to reaching that final goal.

The ''Screening and Counseling of Male EVD Survivors to reduce Risk of Sexually Transmitting Ebola Virus'' information collection will help inform male Ebola infection survivors ≥15 years of age of Ebola virus detected in their semen through voluntary laboratory testing performed in each country. Participants for the semen testing program will be recruited by trained study staff from Ebola treatment units and survivor registries in Sierra Leone. Participants will be followed up at study sites in government hospitals.

Specimens will be tested for Ebola Virus ribonucleic acid (RNA) by reverse transcription polymerase chain reaction test (RT–PCR). Semen specimens will be collected and tested every two weeks until two consecutive negative RT–PCR results are obtained.

Participants will be asked follow-up questions until their semen specimens test negative twice consecutively. They will receive tokens of appreciation for their participation at the initial visit and again at every subsequent follow-up visit and a supply of condoms. A trained study data manager will collect test results for all participants in a laboratory results form. Results and analyses are needed to update relevant counseling messages and recommendations from the Sierra Leone Ministry of Health, World Health Organization, and CDC.

This program will provide the information that is critical to the development of public health measures, such as recommendations about sexual activity and approaches to evaluation of survivors to determine whether they can safely resume sexual activity. These

approaches in turn are expected to reduce the risk of Ebola resurgence and mitigate stigma for thousands of survivors. The information is likewise critical to reducing the risk that Ebola would be introduced in a location that has not previously been affected.

CGH requests a three-year OMB approval for this information collection request. The total burden hours for each semen testing program are 1,664 hours incurred by 1,000 participants. There are no other costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Avg. burden per response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|---|
| Male Ebola Survivors ≥15 years old. | Baseline Questionnaire | 1,000 | 1 | 20/30 | 667 |
| Male Ebola Survivors ≥15 years old. | Follow-up Questionnaire | 1,000 | 8 | 10/60 | 1,334 |
| Male Ebola Survivors ≥15 years old. | Consent Form | 1,000 | 1 | 2/30 | 67 |
| Total | | | | | 2,067 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–18147 Filed 7–23–15; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–15–15CT]**

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

**Proposed Project**

Sudden Death in the Young Registry—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Sudden Death in the Young (SDY)

Every year, infants, children and adolescents die suddenly and unexpectedly from previously undiagnosed conditions. Sudden Death in the Young (SDY) is defined as any death of an infant, child, or young adult (up to the age mandated by each state), investigated by the medical examiner or coroner office, except homicides, suicides, overdoses, poisonings, or other external injury deaths, for example from fire or as a passenger in a motor vehicle accident.

SDY deaths are not routinely or systematically reported, so estimates of the annual incidence of SDY vary broadly due to differences in definitions, inconsistencies in classifying cause of death on death certificates, variable ages and types of study populations, and differing case ascertainment methodologies. Because complete information has not been collected on the incidences, causes, and risk factors, lack of evidence fuels disagreements about the best prevention approaches.

SDY Registry

To address this knowledge gap, the Centers for Disease Control and Prevention (CDC), in collaboration with the National Heart, Lung, and Blood Institute (NHLBI) and the National Institute of Neurological Disorders and Stroke (NINDS) at the National Institutes of Health (NIH) have implemented the Sudden Death in the Young (SDY) Registry (DP14–1403) to provide technical assistance to improve the current work of existing Child Death Review (CDR) programs. The SDY Registry is an expansion of the CDC's Sudden Unexpected Infant Death (SUID) Case Registry (currently DP12–1202), which provides technical assistance to state grantees so they can monitor sudden unexpected deaths in children up to age one in their state.

By building on CDC's successful SUID Case Registry, the SDY Registry also provides technical assistance to grantees so they can improve their state's information on infant and child deaths. This includes two additions to their usual CDR program: (1) Entering new SDY information from sources already available at CDR reviews, (2) conducting an advanced clinical review of a sub-set of SDY cases to allow for a more technical and medical review of information already compiled. The intended result will be complete and timely grantee-based infant and child

death information that can be used to guide program and policy decisions at the state and local levels.

Child Death Review (CDR)

Child Death Review (CDR) programs function in every state, and the program is often mandated by the state. Case reviews occur at the local and state level, depending on the state. States use their data to inform prevention strategies and to evaluate the success of state programs in reducing infant and child deaths as well as producing annual reports.

The National Center for the Review and Prevention of Child Death (NCRPCD) provides support and technical assistance to CDR programs. This program is funded by the Health Resources and Services Administration (HRSA). The NCRPCD support covers a broad array of process-oriented CDR issues such as forming multi-disciplinary teams, moving from state to local reviews and strengthening partnerships with the local forensic community. In addition, the NCRPCD provides support to CDR programs who voluntarily participate in the web-based NCRPCD Case Reporting System. This Case Reporting System provides a standardized way to compile infant and child death information, already accessed and reviewed by state and local teams. Local and state teams own their data and identifiable data (if entered at all) is not available to anyone but the state that owns the data. The NCRPCD Case Report (Version 4.0), available to all CDR programs that use the Case Reporting System, will include new SDY variables. The CDC is asking SDY Registry grantees to enter new SDY variables into this pre-existing system and to use an advanced review to provide a more in-depth review of a sub-set of cases.

Information Collection Request (ICR)

The activities relevant to this Information Collection Request (ICR) are that SDY Registry (*i.e.,* grantee) CDR programs will convene an advanced clinical review team of physicians with specialties relevant to SDY, and will, through the advanced clinical review and its usual CDR process, enter new SDY variables specific to SDY deaths. The data will be entered into the NCRPCD Case Reporting System, version 4.0. The SDY variables are available to all users of the Case Reporting System, grantees and non-grantees alike. In addition, unfunded local and state CDR teams may wish to conduct specialized advanced clinical reviews and are not prohibited from doing so. The SDY Registry aims to improve data completeness and timeliness of the data entered by providing technical assistance to grantees only.

For the purposes of this ICR, a ''respondent'' is a SDY Registry grantee funded by CDC. As a grantee for CDC's cooperative agreement, the respondent agrees to compile a specifically defined set of SDY information about a defined set of deaths of children through the state's CDR program. CDC estimates that 900 cases will be reported over a three-year period. There are no costs to respondents other than their time. The total annualized burden hours are 2,250.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Number responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| State health personnel | SDY Module | 9 | 300 | 30/60 |
| Pediatric cardiologists | SDY Module | 9 | 300 | 5/60 |
| Epileptologists | SDY Module | 9 | 300 | 5/60 |
| Neurologists | SDY Module | 9 | 300 | 5/60 |
| Forensic pathologists | SDY Module | 9 | 300 | 5/60 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–18146 Filed 7–23–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–15–0576]**

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

**Proposed Project**

Possession, Use, and Transfer of Select Agents and Toxins (OMB Control No. 0920–0576, Expiration Date 11/30/2015)—Revision—Office of Public Health Preparedness and Response, Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Subtitle A of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, (42 U.S.C. 262a), requires the United States Department of Health and Human Services (HHS) to regulate the possession, use, and transfer of biological agents or toxins that have the potential to pose a severe threat to public health and safety (select agents and toxins). Subtitle B of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (which may be cited as the Agricultural Bioterrorism Protection Act of 2002), (7 U.S.C. 8401), requires the United States Department of Agriculture (USDA) to regulate the possession, use, and transfer of biological agents or toxins that have the potential to pose a severe threat to animal or plant health, or animal or plant products (select agents and toxins). Accordingly, HHS and USDA have promulgated regulations requiring individuals or entities that possess, use, or transfer select agents and toxins to register with the CDC or the Animal and Plant Health Inspection Service (APHIS). See 42 CFR part 73, 7 CFR part 331, and 9 CFR part 121 (the select agent regulations). The Federal Select Agent Program (FSAP) is the collaboration of the CDC, Division of Select Agents and Toxins (DSAT) and the APHIS Agriculture Select Agent Services (AgSAS) to administer the select agent regulations in a manner to minimize the administrative burden on persons subject to the select agent regulations. The FSAP administers the select agent regulations in close coordination with the Federal Bureau of Investigation's Criminal Justice Information Services (CJIS). Accordingly, CDC and APHIS have adopted an identical system to collect information for the possession, use, and transfer of select agents and toxins.

CDC is requesting OMB approval to continue to collect information under the select agent regulations for the next three years. Information will be collected via fax, email and hard copy mail from respondents.

The revisions to the data collection are primarily changes to the forms to clarify instructions, correct editorial errors from previous submission, and reformat the structure of the forms based on the day-to-day processing of these forms. Changes were made to the following forms: Report of Identification of a Select Agent or Toxin, Request for Exemption, Application for Registration, Request to Transfer Select Agents and Toxins, and Administrative Review.

There is no cost to respondents other than their time. The total estimated annualized burden hours are 8,527.

ESTIMATED ANNUALIZED BURDEN HOURS

| Regulation sections | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| 73.3 & 73.4 | Request for Exclusions | 3 | 1 | 1 |
| 73.5 & 6 | Report of Identification of a Select Agent or Toxin. | 303 | 3 | 1 |
| 73.5 & 73.6 | Request for Exemption | 1 | 1 | 1 |
| 73.7 | Application for Registration | 5 | 1 | 5 |
| 73.7 | Amendment to a Certificate of Registration | 277 | 7 | 1 |
| 73.9 | Documentation of self-inspection | 277 | 1 | 1 |
| 73.10 | Request for Expedited Review | 1 | 1 | 30/60 |
| 73.11 | Security Plan | 277 | 1 | 5 |
| 73.12 | Biosafety Plan | 277 | 1 | 5 |
| 73.13 | Request Regarding a Restricted Experiment | 20 | 2 | 1 |
| 73.14 | Incident Response Plan | 277 | 1 | 5 |
| 73.15 | Training | 277 | 1 | 1 |
| 73.16 | Request to Transfer Select Agents and Toxins. | 156 | 2 | 1 |
| 73.17 | Records | 277 | 1 | 30/60 |
| 73.19 | Notification of Potential Theft, Loss, or Release. | 215 | 2 | 1 |
| 73.20 | Administrative Review | 5 | 4 | 1 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–18094 Filed 7–23–15; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–437A & CMS–437B and CMS–10488]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**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 (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 a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: The necessity and utility of the proposed information collection for the proper performance of the agency's functions; the accuracy of

the estimated burden; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments on the collection(s) of information must be received by the OMB desk officer by August 24, 2015.

**ADDRESSES:** When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 or Email: *OIRA_submission@omb.eop.gov*.

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:** Under the Paperwork Reduction Act of 1995 (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 (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-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 that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection. *Title of Information Collection:* State Agency Sheets for Verifying Exclusions from the Inpatient Prospective Payment System and Supporting Regulations; *Use:* For first time verification requests for exclusion from the Inpatient Prospective Payment System (IPPS), a hospital/unit must notify the Regional Office (RO) servicing the State in which it is located that it believes it meets the criteria for exclusion from the IPPS. Currently, all new inpatient rehabilitation facilities (IRFs) must provide written certification that the inpatient population it intends to serve will meet the requirements of the IPPS exclusion criteria for IRFs. They must also complete the Form CMS–437A if they are a rehabilitation unit or complete Form CMS–437B if they are a rehabilitation hospital. This information is submitted to the State Agency (SA) no later than 5 months before the date the hospital/unit would become subject to IRF–PPS.

We propose to continue to use the Criteria Worksheets (Forms CMS–437A and CMS–437B) for verifying first-time exclusions from the IPPS, for complaint surveys, for its annual 5 percent validation sample, and for facility self-attestation. These forms are related to the survey and certification and Medicare approval of the IPPS-excluded rehabilitation units and rehabilitation hospitals.

For rehabilitation hospitals and rehabilitation units already excluded from the IPPS, annual onsite re-verification surveys by the SA are not required. These hospitals and units will be provided with a copy of the appropriate CMS–437 Worksheet at least 5-months prior to the beginning of its cost reporting period, so that the hospital/unit official may complete and sign an attestation statement and complete and return the appropriate CMS–437A or CMS–437B at least 5-months prior to the beginning of its cost reporting period. Fiscal Intermediaries will continue to verify, on an annual basis, compliance with the 60 percent rule (42 CFR 412.29(b)(2)) for rehabilitation hospitals and rehabilitation units through a sample of medical records and the SA will verify the medical director requirement.

The SA will maintain the documents unless instructed otherwise by the RO. The SA will notify the RO at least 60 days prior to the end of the rehabilitation hospital's/unit's cost reporting period of the IRF's compliance or non-compliance with the payment requirements. The information collected on these forms, along with other information submitted by the IRF is necessary for determining exclusion from the IPPS. Hospitals and units that have already been excluded need not reapply for exclusion. These facilities will automatically be reevaluated yearly to determine whether they continue to meet the exclusion criteria. *Form Number:* CMS–437A and CMS–437B (OMB Control Number: 0938–0986); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 478; *Total Annual Responses:* 478; *Total Annual Hours:* 120. (For policy questions regarding this collection contact James Cowher at 410–786–1948)

2. *Type of Information Collection Request:* Revision of a currently approved information collection; *Title of Information Collection:* Consumer Experience Survey Data Collection; *Use:* Section 1311(c)(4) of the Affordable Care Act (ACA) requires the Department of Health and Human Services (HHS) to develop an enrollee satisfaction survey system that assesses consumer experience with qualified health plans (QHPs) offered through an Exchange. It also requires public display of enrollee satisfaction information by the Exchange to allow individuals to easily compare enrollee satisfaction levels between comparable plans. The HHS established the Marketplace Survey and the QHP Enrollee Experience Survey (QHP Enrollee Survey) to assess consumer experience with the Marketplaces and the QHPs offered through the Marketplaces. The surveys include topics to assess consumer experience with the Marketplace such as enrollment and customer service, as well as experience with the health care system such as communication skills of providers and ease of access to health care services. The CMS developed the surveys using the Consumer Assessment of Health Providers and Systems (CAHPS®) principles (*http://www.cahps.ahrq.gov/about.htm*) and established an application and approval process for survey vendors who want to participate in collecting QHP enrollee experience data.

The Marketplace Survey will provide (1) actionable information that the Marketplaces can use to improve performance, (2) information that CMS and state regulatory organizations can use for oversight, and (3) a longitudinal database for future Marketplace research. The CAHPS® family of instruments does not have a survey that assesses entities similar to Marketplaces, so the Marketplace Survey items were generated by the project team. The QHP Enrollee Survey, which is based on the CAHPS® Health Plan Survey, will (1) help consumers choose among competing health plans,

(2) provide actionable information that the QHPs can use to improve performance, (3) provide information that regulatory and accreditation organizations can use to regulate and accredit plans, and (4) provide a longitudinal database for consumer research.

We are completing two rounds of developmental testing for the surveys. The 2014 survey psychometric tests helped determine psychometric properties and provided an initial measure of performance for Marketplaces and QHPs to use for quality improvement. Based on psychometric test results, CMS further refined the questionnaires and sampling designs to conduct the 2015 beta test of each survey. We are requesting clearance for the national implementation of the QHP Enrollee Survey, beginning in 2016. *Form Number:* CMS–10488 (OMB control number: 0938–1221); *Frequency:* Annually; *Affected Public:* Private sector (Business or other for-profits and Not-for-profit institutions), Public sector (Individuals and Households); *Number of Respondents:* 120,015; *Total Annual Responses:* 120,015; *Total Annual Hours:* 29,623. (For policy questions regarding this collection contact Nidhi Singh-Shah at 301–492–5110.)

Dated: July 21, 2015.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2015–18198 Filed 7–23–15; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Privacy Act of 1974, as Amended by Public Law 100–503; Computer Matching Program

**SUBJECT:** Notice of a computer matching program.

**AGENCY:** Office of Financial Services (OFS), Office of Administration (OA), ACF, HHS.

**ACTION:** Request for public comment on the Public Assistance Reporting Information System (PARIS) notice of a computer matching program between the Department of Veterans Affairs and State Public Assistance Agencies (SPAAs).

**SUMMARY:** In compliance with the Privacy Act of 1974, as amended by Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, ACF is publishing a notice of a computer matching program. The purpose of this computer match is to identify specific individuals who receive benefits from the Department of Veterans Affairs (VA) and also receive payments pursuant to various benefit programs administered by both the Department of Health and Human Services (HHS) and the Department of Agriculture. ACF will facilitate this program on behalf of SPAAs that participate in PARIS for verification of continued eligibility for public assistance. The match will utilize VA and SPAA records.

**DATES:** Submit written comments on or before August 24, 2015.

ACF will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB). The dates for the matching program will be effective as indicated in *''E. Inclusive Dates of the Matching Program''* in this notice.

**ADDRESSES:** Interested parties may comment on this notice by writing to the Director, Office of Financial Services, Office of Administration, 370 L'Enfant Promenade SW., Washington, DC 20047. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** Director, Office of Financial Services, Office of Administration, 370 L'Enfant Promenade SW., Washington, DC 20047. Telephone: (202) 401–7237.

**SUPPLEMENTARY INFORMATION:** The Privacy Act of 1974, as amended by Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, (5 U.S.C. 552a), adds certain protections for individuals applying for and receiving Federal benefits. The law regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, and local government records.

Federal agencies that provide or receive records in computer matching programs must:

1. Negotiate written agreements with source agencies;

2. Provide notification to applicants and beneficiaries that their records are subject to matching;

3. Verify match findings before reducing, suspending, or terminating an individual's benefits or payments;

4. Furnish detailed reports to Congress and OMB; and

5. Establish a Data Integrity Board that must approve matching agreements.

This computer matching program meets the requirements of Public Law 100–503.

**Robert Noonan,**

*Deputy Assistant Secretary for Administration, ACF.*

### Notice of Computer Matching Program

*A. Participating Agencies*

VA and SPAAs.

*B. Purpose of the Match*

To identify specific individuals who receive benefits from the VA and also receive payments pursuant to HHS and Department of Agriculture benefit programs, and to verify their continued eligibility for such benefits. SPAAs will contact affected individuals and seek to verify the information resulting from the match before initiating any adverse actions based on the match results.

*C. Authority for Conducting the Match*

The authority for conducting the matching program is contained in section 402(a)(6) of the Social Security Act [42 U.S.C. 602(a)(6)].

*D. Records To Be Matched*

VA will disclose information from the system of records identified as Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records–VA (58VA21/22/28) published at 74 FR 29275, (June 19, 2009), last amended at 77 FR 42593, (July 19, 2012). VA's disclosure of information for use in this computer match is listed as a routine use in this system of records.

VA, as the source agency, will prepare electronic files containing the names and other personal identifying data of eligible veterans receiving benefits. These records are matched electronically against SPAA files consisting of data regarding monthly Medicaid, Temporary Assistance for Needy Families, general assistance, and Supplemental Nutrition Assistance Program beneficiaries.

1. The electronic files provided by the SPAAs will contain client names and Social Security numbers (SSNs).

2. The resulting output returned to SPAAs will contain personal identifiers, including names, SSNs, employers, current work or home addresses, etc.

*C.F.D.A. Number:* 93.647.

*Statutory Authority:* Privacy Act of 1974, as amended by Pub. L. 100–503.

*E. Inclusive Dates of the Matching Program*

The effective date of the matching agreement and date when matching may actually begin shall be at the expiration of the 40-day review period for OMB and Congress, or 30 days after publication of the matching notice in the **Federal Register,** whichever date is later. The matching program will be in effect for 18 months from the effective date, with an option to renew for 12 additional months, unless one of the parties to the agreement advises the others by written request to terminate or modify the agreement.

[FR Doc. 2015–18148 Filed 7–23–15; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Low Income Home Energy Assistance Program (LIHEAP) Carryover and Reallotment Report.

*OMB No.:* 0970–0106.

*Description:* The LIHEAP statute and regulations require LIHEAP grantees to report certain information to HHS concerning funds forwarded and funds subject to reallotment. The 1994 reauthorization of the LIHEAP statute, the Human Service Amendments of 1994 (Pub. L. 103–252), requires that the Carryover and Reallotment Report for one fiscal year be submitted to HHS via the On-Line Data Collection (OLDC) system by the grantee before the allotment for the next fiscal year may be awarded.

The Administration for Children and Families is requesting no changes in the electronic collection of data with the Carryover and Reallotment Report, and the Simplified Instructions for Timely Obligations of LIHEAP Funds and Reporting Funds for Carryover and Reallotment. The form clarifies the information being requested and ensures the submission of all the required information. The form facilitates our response to numerous queries each year concerning the amounts of obligated funds. Use of the form is voluntary. Grantees have the option to use another format.

*Respondents:* State Governments, Tribal Governments, Insular Areas, the District of Columbia, and the Commonwealth of Puerto Rico.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| Carryover and Reallotment Report | 216 | 1 | 3 | 648 |

Estimated Total Annual Burden Hours: 648.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2015–18185 Filed 7–23–15; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request

*Proposed Projects:*

*Title:* April 2016 Current Population Survey Supplement on Child Support.

*OMB No.:* 0970–0416.

*Description:* Collection of these data will assist legislators and policymakers in determining how effective their policymaking efforts have been over time in applying the various child support legislation to the overall child support enforcement picture. This information will help policymakers determine to what extent individuals on welfare would be removed from the welfare rolls as a result of more stringent child support enforcement efforts.

*Respondents:* Individuals and households.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| Child Support Survey | 41,300 | 1 | 0.03 | 1,239 |

*Estimated Total Annual Burden Hours:* 1,239.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and

Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2015–18203 Filed 7–23–15; 8:45 am]

**BILLING CODE 4184–01–P**

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–1152]**

### Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Petition To Request an Exemption From 100 Percent Identity Testing of Dietary Ingredients: CGMP 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 collection of information entitled, ''Petition to Request an Exemption from 100 Percent Identity Testing of Dietary Ingredients: CGMP in Manufacturing, Packaging, Labeling or Holding Operations for Dietary Supplements'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**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:** On May 26, 2015, the Agency submitted a proposed collection of information entitled, ''Petition to Request an Exemption from 100 Percent Identity Testing of Dietary Ingredients: CGMP in Manufacturing, Packaging, Labeling or Holding Operations for Dietary Supplements'' to OMB for review and clearance under 44 U.S.C. 3507. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0608. The approval expires on July 31, 2018. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: July 20, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–18140 Filed 7–23–15; 8:45 am]

**BILLING CODE 4164–01–P**

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–0502]**

### Risk Evaluation and Mitigation Strategies: Understanding and Evaluating Their Impact on the Health Care Delivery System and Patient Access; Public Meeting, Request for Comments

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public meeting; request for comments.

The Food and Drug Administration (FDA or Agency) is announcing a public meeting entitled ''Risk Evaluation and Mitigation Strategies (REMS): Understanding and Evaluating Their Impact on the Health Care Delivery System and Patient Access''. The purpose of the public meeting is to engage in constructive dialogue and information sharing among regulators, the scientific community, the pharmaceutical industry, public health agencies, patients, patient advocates, health care system administrators, prescribers, dispensers, hospitals, infusion centers, health informatics experts, third-party payers, distributors, and the general public concerning the impact of REMS on the health care delivery system, including the impact on patients and health care providers. The discussion will focus on strategies for characterizing and evaluating the impact of REMS on the health care delivery system and on patient access to drugs subject to REMS.

The primary focus of this meeting will be on REMS with Elements To Assure Safe Use (ETASU); however, the meeting will also include discussion of issues that may apply to all REMS. The input from this meeting and the public docket comments will be used to inform ongoing Agency initiatives related to optimizing REMS design, implementation, and assessment.

*Dates and Times:* The meeting will be held on October 5, 2015, from 8 a.m. to 5 p.m. and October 6, 2015, from 8 a.m. to 1 p.m.

*Location:* The meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Participants must enter through Building 1 and undergo security screening. For parking and security information, please visit *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.* Please arrive early to ensure time for parking and security screening.

*Contact Persons for meeting background and content:* Megan Moncur, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, *REMSMeetingOct2015@fda.hhs.gov* .

*For registration, oral presentations, special accommodations, and other meeting logistics:* Cherice Holloway, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, Phone 301–796–4909, FAX: 301–796–9832, *cherice.holloway@fda.hhs.gov.*

*Registration and Requests for Oral Presentations:* Registration is free and available on a first-come, first-served basis. You must register by September 21, 2015. Seating is limited, so register early. FDA may limit the number of participants from each organization. If time and space permit, onsite registration on the day of the meeting will be available. To register for this

meeting, please visit FDA's Drugs News & Events—Meetings, Conferences, & Workshops calendar at *http://www.fda.gov/Drugs/NewsEvents/ucm132703.htm* and select this meeting from the events list. If you need special accommodations because of a disability, please contact Cherice Holloway (see *Contact Persons*) at least 7 days before the meeting. Those without Internet access should contact Cherice Holloway to register.

This meeting includes public comment sessions in which FDA is seeking input on improved approaches for understanding, evaluating, and minimizing burden on the health care delivery system to the extent practicable and for helping to assure patient access to drugs that are subject to REMS. If you would like to present during a session, please identify the topic(s) you will address during registration (see section II).

FDA will do its best to accommodate requests to speak. FDA urges individuals and organizations with common interests to coordinate and/or request time for a joint presentation. Following the close of registration, FDA will allot time for each presentation and notify presenters by September 28, 2015. Do not present or distribute commercial or promotional material during the meeting. Registered presenters should check in at the registration desk before the meeting.

*Live Webcast of the Meeting:* To view the Connect Pro Webcast of this meeting, you must register online by 4 p.m., September 21, 2015. Webcast connections are limited, so register early. Organizations should register all viewers but access the Webcast using one connection per location.

Webcast viewers will be sent system requirements after registration and will be sent connection information after September 28, 2015. Visit *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm* for the Connect Pro Connection Test. To get a quick overview of Connect Pro, visit *http://www.adobe.com/go/connectpro_overview.* (FDA has verified the Web site addresses in this notice but is not responsible for any subsequent address changes after this document publishes in the **Federal Register**.)

*Comments:* FDA is holding this public meeting to obtain information on improved strategies for evaluating and minimizing the burden of REMS on the health care delivery system to the extent practicable and their impact on patient access to the drugs covered by such programs. FDA is opening a public docket for comments to be submitted to the Agency on the issues and questions presented during the meeting. Regardless of attendance at the public meeting, interested persons may submit electronic or paper comments to FDA's Division of Dockets Management by November 2, 2015.

Submit electronic comments to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Send only one set of comments. Identify all comments with the docket number found in brackets in the heading of this document. When addressing specific topics (see section II), please identify the topic. 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*.

*Transcripts:* Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov*. The transcript may be viewed at the Division of Dockets Management (see *Comments*). A transcript will also be available in either hard copy or on CD–ROM after submission of a Freedom of Information request. Written requests are to be sent to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

**SUPPLEMENTARY INFORMATION:**

## I. Background

This meeting builds on prior stakeholder feedback on the design, implementation, and assessment of REMS, including feedback obtained through public meetings, stakeholder outreach, and comments to the public docket, including the recommendations and suggestions recently summarized in the Agency's report entitled ''Standardizing and Evaluating Risk Evaluation and Mitigation Strategies'' (the Standardizing and Evaluating REMS Report).[1] The report also describes the Agency's findings concerning strategies to standardize REMS, where appropriate, with the goal of reducing the burden of implementing REMS on health care providers, patients, and others in various health care settings.

The Agency seeks to build on this foundation by updating stakeholders and obtaining their feedback on some of our current and proposed initiatives aimed at anticipating and minimizing REMS' burden on the health care delivery system, helping to assure access to drugs that are subject to REMS with ETASU, and obtaining stakeholder recommendations on additional approaches to accomplish these goals. The Agency recognizes that REMS can impose burden on the health care delivery system. The statute requires ETASU to be commensurate with the specific serious risks listed in a drug's labeling, and, considering such risks, not be unduly burdensome on patient access to the drug, and, to the extent practicable, to minimize burden on the health care delivery system. We are also seeking input on the methods for evaluating REMS' burden on the health care delivery system and their impact on patient access to drugs.

The primary focus of this meeting will be on REMS with ETASU see section 505(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1(f)); however, the meeting will also include discussion of issues that may apply to all REMS.

## II. Who Is the Target Audience and Who Should Attend This Public Meeting?

This meeting is open to all interested parties. The target audience is comprised of regulators, the scientific community, the pharmaceutical industry, public health Agencies, patients, patient advocates, health care system administrators, prescribers, dispensers, hospitals, infusion centers, health informatics experts, third-party payers, distributors, and the general public who are interested in providing input on approaches for both anticipating and minimizing health care delivery system burden and for helping to assure patient access to drugs that are subject to REMS, as well as those interested in improving the approaches used to evaluate the burden of REMS on the health care delivery system and their impact on patient access.

## III. What Are the Topics We Intend to Discuss at the Public Meeting?

The meeting will include panel discussions and individual presentations. The main questions that will be considered are as follows: (1) How to anticipate and minimize the burden of REMS on the health care delivery system and patient access; and (2) how to improve the quality and effectiveness of methods used to evaluate REMS' burden on the health care delivery system and impact on patient access.

[1] In the **Federal Register** of September 23, 2014 (79 FR 56816), FDA published a notice announcing the availability of this draft report. The report is available at *http://www.fda.gov/downloads/forindustry/userfees/prescriptiondruguserfee/ucm415751.pdf.*

FDA will begin the meeting by soliciting feedback regarding how stakeholders, such as patients and health care providers, think about burden related to REMS. The meeting will then focus on strategies for anticipating and addressing REMS burden and access issues in several broad topic areas (including several areas identified in the key opinions and recommendations from stakeholders in the Standardizing and Evaluating REMS Report). Potential discussion topics are described in this document. For topics related to strategies for minimizing burden and barriers to patient access (topics 1–3), FDA will present ongoing and planned Agency initiatives, solicit feedback on these initiatives, and ask for feedback on other opportunities for anticipating and minimizing burden and patient access issues.

Potential topics for discussion include the following:

• *Topic 1: Understanding the stakeholder perspective.*

Discussion will focus on gaining a better understanding of how stakeholders, such as patients, health care providers, dispensers, and others, think about burden and access issues related to REMS—for example, understanding the different dimensions of burden (*e.g.,* administrative, logistical, workflow) and better understanding the different types of patient access issues that are implicated by REMS.

• *Topic 2: Improved communication about the existence of a REMS and about what is required of stakeholders under that REMS.*

Discussion will focus on strategies to improve communications about REMS, including communications about the existence of a particular REMS or the requirements under a particular REMS program, and how to improve the clarity of REMS materials.

• *Topic 3: Improved integration of activities required under a REMS.*

Discussion will focus on two closely related subtopics: (1) Strategies to improve the integration of REMS requirements into the health care delivery system through process improvement (*e.g.,* streamlining REMS processes that have an impact on stakeholder workflow or the care process, and reducing redundancies by leveraging existing training or certification requirements to meet REMS requirements); and (2) strategies to integrate REMS into electronic health care systems (*e.g.,* electronic health records, decision support systems, and pharmacy management systems).

• *Topic 4: Improved methods for measuring the burden of REMS on the health care delivery system and the impact on patient access.*

Discussion will focus on identifying the most effective methods for evaluating the burden of REMS on the health care delivery system and the impact on patient access, with a goal of not only characterizing and quantifying these effects, but also identifying opportunities for improvements to a REMS program and better understanding the effect of changes to a program. This may include discussion of how to address methodological challenges in the measurement of burden and access, and how to incorporate stakeholder input into REMS design and assessment.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the public meeting, and the background material will be posted on FDA's Web site after the meeting at *http://www.fda.gov/Drugs/NewEvents/ucm132703.htm,* and to the docket at *http://www.regulations.gov*.

Dated: July 20, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–18149 Filed 7–23–15; 8:45 am]

BILLING CODE 4164–01–P

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0146]**

### Third-Party Auditor/Certification Body Accreditation for Food Safety Audits: Model Accreditation Standards; Draft Guidance for Industry and Food and Drug Administration Staff; 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 and FDA staff entitled ''Third-Party Auditor/Certification Body Accreditation for Food Safety Audits: Model Accreditation Standards.'' The draft guidance, when finalized, will contain FDA recommendations on third-party auditor/certification body qualifications for accreditation to conduct food safety audits and to issue food and/or facility certifications under an FDA program required by the FDA Food Safety Modernization Act (FSMA).

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that we consider your comment on this draft guidance before we begin work on the final version of the guidance, submit either electronic or written comments by October 7, 2015.

**ADDRESSES:** Submit written requests for single copies of the draft guidance to Charlotte A. Christin, Office of Compliance, Center for Food Safety and Applied Nutrition (HFS–605), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

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:** Charlotte A. Christin, Center for Food Safety and Applied Nutrition (HFS–605), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–3708.

**SUPPLEMENTARY INFORMATION:**

## I. Background

We are announcing the availability of a draft guidance for industry and FDA staff entitled ''Third-Party Auditor/Certification Body Accreditation for Food Safety Audits: Model Accreditation Standards'' (draft guidance). This draft guidance is being made available consistent with our good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent our current thinking on ''Third-Party Auditor/Certification Body Accreditation for Food Safety Audits: Model Accreditation Standards.'' 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 an approach satisfies the requirements of the applicable statutes and regulations.

Section 808 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 384d) was added by FSMA and directs FDA to establish a program for the recognition of accreditation bodies that accredit third-party auditors/certification bodies to conduct food safety audits and to issue food and/or facility certifications that FDA may use in certain circumstances to facilitate the entry of foods presented for import.

Section 808(b)(2) of the FD&C Act requires FDA to develop model accreditation standards that recognized accreditation bodies shall use to qualify third-party auditors/certification bodies for accreditation, and in so doing, to look to existing standards for certification bodies (as of the date of enactment of FSMA) to avoid unnecessary duplication of efforts and costs. This draft guidance, when finalized, will constitute the model accreditation standards referred to in section 808(b)(2) of the FD&C Act. The draft guidance contains FDA recommendations on third-party auditor/certification body qualifications for accreditation to conduct food safety audits and to issue food and/or facility certifications under an FDA program required by FSMA.

FDA was guided in developing this draft guidance, in part, by the National Technology Transfer and Advancement Act of 1995, which directs Federal Agencies to use voluntary consensus standards in lieu of government-unique standards, except where inconsistent with law or otherwise impractical.

In developing the draft guidance, FDA considered several voluntary consensus standards for their relevance to the qualifications of third-party auditors/certification bodies that would certify foreign food facilities and/or their foods for conformance with the requirements of the FD&C Act. FDA also sought to identify the standards most commonly used by stakeholders (*e.g.,* other governments, public and private accreditation bodies, the food industry, and the international standards community) in qualifying third-party auditors/certification bodies for conducting food safety audits. As a result, FDA was guided in developing the draft model accreditation standards guidance document by International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) ISO/IEC 17021: *Conformity Assessment—Requirements for bodies providing audit and certification management systems* (2011) (''ISO/IEC 17021:2011'') and included an appendix containing a crosswalk between ISO/IEC 17021:2011 and ISO/IEC 17065: *Conformity assessment—Requirements for bodies certifying products, processes and services* (''ISO/IEC 17065:2012'').

The draft guidance document is issued as a companion to the proposed rule ''Accreditation of Third-Party Auditors/Certification Bodies to Conduct Food Safety Audits and to Issue Certifications'' that was published in the **Federal Register** of July 29, 2013 (78 FR 45781). When this guidance is finalized, it will serve as a companion guidance document to the final rule.

## II. Paperwork Reduction Act of 1995

This draft guidance refers to proposed collections of information described in FDA's July 29, 2013, proposed rule on Accreditation of Third-Party Auditors/Certification Bodies to Conduct Food Safety Audits and to Issue Certifications, which this draft guidance is intended to interpret. The proposed collections of information in the proposed rule 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). As required by the PRA, FDA has published an analysis of the information collection provisions of the proposed rule (see 78 FR 45781 at 45825, reference 25, pages 216–239, available at *http://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm*) and has submitted the proposed collections to OMB for approval.

## III. Comments

Interested persons may submit either electronic comments regarding the draft guidance 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 draft guidance at either *http://www.fda.gov/FoodGuidances* or *http://www.regulations.gov.* Use the FDA Web site listed in the previous sentence to find the most current version of the guidance.

Dated: July 20, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–18142 Filed 7–23–15; 8:45 am]

BILLING CODE 4164–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Advisory Committee on Infant Mortality: Change in Meeting Dates

**ACTION:** Notice of change in meeting dates.

**SUMMARY:** Health Resources and Services Administration is issuing this notice to change the meeting dates for the Notice is hereby given of a change in the meeting of the Secretary's Advisory Committee on Infant Mortality (SACIM). The meeting was originally scheduled for July 13–14, 2015 and was published in the **Federal Register** on June 26, 2015, 80 FR 123 (page 36826).

**DATES:** The meeting dates have changed to August 10, 2015, starting at 8:30 a.m. (EST) and ending at 5 p.m. (EST) and August 11, 2015, starting at 8:30 a.m. (EST) and ending at 3:30 p.m. (EST).

The meeting remains virtual via webinar and phone using the following links: URL: *https://hrsa.connectsolutions.com/sacim_seminar_200/.* Call-In Number: 1.888.942.8170. Passcode: 3494113.

For more details, please visit the ACIM Web site: *http://www.hrsa.gov/advisorycommittees/mchbadvisory/InfantMortality/index.html.* The meeting is open to the public with attendance limited to availability of call-in lines.

**FOR FURTHER INFORMATION CONTACT:** Anyone requiring information regarding the Committee should contact Michael C. Lu, M.D., M.P.H., Executive Secretary, ACIM, Health Resources and Services Administration, Room 18 W, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–2170.

Individuals who are submitting public comments or who have questions regarding the meeting and location should contact David S. de la Cruz, Ph.D., M.P.H., SACIM Designated Federal Official, HRSA, Maternal and Child Health Bureau, telephone: (301) 443–0543, email: *David.delaCruz@hrsa.hhs.gov.* Public comments must be submitted to Dr. de la Cruz by email no later than August 3, 2015.

**Jackie Painter,**

*Director, Division of the Executive Secretariat.*

[FR Doc. 2015–18179 Filed 7–23–15; 8:45 am]

BILLING CODE 4165–15–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel Improving Health through Rehabilitation Robotic Technology.

*Date:* August 19, 2015.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Sathasiva B. Kandasamy, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 17, 2015.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–18093 Filed 7–23–15; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Aging Special Emphasis Panel, August 13, 2015, 12:00 p.m. to August 13, 2015, 4:00 p.m., National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20892 which was published in the **Federal Register** on July 21, 2015, 80 FR 43101.

The meeting notice is amended to change the date of the meeting from August 13, 2015 to August 12, 2015. The meeting is closed to the public.

Dated: July 21, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–18191 Filed 7–23–15; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**FOR FURTHER INFORMATION CONTACT:** Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

**SUPPLEMENTARY INFORMATION:** Technology descriptions follow.

#### Bispecific Chimeric Antigen Receptors to CD22 and CD19 for Treating Hematological Cancers

*Description of Technology:* Chimeric antigen receptors (CARs) are hybrid proteins that have antibody binding fragments fused to protein signaling domains that activate T cells. The antibody binding fragments allow the CAR to recognize specific cell types, thereby activating the T cell through the protein signalling domain. Once activated, the T cells selectively eliminate the cells which they recognize. By engineering a T cell to express CARs with antibody binding fragments which are specific for cell surface proteins that are associated with diseased cells, it is possible to treat the disease. This is a promising new therapeutic approach known as adoptive cell therapy.

CD22 and CD19 are cell surface proteins that are expressed on a large number of B cell lineage hematological cancers, such as leukemia and lymphoma. CD19 CAR T cells have demonstrated potent activity against leukemia in early clinical trials. However, some of these patients will relapse with leukemia that no longer expresses the CD19 protein. This technology concerns the use of two high affinity antibody binding fragments as the targeting moieties of a CAR: One to CD22 (m971), and one against CD19 (FMC63). The resulting CAR can be used in adoptive cell therapy treatment for cancers which express either CD22 or CD19.

*Potential Commercial Applications:*

- Treatment of diseases associated with increased or preferential expression of CD22 or CD19.
- Specific diseases include hematological cancers such as chronic lymphocytic leukemia (CLL), hairy cell leukemia (HCL) acute lymphoblastic leukemia (ALL) and lymphoma.

*Competitive Advantages:*

- High affinity of the m971 and FMC63 antibody binding fragments increases the likelihood of successful targeting.
- Targeted two antigens expressed on the same type of diseased cells may increase efficacy relative to targeting a single antigen.
- Targeted therapy decreases non-specific killing of healthy, essential cells, resulting in fewer non-specific side-effects and healthier patients.
- Hematological cancers are susceptible to cytotoxic T cells because they are present in the bloodstream.

*Development Stage:*

- In vitro data available.
- In vivo data available (animal).

*Inventors:* Terry J. Fry, et al. (NCI).

*Publications:*

1. Haso W, et al. Anti-CD22-chimeric antigen receptors targeting B-cell precursor acute lymphoblastic leukemia. Blood. 2013 Feb 14;121(7):1165–74. [PMID 23243285]
2. Lee DW, et al. T cells expressing CD19 chimeric antigen receptors for acute lymphoblastic leukaemia in children and young adults: a phase 1 dose-escalation trial. Lancet. 2015 Feb7;385(9967):517–

28. [PMID 25319501]

*Intellectual Property:* HHS Reference No. E–106–2015/0–US–01—US Provisional Application No. 62/135,442 filed March 19, 2015.

*Related Technologies:*

- HHS Reference No. E–080–2008/0–US–03—US Patent Application No. 12/934,214 filed September 23, 2010.
- HHS Reference No. E–291–2012/0–PCT–02—PCT Application No. PCT/US2013/060332 filed September 18, 2013.

*Licensing Contact:* David A. Lambertson, Ph.D.; 301–435–4632; *lambertsond@mail.nih.gov*.

**Magnetic Resonance Magnification Imaging**

*Description of Technology:* With conventional MRI, it is inherently time-consuming to generate high dimensional images with high spatial resolution. This invention, inspired by optical magnification, uses a fundamentally different approach to MRI image formation. It uses specially designed radiofrequency pulses to interact with the magnetic field gradient, wherein the region of interest is filled with more pixels resulting in increased spatial resolution and reduced overall scan times for patients at the region of interest. Currently, 3-fold magnification has been achieved *in vivo*. This invention allows the magnification of predefined regions of interest and improved diagnostic images for the same scan time.

*Potential Commercial Applications:*

- Diagnostic imaging.
- Environmental Sampling/Testing.
- Quality Control/Quality Assurance.

*Competitive Advantages:*

- Magnified image with increased image resolution.
- A 3-fold increase in spatial resolution in vivo in comparison to traditional MRI scans.
- Reduced scan time.
- Patient friendly—with reduced scan time, there is less patient discomfort especially for those who experience claustrophobia.

*Development Stage:*

- Early-stage.
- In vivo data available (animal).

*Inventor:* Jun Shen (NIMH).

*Intellectual Property:* HHS Reference No. E–252–2014/0—US Provisional Application No. 62/059,520 filed October 3, 2014.

*Licensing Contact:* Jennifer Wong, M.S.; 301–435–4633; *wongje@mail.nih.gov*.

*Collaborative Research Opportunity:* The National Institute of Mental Health is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize Magnetic Resonance Magnification Imaging. For collaboration opportunities, please contact Jun Shen at *shenj@mail.nih.gov* or 301–451–3408.

Dated: July 20, 2015.

**Richard U. Rodriguez,**

*Acting Director, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 2015–18101 Filed 7–23–15; 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 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:* Center for Scientific Review Special Emphasis Panel Clinical Trial Planning Grant for Interventions and Services to Improve Treatment and Prevention of HIV/AIDS.

*Date:* August 3, 2015.

*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:* Jose H Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@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.

(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: July 20, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–18092 Filed 7–23–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Library of Medicine Special Emphasis Panel; UG4—Regional Medical Library Grants.

*Date:* October 16, 2015.

*Time:* 12:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20817 (Telephone Conference Call).

*Contact Person:* Zoe E. Huang, MD, Scientific Review Officer, Extramural Programs, National Library of Medicine, NIH, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–594–4937, *huangz@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: July 21, 2015.

**Michelle Trout,**

*Program Analyst, Office of the Federal Advisory Committee Policy.*

[FR Doc. 2015–18241 Filed 7–23–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

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/or 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 grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Deafness and Other Communication Disorders Advisory Council

*Date:* September 11, 2015.

*Closed:* 8:30 a.m. to 9:50 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

*Open:* 9:50 a.m. to 2:00 p.m.

*Agenda:* Staff reports on divisional, programmatic, and special activities.

*Place:* National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892

*Contact Person:* Craig A. Jordan, Ph.D., Director, Division of Extramural Activities, NIDCD, NIH, Room 8345, MSC 9670, 6001 Executive Blvd., Bethesda, MD 20892–9670, 301–496–8693, *jordanc@nidcd.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.Information is also available on the Institute's/Center's home page: *http://www.nidcd.nih.gov/about/Pages/Advisory-Groups-and-Review-Committees.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: July 21, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–18190 Filed 7–23–15; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Office of the Director; Notice of Establishment

Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. App.), the Director, National Institutes of Health (NIH), announces the establishment of the National Asthma Education Prevention Program Coordinating Committee (NAEPP) as required by 424B of the Public Health Service Act, 42 U.S.C. 285b–7b, as amended.

The NAEPP's primary mission is to provide advice to the National Heart, Lung, and Blood Institute on matters concerning asthma and to facilitate the efficient and effective exchange of information on asthma activities among the member agencies and voluntary health organizations in order to enhance coordination of asthma-related programs and activities. The NAEPP will assist in increasing public understanding of the member agencies' activities, programs, policies, and research and will serve as a public forum for discussion of issues related to asthma.

It is determined that the NAEPP is in the public interest in connection with the performance of duties imposed on the NIH by statute, and that these duties can best be performed through the advice and counsel of this group.

Inquires may be directed to Jennifer Spaeth, Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail Code 4875), Telephone (301) 496–2123, or *spaethj@od.nih.gov.*

Dated: July 20, 2015.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–18121 Filed 7–23–15; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5828–N–30]**

### 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: 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) 443–2265 (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; AIR FORCE: Mr. Robert E. Moriarty, P.E., AFCEC/CI, 2261 Hughes Avenue, Ste. 155, JBSA Lackland, TX 78236–9853; COAST GUARD: Commandant, United States Coast Guard, Attn: Jennifer Stomber, 2703 Martin Luther King Jr. Avenue SE., Stop 7741, Washington, DC 20593–7714; (202) 475–5609 ; ENERGY: Mr. David Steinau, Department of Energy, Office of Property Management, 1000 Independence Ave. SW., Washington, DC 20585, (202) 287–1503; INTERIOR: Mr. Michael Wright, Acquisition & Property Management, Department of the Interior, 3960 N. 56th Ave. #104, Hollywood, FL 33021; (443) 223–4639; NASA: Mr. Frank T. Bellinger, Facilities Engineering Division, National Aeronautics & Space Administration, Code JX, Washington, DC 20546, (202) 358–1124; NAVY: Mr. Steve Matteo, Department of the Navy, Asset Management; Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202) 685–9426 (These are not toll-free numbers).

Dated: July 16, 2015.

**Brian P. Fitzmaurice,**

*Director, Division of Community Assistance, Office of Special Needs Assistance Programs.*

**TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 07/24/2015**

**Suitable/Available Properties**

*Building*

Kentucky

ARS SEA 644500B004
Water & Air Quality Lab
230 Bennett Ln.
Bowling Green KY 42104
Landholding Agency: Agriculture
Property Number: 15201520035
Status: Excess
Directions: 98400; RPUID: 2410054320
Comments: off-site removal only; relocation difficult due to size; 1,960 sq. ft.; contact Agriculture for more information.

Michigan

MSBL 701
701 Clubhouse Rd.
Joint Base MDL MI 08733
Landholding Agency: Air Force
Property Number: 18201530001
Status: Unutilized
Comments: off-site removal; 40+ yrs. old; 460 sq. ft.; storage; 12+ mos. Vacant; deteriorated; no future agency need; contact AF for more information.

Mississippi

Modular Office, Bio Lab
141 Experiment Station Road
Stoneville MS 38776
Landholding Agency: Agriculture
Property Number: 15201530001
Status: Unutilized
Directions: ARS 640200B057 RPUID: 03.480
Comments: off-site removal; 13+ yrs. old; 960 sq. ft.; 13+ yrs. vacant; shelter; poor condition; no future Agency need; contact USDA for more information.

Pennsylvania

2 Buildings
Delaware Water Gap National Recreation Aria
Dingmans Ferry PA 18328
Landholding Agency: Interior
Property Number: 61201530001
Status: Excess
Directions: North and South Bath House
Comments: off-site removal; 45+ yrs. old; 590 sq. ft.; rest room; structures are not ADA compliant; accessibility deficiencies; reached life cycle; contact DOI for more information.

**Unsuitable Properties**

*Building*

California

Facility # 4209 Propulsion
Research Lab
793 Circle Dr.
Edwards CA 93523
Landholding Agency: Air Force
Property Number: 18201520032
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising National Security.
Reasons: Secured Area

Golf Course Head #02623
1 Administration Circle
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77201530001
Status: Excess
Comments: public access denied no alternative method to gain access without compromising National Security.
Reasons: Secured Area

Connecticut

Building 108
Naval Submarine Base New London
Groton CT 06349
Landholding Agency: Navy
Property Number: 77201520033
Status: Excess
Comments: public access denied and no alternative method to gain access without compromising National Security.
Reasons: Secured Area

Building 160
Naval Submarine Base New London
Groton CT 06349
Landholding Agency: Navy
Property Number: 77201520036
Status: Excess
Comments: public access denied no alternative method to gain access without compromising National Security.
Reasons: Secured Area

Michigan

Comms Building (OWI) 67672
6795 US 23 North
Spruce MI 48762
Landholding Agency: Coast Guard
Property Number: 88201530001
Status: Excess
Comments: public access denied no alternative method to gain access without compromising National Security.
Reasons: Secured Area

2 Buildings
1701–99 S Larson Road
Custer MI 49405
Landholding Agency: Coast Guard
Property Number: 88201530003
Status: Excess
Directions: Communications UPS Building (OW1) 68067, Communications Shed (OW2).
Comments: public access denied no alternative method to gain access without compromising National Security.
Reasons: Secured Area

Mississippi

Bldg. 8304 Test Complex Electr
Stennis Space Center
Hancock County MS 39529
Landholding Agency: NASA
Property Number: 71201530001
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Nevada

5 Buildings & .94 Acres Land
Victoria Street
Tonopah NV 89049
Landholding Agency: Air Force
Property Number: 18201530002
Status: Excess
Directions: Fac. #80000818213; 80100818212; 80300818210; 80300818209; 80400818208
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

New York

2 Buildings
Brookhaven National Laboratory
Upton NY 11973
Landholding Agency: Energy
Property Number: 41201520004
Status: Excess
Directions: Buildings: 580 & 528A
Comments: public access denied and no alternative method to gain access without compromising National Security.
Reasons: Secured Area

2 Buildings
Naval Submarine Base New London
Groton NY 06349
Landholding Agency: Navy
Property Number: 77201520035
Status: Excess
Directions: Buildings; 385 & 395
Comments: property located w/in floodway which has not been corrected or contained; Public access denied and no alternative method to gain access without compromising National Security.
Reasons: Secured Area; Floodway

Xmtr Hut (OWI) (68250)
Golden Hill State Park
Barker NY 14012
Landholding Agency: Coast Guard
Property Number: 88201530002
Status: Excess
Comments: public access denied no alternative method to gain access without compromising National Security.
Reasons: Secured Area

Ohio

Materials & Struct Bldg. #140
21000 Brookpark Road
Brook Park OH 44135
Landholding Agency: NASA
Property Number: 71201530002
Status: Unutilized
Comments: flammable/explosive materials are located on adjacent industrial, commercial, or Federal fac.; public access denied and no alternative method to gain access without compromising national security.
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Texas

2 Buildings
2307 W. Maple Street #A
Port O' Connor TX 77982
Landholding Agency: Coast Guard
Property Number: 88201530004
Status: Unutilized
Directions: ATON Batt Storage & ATON Storage Building
Comments: property located within floodway which has not been correct or contained; Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area; Floodway

Virginia

V–065WEMA Recreational Facility
Goddard Space Flight Center
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520008
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

X–005 Fire Department Support Bldg.-WFF
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520009
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

V–025 Inert Pay Assem and Checkout Building
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520010
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

V–067 Rocker Motor Storage Facility
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520011
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

E–005 Contract Office and Storage Building
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520012
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

X–091 Fire Pump House
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520013
Status: Underutilized
Comments: property located within floodway which has not been correct or contained; Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area; Floodway

Z–072 Launch Central Building - Lch Pad No#1
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520014
Status: Underutilized
Comments: property located within floodway which has not been correct or contained; Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area; Floodway

X–036 Storage Shed
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520015
Status: Underutilized
Comments: property located within floodway which has not been correct or contained; Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area; Floodway

Z–071 Movable Launch Shelter Building
GSFC
Wallop Island VA 23337
Landholding Agency: NASA
Property Number: 71201520016
Status: Underutilized
Comments: property located within floodway which has not been correct or contained; Public access denied and no alternative method to gain access without compromising national security.
Reasons: Floodway; Secured Area

Z–065 Blockhouse #1
GSEC

Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520017
Status: Underutilized
Comments: property located within floodway which has not been correct or contained; Public access denied and no alternative method to gain access without compromising national security.
Reasons: Floodway; Secured Area

X–030 Paint Shop
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520018
Status: Underutilized
Comments: property located within floodway which has not been correct or contained; Public access denied and no alternative method to gain access without compromising national security.
Reasons: Floodway; Secured Area

Z–041 Multi-Function Radar Facility
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520019
Status: Underutilized
Comments: property located within floodway which has not been correct or contained; Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area; Floodway

X–140 POMB Materials Storage Building
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520020
Status: Underutilized
Comments: property located within floodway which has not been correct or contained; Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area; Floodway

F–006 Administration Building
null
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520022
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

H–030 Four Car Garage
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520023
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

J–017 VIC Exhibit Display Area Building
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520024
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

F–001 reproduction Facility
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520025
Status: Underutilized
Comments: property located within an airport runway clear zone or military airfield. Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area; Within airport runway clear zone

J–093 VIC Concession
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520026
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

F–019 Supply Warehouse
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520027
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

N–159 Research ACFT and Observatory Science Lab
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520028
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

F–002 Telecommunications Facility
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520029
Status: Underutilized
Comments: property located within an airport runway clear zone or military airfield. Public access denied and no alternative method to gain access without compromising national security.
Reasons: Within airport runway clear zone; Secured Area

N–161 Facilities Engineering Range & Mission Management
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520030
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

D–012 SEW. & WASTE. DISP. PUMP HOUSE
GSEC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520031
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

D–012A SEW, TREAT PLANT BIOFILTER
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520033
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

E–105 Library/Fiscal Procurement Building
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520034
Status: Underutilized
Comments: property located within floodway which has not been correct or contained. Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area; Floodway

B161 Logistics/Supply Facility
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520035
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

D–012C SEW, Treat Plant Primary Sediment Tank
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520036
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

E–002 Cafeteria and Photo Lab
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520037
Status: Underutilized
Comments: property located within an airport runway clear zone or military airfield. Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area; Within airport runway clear zone

B16–A Gas Cylinder Storage (old 87)
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520038
Status: Underutilized

Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

D–012E Sew. Treat Plant Sludge Digestion Tank
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520039
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

E–007 ASB Records Storage/ Post Office
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520040
Status: Underutilized
Comments: property located within an airport runway clear zone or military airfield. Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area; Within airport runway clear zone

B16–b Ordnance (old 89)
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520041
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

D–049 Packing & Crating Facility
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520042
Status: Underutilized
Comments: flammable explosive materials are located on adjacent industrial, comm., or federal face. Public access denied and no alternative method to gain access without compromising national security.
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

B–16–C Project Support Facility (old Bldg. 086)
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520043
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

B–17 Administrative Support
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520044
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

D–008 Central Heating Plant
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520045
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

E–005 Contract Office and Storage Building
GSFC
Wallops Island VA 23337
Landholding Agency: NASA
Property Number: 71201520046
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

*Land*

Arizona

0.92 Acres
Marine Corps Air Station
Yuma AZ
Landholding Agency: Navy
Property Number: 77201530002
Status: Unutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

[FR Doc. 2015–17867 Filed 7–23–15; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5849–N–04]**

## Notice of a Federal Advisory Committee Meeting; Manufactured Housing Consensus Committee

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

**ACTION:** Notice of a Federal Advisory Committee Meeting: Manufactured Housing Consensus Committee (MHCC).

**SUMMARY:** This notice sets forth the schedule and proposed agenda for a meeting of the MHCC. The meeting is open to the public and the site is accessible to individuals with disabilities. The agenda provides an opportunity for citizens to comment on the business before the MHCC.

**DATES:** The meeting will be held on August 18 thru August 20, 2015, from 9:00 a.m. to 5:00 p.m. Eastern Standard Time (EST) daily.

**ADDRESSES:** The meeting will be held at the Holiday Inn Washington–Capitol, 550 C Street SW., Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Pamela Beck Danner, Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 7th Street SW., Room 9166, Washington, DC 20410, telephone (202) 708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5. U.S.C. App. 10(a)(2) through implementing regulations at 41 CFR 102–3.150. The MHCC was established by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5403(a)(3), as amended by the Manufactured Housing Improvement Act of 2000, (Pub. L. 106–569, approved December 27, 2000). According to 42 U.S.C. 5403, as amended, the purposes of the MHCC are to:

- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards in accordance with this subsection;
- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulations specifying the permissible scope and conduct of monitoring in accordance with subsection (b);
- Be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation.

The MHCC is deemed an advisory committee not composed of Federal employees.

*Public Comment:* Citizens wishing to make comments on the business of the MHCC are encouraged to register by or before August 3, 2015 by contacting Home Innovation Research Labs; *Attention:* Kevin Kauffman, 400 Prince Georges Blvd., Upper Marlboro, MD 20774, or email to *mhcc@homeinnovation.com.* Written comments are encouraged. The MHCC strives to accommodate citizen comments to the extent possible within the time constraints of the meeting agenda. Advance registration is strongly encouraged. The MHCC will also provide an opportunity for public comment on specific matters before the MHCC.

### Tentative Agenda

*Tuesday, August 18, 2015*

I. Call to Order and Roll Call
Administering Organization (AO)

II. Opening Remarks—Chair & Designated Federal Officer (DFO)
III. Approve MHCC draft minutes from December 2–4, 2014 Meeting
IV. Update on approved proposals—HUD
V. Subcommittee Reports to MHCC
- Technical Systems Subcommittee
- General Subcommittee
  - Log 128—Resolution of Action Item 5
- Structure and Design Subcommittee
  - Log 78
  - Log 100
  - Log 129—Resolution of Action Item 3
- Regulatory Enforcement Subcommittee

VI. Public Comment Period #1
VII. Review Current Log and Action Items
VIII. Update on Energy Efficiency Standards for Manufactured Homes—DOE
IX. Open Discussion
X. Adjourn: 5:00 p.m.

*Wednesday, August 19, 2015*

I. Reconvene Meeting—Chair & DFO
II. Roll Call—Administering Organization (AO)
III. Status of EPA's final rule on Formaldehyde emissions from Composite Wood Products—EPA
IV. Continue Review of Current Log and Action Items
V. Amend By-Laws to include 2-year revision cycle
VI. MHI Technical Activities Committee Report on HUD Code Reference Standards Updates
VII. Subcommittee Reports to MHCC (if necessary)
  - Technical Systems Subcommittee
  - General Subcommittee
  - Structure and Design Subcommittee
  - Regulatory Enforcement Subcommittee

VIII. Public Comment Period #2
IX. Installation Program Presentation
X. Open Discussion
XI. Adjourn: 5:00 p.m.

*Thursday, August 20, 2015*

I. Reconvene Meeting—Chair & DFO
II. Roll Call—Administering Organization (AO)
III. Subcommittee Reports to MHCC (if necessary)
- Technical Systems Subcommittee
- General Subcommittee
- Structure and Design Subcommittee
- Regulatory Enforcement Subcommittee

IV. Solar Panel Presentation
V. SAA Payments from the Fees
VI. Public Comment Period #3
VII. Dispute Resolution Program Presentation
VIII. Continue Review of Current Log and Action Items
IX. Subcommittee Meetings
- Technical Systems Subcommittee
- General Subcommittee
- Structure and Design Subcommittee
- Regulatory Enforcement Subcommittee

X. Adjourn: 5:00 p.m.

Dated: July 20, 2015.

**Pamela Beck Danner,**

*Administrator, Office of Manufactured Housing Programs.*

[FR Doc. 2015–18225 Filed 7–23–15; 8:45 am]

**BILLING CODE 4210–67–P**

---

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5831–N–36]**

## 30-Day Notice of Proposed Information Collection: Certification and Funding of State and Local Fair Housing Enforcement Agencies

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date: [August 24, 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: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Anna Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette Pollard@hud.* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 5, 2015 at 80 FR 25707.

### A. Overview of Information Collection

*Title of Information Collection:* Certification and Funding of State and Local Fair Housing Enforcement Agencies.

*OMB Approval Number:* 2529–0005.

*Type of Request:* Extension of currently approved collection.

*Form Numbers:* None.

*Description of the need for the information and proposed use:*

*A. Request for Substantial Equivalence*

For a state or local law to be certified as ''substantially equivalent'' and therefore be eligible to participate in the Fair Housing Assistance Program (FHAP), the Assistant Secretary for Fair Housing and Equal Opportunity must determine that the state or local law provides substantive rights, procedures, remedies, and the availability of judicial review that are substantially equivalent to those provided in the federal Fair Housing Act (the Act).

State and local fair housing enforcement agencies that are seeking certification in accordance with Section 810(f) of the Act submit a request to the Assistant Secretary for Fair Housing and Equal Opportunity. The request must be supported by the text of the jurisdiction's fair housing law, the law creating and empowering the agency, all laws referenced in the jurisdiction's fair housing law, any regulations and directives issued under the law, and any formal opinions of the State Attorney General or the chief legal officer of the jurisdiction that pertain to the jurisdiction's fair housing law.

*B. Information Related to Agency Performance*

Once agencies are deemed substantially equivalent and are participating in the FHAP, HUD collects sufficient information to monitor agency performance in accordance with 24 CFR 115.206, which sets forth the performance standards for agencies participating in the FHAP. These standards are meant to ensure that the state or local law, both ''on its face'' and ''in operation,'' provides substantive rights, procedures, remedies, and judicial review procedures for alleged discriminatory housing practices that are substantially equivalent to those provided in the Act. In addition, HUD collects sufficient information to

monitor agency compliance with 24 CFR 115.307 and 24 CFR 115.308, which set forth requirements for FHAP participation and reporting and record keeping requirements including, but not limited to, the requirement that FHAP agencies use HUD's official complaint data information system, and input complaint processing information into that system in a timely manner.

*Respondents* (*i.e.,* affected public): State and local government agencies participating in the Fair Housing Assistance Program as well State and local government agencies applying to participate in the FHAP.

*Frequency/Burden:* The Department estimates that *requests* for substantial equivalence will have the following reporting burdens:

| | Number of respondents | × | Annual responses | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Reporting Burden | 5 | | 6 | | 15 | | 450 |

The Department estimates that reporting *information related to agency performance* will have the following reporting burdens:

| | Number of respondents | × | Annual responses | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| REPORTING BURDEN | 88 | .... | 33 | .... | 20 | .... | 58,080 |

*Total Estimated Burden Hours:* 58,530.

**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: July 16, 2015.

**Colette Pollard,**

*Department Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2015–18228 Filed 7–23–15; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–HQ–ES–2015–N143; FXES1112090000–134–FF09E31000]**

### Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Survey of U.S. Fish and Wildlife Service Habitat Conservation Bank Sponsors and Managers

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** You must submit comments on or before August 24, 2015.

**ADDRESSES:** Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail), or *hope_grey@fws.gov (*email). Please include ''1018–Conservation Banking Survey'' in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone). You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

**SUPPLEMENTARY INFORMATION:**

**Information Collection Request**

*OMB Control Number:* 1018—XXXX.

*Title:* Survey of U.S. Fish and Wildlife Service Habitat Conservation Bank Sponsors and Managers.

*Service Form Number:* None.

*Type of Request:* Request for a new OMB control number.

*Description of Respondents:* Sponsors and managers of conservation banks.

*Respondent's Obligation:* Voluntary.

*Frequency of Collection:* One time.

| Activity | Number of responses | Completion time per response | Total annual burden hours |
|---|---|---|---|
| Initial Contact | 85 | 5 minutes | 7 |
| Initial Invitation Email | 186 | 2 minutes | 6 |
| Complete Survey 1 | 72 | 10 minutes | 12 |
| Complete Survey 2 | 86 | 15 minutes | 22 |

| Activity | Number of responses | Completion time per response | Total annual burden hours |
|---|---|---|---|
| Reminder 1 | 102 | 1 minute | 2 |
| Reminder 2 | 56 | 1 minute | 1 |
| Totals | 587 | | 50 |

*Estimated Annual Nonhour Burden Cost:* None.

*Abstract:* Conservation banks are permanently protected lands that contain natural resource values, which are conserved and permanently managed for species that are endangered or threatened, candidates for listing as endangered or threatened, or are otherwise species at risk. The habitat preserved, restored, or established in conservation banks is used to offset adverse impacts to species that occurred elsewhere. We approve habitat or species credits that bank owners may sell in exchange for permanently protecting and managing habitat for these species. We began approving conservation banks in the early 1990s, and 132 banks have been approved as of January 2015 (including approved and sold-out banks).

The Service and the Department of the Interior's Office of Policy Analysis are conducting an analysis to identify potential institutional or other impediments to the habitat conservation banking program, and develop possible options for encouraging expanded use of the program. We plan to survey conservation bank sponsors and managers. The surveys will benefit the Service by helping to identify constraints in the current conservation banking program, and thus provide important information for developing recommendations for further expansion or perhaps changes to the program.

We will survey leaders and managers from the entire sample of entities sponsoring conservation banks. Two surveys will be used to obtain information from a corporate or organizational point of view, as well as information about the operation of individual banks. We plan to collect:

(1) Background information on the bank(s).

(2) Information about experience with the conservation banking program.

(3) Perceptions of technical and institutional obstacles encountered in the conservation banking program.

(4) Perceptions of incentives that would help foster successful banks.

**Comments Received and Our Responses**

*Comments:* On May 15, 2013, we published in the **Federal Register** (78 FR 28619) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on July 15, 2013. We received one comment in response to that notice. The commenter objected to the survey, but did not address the information collection requirements. We did not make any changes to the survey.

**Request for Public Comments**

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: July 15, 2015.

**Tina A. Campbell,**

*Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.*

[FR Doc. 2015–18080 Filed 7–23–15; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R8–FHC–2015–N137; FXFR1334088TWG0W4–123–FF08EACT00]**

### Trinity River Adaptive Management Working Group; Public Meeting

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce a joint meeting between the Trinity River Adaptive Management Working Group (TAMWG) and Trinity Management Council (TMC). The TAMWG is a Federal advisory committee that affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the TMC. The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

**DATES:** *Public meeting:* TAMWG and TMC will meet from 9:30 a.m. to 3 p.m. Pacific time on Thursday, August 13, 2015. *Deadlines:* For deadlines on submitting written material, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** The meeting will be held at the North Fork Grange Hall, Dutch Creek Road, Junction City, CA 96048.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth W. Hadley, Redding Electric Utility, 777 Cypress Avenue, Redding, CA 96001; telephone: 530–339–7327; email: *ehadley@reupower.com* or Joseph C. Polos, U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521; telephone: 707–825–5149; *email: joe_polos@fws.gov.* Individuals with a disability may request an accommodation by sending an email to the point of contact.

**SUPPLEMENTARY INFORMATION:** In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the TAMWG and the TMC will hold a joint meeting.

**Background**

The TAMWG affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the TMC. The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

**Meeting Agenda**

- Tour of lower Douglas City restoration site.
- Recap from 2014 TAMWG/TMC meeting.
- Have we implemented the 5 principals effectively?
- Has TRRP outreach been effective?
- Next steps for future success.

The final agenda will be posted on the Internet at *http://www.fws.gov/arcata.*

PUBLIC INPUT

| If you wish to | You must contact Elizabeth Hadley (**FOR FURTHER INFORMATION CONTACT**) no later than |
|---|---|
| Submit written information or questions for the TAMWG to consider during the teleconference ..... | August 6, 2015. |

Interested members of the public may submit relevant information or questions for the TAMWG to consider during the meeting. Written statements must be received by the date above, so that the information may be available to the TAMWG for their consideration prior to this meeting. Written statements must be supplied to Elizabeth Hadley in one of the following formats: One hard copy with original signature, or one electronic copy with a digital signature via email (acceptable file formats are Adobe Acrobat PDF, MS Word, PowerPoint, or rich text file).

Registered speakers who wish to expand on their oral statements, or those who wished to speak but could not be accommodated on the agenda, may submit written statements to Elizabeth Hadley up to 7 days after the meeting.

**Meeting Minutes**

Summary minutes of the meeting will be maintained by Elizabeth Hadley (see **FOR FURTHER INFORMATION CONTACT**). The draft minutes will be available for public inspection within 14 days after the meeting, and will be posted on the TAMWG Web site at *http://www.fws.gov/arcata.*

Dated: July 15, 2015.

**Joseph C. Polos,**

*Supervisory Fish Biologist, Arcata Fish and Wildlife Office, Arcata, California.*

[FR Doc. 2015–17964 Filed 7–23–15; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

## National Park Service

**[NPS–WASO–NRNHL–18775;PPWOCRADI0, PCU00RP14.R50000]**

## National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before July 4, 2015.

Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by August 10, 2015. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 8, 2015.

**Roger Reed,**

*Acting Chief, National Register of Historic Places/National Historic Landmarks Program.*

**ILLINOIS**

**Cook County**

Central Berwyn Bungalow Historic District, Roughly bounded by Cermack Rd., Home, Ridgeland & Cuyler Aves., 26th St., Berwyn, 15000521

Central Manufacturing District—Pershing Road Development Historic District, S. side of W. Pershing Rd. from 1831 to 2245 & 1950., Chicago, 15000522

**St. Clair County**

Blair Historic District, Parts of 1st, 2nd, 3rd, A, B, High, Illinois, Main & Washington Sts., Belleville, 15000523

**Winnebago County**

East Rockford Historic District (Boundary Increase and Additional Documentation), Roughly bounded by Rock R., Market, 4th & Walnut Sts., Rockford, 15000525

Gordon Brothers and R.H. Shumway Building, 624–642 Cedar St., Rockford, 15000524

**MARYLAND**

**Kent County**

Hopeful Unity, 25789 Lambs Meadow Rd., Worton, 15000526

**MINNESOTA**

**Hennepin County**

Noerenberg Estate Barn, 2865 N. Shore Dr., Orono, 15000527

**NORTH CAROLINA**

**Buncombe County**

Seven Oaks, 82 Westwood Pl., Asheville, 15000528

**Forsyth County**

Memorial Industrial School, 100 Horizons Ln., Rural Hall, 15000529

**Mecklenburg County**

Speas Vinegar Company, 2921 N. Tryon St., Charlotte, 15000530

**Randolph County**

St. Paul's Methodist Episcopal Church South, 401 High Point St., Randleman, 15000531

**OREGON**

**Multnomah County**

Irvington Historic District (Boundary Decrease), (Historic Residential Suburbs in the United States, 1830–1960 MPS) Roughly bounded by NE. Fremont, NE. Broadway, NE. 27th & 7th Aves., Portland, 15000532

**PENNSYLVANIA**

**Bedford County**

Dutch Corner Historic Agricultural District, (Agricultural Resources of Pennsylvania c1700–1960 MPS) Roughly bounded by Evitts Mt., Bedford Twp. Line, former Dunning Creek RR. and William Penn Hwy., Bedford Township, 15000533

**Lancaster County**

Caernarvon Presbyterian Church, 2148 Main St., Churchtown, 15000534

**Lebanon County**

Pennsylvania Chautauqua Historic District, Roughly bounded by State Game Lands, PA 117, Pinch Rd., Lancaster & Pennsylvania Aves., Mount Gretna, 15000535

[FR Doc. 2015–18117 Filed 7–23–15; 8:45 am]

BILLING CODE 4312–51–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–526–527 and 731–TA–1262–1263 (Final)]**

## Melamine From China and Trinidad and Tobago; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–526–527 and 731–TA–1262–1263 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of melamine from China and Trinidad and Tobago, provided for in subheading 2933.61.00 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce to be subsidized and sold at less-than-fair-value.[1]

**DATES:** Effective Date: June 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Trainor (202–205–3354), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China and Trinidad and Tobago of melamine, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on November 12, 2014, by Cornerstone Chemical Company, Waggaman, Louisiana.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

*Participation in the investigations and public service list.*—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Staff report.*—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on October 21, 2015, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

*Hearing.*—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on November 3, 2015, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 28, 2015. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on October 30, 2015, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

*Written submissions.*—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is October 28, 2015. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is November 9, 2015. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as melamine (Chemical Abstracts Service (''CAS'') registry number 108–78–01, molecular formula $C_3H_6N_6$). Melamine is a crystalline powder or granule typically (but not exclusively) used to manufacture melamine formaldehyde resins. All melamine is covered by the scope of these investigations irrespective of purity, particle size, or physical form. Melamine that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled, but that have not been chemically reacted with each other to produce a different product. For such blends, only the melamine component of the mixture is covered by the scope of these investigations. Melamine that is otherwise subject to these investigations is not excluded when commingled with melamine from sources not subject to these investigations. Only the subject component of such commingled products is covered by the scope of these investigations.

November 9, 2015. On November 24, 2015, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 30, 2015, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.
Issued: July 20, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–18126 Filed 7–23–15; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–534–538 and 731–TA–1274–1278 (Preliminary)]**

## Certain Corrosion-Resistant Steel Products From China, India, Italy, Korea, and Taiwan

### Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of certain corrosion-resistant steel products from China, India, Italy, Korea, and Taiwan, provided for in subheadings 7210.30.00, 7210.41.00, 7210.49.00, 7210.61.00, 7210.69.00, 7210.70.60, 7210.90.10, 7210.90.60, 7210.90.90, 7212.20.00, 7212.30.10, 7212.30.30, 7212.30.50, 7212.40.10, 7212.40.50, 7212.50.00, 7212.60.00, 7215.90.10, 7215.90.30, 7215.90.50, 7217.20.15, 7217.30.15, 7217.90.10, 7217.90.50, 7225.91.00, 7225.92.00, and 7226.99.01 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''LTFV'') and that are allegedly subsidized by the governments of China, India, Italy, Korea, and Taiwan.

### Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (''Commerce'') of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

### Background

On June 3, 2015, United States Steel Corporation (Pittsburgh, Pennsylvania), Nucor Corporation (Charlotte, North Carolina), Steel Dynamics Inc. (Fort Wayne, Indiana), California Steel Industries (Fontana, California), ArcelorMittal USA LLC (Chicago, Illinois), and AK Steel Corporation (West Chester, Ohio) filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of certain corrosion-resistant steel products from China, India, Italy, Korea, and Taiwan. Accordingly, effective June 3, 2015, the Commission, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), instituted countervailing duty investigation Nos. 701–TA–534–538 and antidumping duty investigation Nos. 731–TA–1274–1278 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 9, 2015 (80 FR 32606). The conference was held in Washington, DC, on June 24, 2015, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on June 20, 2015. The views of the Commission are contained in USITC Publication 4547, July 2015 entitled *Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan: Investigation Nos. 701–TA–534–538 and 731–TA–1274–1278 (Preliminary).*

By order of the Commission.
Issued: July 20, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–18125 Filed 7–23–15; 8:45 am]

**BILLING CODE 7020–02–P**

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–926]**

### Certain Marine Sonar Imaging Systems, Products Containing the Same, and Components Thereof; Notice of Request for Statements on the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the presiding administrative law judge has issued a final initial determination and recommended determination on remedy and bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, specifically a limited exclusion order against certain marine sonar imaging systems, products containing the same, and components thereof, imported by respondents Garmin International, Inc.; Garmin North America, Inc.; Garmin USA, Inc., each of Olathe, Kansas, and Garmin Corporation of New Taipei City, Taiwan, and a cease and desist order against the domestic respondents. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

**FOR FURTHER INFORMATION CONTACT:** Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3042. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* 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 (*http://www.usitc.gov*). The public record for this investigation may be viewed on EDIS at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's recommended determination on remedy and bonding issued in this investigation on July 13, 2015. Comments should address whether issuance of a limited exclusion order and cease and desist order 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 recommended orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended 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 recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the limited exclusion order and cease and desist order would impact consumers in the United States.

Written submissions must be filed no later than by close of business on August 18, 2015.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight 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 investigation number (Inv. No. 337–TA–908) in a prominent place on the cover page, the first page, or both. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary at (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 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. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

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 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50).

By order of the Commission.

Issued: July 20, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–18137 Filed 7–23–15; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–0012]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of an Approved Collection

**AGENCY:** Office on Violence Against Women, Department of Justice.

**ACTION:** 30-day notice.

**SUMMARY:** The Department of Justice (DOJ), Office on Violence Against Women, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in 80 FR 28708, on May 19, 2015, allowing for a 60-day comment period.

**DATES:** Comments are encouraged and will be accepted for an additional 30 days until August 24, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cathy Poston, Attorney Advisor, Office on Violence Against Women, 145 N Street NE., Washington, DC 20530 (phone: 202–514–5430). Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

**Overview of This Information Collection**

(1) Type of Information Collection: Revision of a currently approved collection.

(2) Title of the Form/Collection: Semi-Annual Progress Report for Education, Training and Enhanced Services to End Violence Against and Abuse of Women with Disabilities Grant Program (Disability Grant Program).

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number: 1122–0012. U.S. Department of Justice, Office on Violence Against Women.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: The affected public includes the approximately 18 grantees of the Disability Grant Program. Grantees include states, units of local government, Indian tribal governments or tribal organizations and non-governmental private organizations. The goal of this program is to build the capacity of such jurisdictions to address such violence against individuals with disabilities through the creation of multi-disciplinary teams. Disability Grant Program recipients will provide training, consultation, and information on domestic violence, dating violence, stalking, and sexual assault against individuals with disabilities and enhance direct services to such individuals.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that it will take the approximately 18 respondents (Disability Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Disability Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) An estimate of the total public burden (in hours) associated with the collection: The total annual hour burden to complete the data collection forms is 36 hours, that is 18 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: July 21, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–18153 Filed 7–23–15; 8:45 am]

BILLING CODE 4410–FX–P

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–0008]**

## Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of an Approved Collection

**AGENCY:** Office on Violence Against Women, Department of Justice

**ACTION:** 30-day notice.

**SUMMARY:** The Department of Justice (DOJ), Office on Violence Against Women, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in 80 FR 28707, on May 19, 2015, allowing for a 60-day comment period.

**DATES:** Comments are encouraged and will be accepted for an additional 30 days until August 24, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cathy Poston, Attorney Advisor, Office on Violence Against Women, 145 N Street NE., Washington, DC 20530 (phone: 202–514–5430). Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to

respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Enhanced Training and Services to End Violence Against and Abuse of Women Later in Life Program (Training Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0008. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 18 grantees of the Training Program. Training Program grants may be used for training programs to assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect, and exploitation and violence against individuals with disabilities, including domestic violence and sexual assault, against older or disabled individuals. Grantees fund projects that focus on providing training for criminal justice professionals to enhance their ability to address elder abuse, neglect and exploitation in their communities and enhanced services to address these crimes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 18 respondents (Training Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Training Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 36 hours, that is 18 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Jerri Murray, Department, Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: July 21, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–18154 Filed 7–23–15; 8:45 am]

**BILLING CODE 4410–FX–P**

---

## DEPARTMENT OF LABOR

### Office of Disability Employment Policy

### Advisory Committee on Increasing Competitive Integrated Employment for Individuals With Disabilities; Notice of Meeting

The Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities (the Committee) was mandated by section 609 of the Rehabilitation Act of 1973, as amended by section 461 of the Workforce Innovation and Opportunity Act (WIOA). The Secretary of Labor established the Committee on September 15, 2014 in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. The purpose of the Committee is to study and prepare findings, conclusions and recommendations for Congress and the Secretary of Labor on (1) ways to increase employment opportunities for individuals with intellectual or developmental disabilities or other individuals with significant disabilities in competitive, integrated employment; (2) the use of the certificate program carried out under section 14(c) of the Fair Labor Standards Act (FLSA) of 1938 (29 U.S.C. 214(c)); and (3) ways to improve oversight of the use of such certificates.

The Committee is required to meet no less than eight times. It is also required to submit an interim report to the Secretary of Labor; the Senate Committee on Health, Education, Labor and Pensions; and the House Committee on Education and the Workforce within one year of the Committee's establishment or by September 15, 2015. A final report must be submitted to the same entities no later than two years from the Committee establishment date. The Committee terminates one day after the submission of the final report.

The next meeting of the Committee will be open to the public and take place by Webinar on Monday, August 10, 2015. The meeting will take place from 1:00 p.m. to 4:00 p.m., Eastern Daylight Time.

On August 10, 2015, the Committee will discuss the draft of the interim report, and will vote on whether to approve the interim report.

Members of the public wishing to participate in the Webinar must register in advance of the meeting, by Friday, July 31, using the following link: *http://bitly.com/ACICIEID2.*

Organizations or members of the public wishing to submit a written statement may do so by submitting five copies on or before July 31, 2015, to Mr. David Berthiaume, Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, U.S. Department of Labor, Suite S–1303, 200 Constitution Avenue NW., Washington, DC 20210. Statements also may be submitted as email attachments to *IntegratedCompetitiveEmployment@dol.gov.* Please ensure that any written submission is in an accessible format or the submission will be returned. Further, it is requested that statements not be included in the body of an email. Statements deemed relevant by the Committee and received on or before July 31, 2015, will be included in the record of the meeting. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed.

Signed at Washington, DC, this day 20th of July 2015.

**Jennifer Sheehy,**

*Acting Assistant Secretary, Office of Disability Employment Policy.*

[FR Doc. 2015–18224 Filed 7–23–15; 8:45 am]

**BILLING CODE 4510–23–P**

---

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

### Proposed Collection, Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed

and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension for the collection of the ''BLS Data Sharing Program.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

**DATES:** Written comments must be submitted to the office listed in the Addresses section of this notice on or before September 22, 2015.

**ADDRESSES:** Send comments to Erin Good, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE., Washington, DC 20212. Written comments may be transmitted by fax to 202–691–5111. (This is not a toll free number.)

**FOR FURTHER INFORMATION CONTACT:** Erin Good, BLS Clearance Officer, 202–691–7763. (See **ADDRESSES** section.)

**SUPPLEMENTARY INFORMATION:**

## I. Background

An important aspect of the mission of the BLS is to disseminate to the public the maximum amount of information possible. Not all data are publicly available because of the importance of maintaining the confidentiality of BLS data. However, the BLS has opportunities available on a limited basis for eligible researchers to access confidential data for purposes of conducting valid statistical analyses that further the mission of the BLS as permitted in the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA). The BLS makes confidential data available to eligible researchers through three major programs:

1. The Census of Fatal Occupational Injuries (CFOI), as part of the BLS occupational safety and health statistics program, compiles a count of all fatal work injuries occurring in the U.S. in each calendar year. Multiple sources are used in order to provide as complete and accurate information concerning workplace fatalities as possible. A research file containing CFOI data is made available offsite to eligible researchers.

2. The National Longitudinal Surveys of Youth (NLSY) is designed to document the transition from school to work and into adulthood. The NLSY collects extensive information about youths' labor market behavior and educational experiences over time. The NLSY includes three different cohorts: the National Longitudinal Survey of Youth 1979 (NLSY79), the NLSY79 Young Adult Survey, and the National Longitudinal Survey of Youth 1997 (NLSY97). NLSY data beyond the public use data are made available in greater detail through an offsite program to eligible researchers.

3. Additionally, the BLS makes available data from several employment, compensation, prices, and working conditions surveys to eligible researchers for onsite use. Eligible researchers can access these data in researcher rooms at the BLS national office in Washington, DC.

## II. Current Action

Office of Management and Budget clearance is being sought for the BLS Data Sharing Program. In order to provide access to confidential data, the BLS must determine that the researcher's project will be exclusively statistical in nature and that the researcher is eligible based on guidelines set out in CIPSEA, the Office of Management and Budget (OMB) implementation guidance on CIPSEA, and BLS policy. This information collection provides the vehicle through which the BLS will obtain the necessary details to ensure all researchers and projects comply with appropriate laws and policies.

## III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Type of Review: *Extension.*
*Agency:* Bureau of Labor Statistics.
*Title:* BLS Data Sharing Program.
*OMB Number:* 1220–0180.
*Affected Public:* Individuals.

| Form | Total respondents | Frequency | Total responses | Average time per response | Estimated total burden hours |
|---|---|---|---|---|---|
| CFOI Application | 6 | On occasion | 6 | 90 minutes | 9 |
| NLSY Application | 160 | On occasion | 160 | 30 minutes | 80 |
| Onsite Researcher Application | 25 | On occasion | 25 | 10.54 hours | 213.5 |
| Totals | 191 | | 191 | | 302.5 |

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintenance):* $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 21st day of July 2015.

**Kimberly D. Hill,**

*Chief, Division of Management Systems, Bureau of Labor Statistics.*

[FR Doc. 2015–18181 Filed 7–23–15; 8:45 am]

BILLING CODE 4510–24–P

## LIBRARY OF CONGRESS

### U.S. Copyright Office

**[Docket No. 2015–01]**

### Extension of Reply Comment Period: Copyright Protection for Certain Visual Works

**AGENCY:** U.S. Copyright Office, Library of Congress.

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

**SUMMARY:** The Copyright Office is extending the period to submit public reply comments regarding its April 24, 2015 Notice of Inquiry requesting comments on how certain visual works, particularly photographs, graphic artworks, and illustrations, are monetized, enforced, and registered under the Copyright Act.

**DATE:** Reply comments are due October 1, 2015.

**ADDRESSES:** All comments should be submitted electronically using the comment submission page on the Office Web site at *http://copyright.gov/policy/visualworks/*. To meet accessibility standards, submitters must upload comments in a single file not to exceed six (6) megabytes (MB) in one of the following formats: The Adobe Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The form and face of the comments must include the submitter's name and organization (if any). The Office will post all comments publicly on the Office's Web site exactly as they are received, along with names and organizations. If electronic submission of comments is not feasible, please contact the Office at 202–707–8350 for special instructions.

**FOR FURTHER INFORMATION CONTACT:** Catherine Rowland, Senior Advisor to the Register of Copyrights, by email at *crowland@loc.gov* or by telephone at 202–707–8350.

**SUPPLEMENTARY INFORMATION:** On April 24, 2015, the Copyright Office published a Notice of Inquiry inviting public comments on certain visual works. The initial comments were due on July 23, 2015 and reply comments currently are due on August 24, 2015. It appears, however, that some stakeholders may need additional time to file reply comments. To facilitate full and adequate public comment, the Office hereby extends the time for filing reply comments from August 24, 2015 to October 1, 2015.

Dated: July 21, 2015.

**Catherine Rowland,**

*Senior Advisor to the Register of Copyrights.*

[FR Doc. 2015–18192 Filed 7–23–15; 8:45 am]

BILLING CODE 1410–30–P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice (15–064)]**

### Notice of Intent To Grant a Partially Exclusive License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Intent To Grant Partially Exclusive License.

**SUMMARY:** This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license in the United States to practice the invention described and claimed in U.S. Patent No. 7,893,602 B2 titled ''Dual-Use Transducer for Use with a Boundary-Stiffened Panel and Method of Using the Same,'' NASA Case No. LAR–17634–1; and U.S. Patent No. 8,760,039 B2 titled ''Compact Active Vibration Control System for a Flexible Panel,'' NASA Case No. LAR–18034–1, to United Equipment Corporation having its principal place of business in Richmond, Virginia. The field of use may be limited to, but not necessarily limited to, aviation. The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

**DATES:** The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR. 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated partially exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

**ADDRESSES:** Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Langley Research Center, MS 30, Hampton, VA 23681; (757) 864–3230 (phone), (757) 864–9190 (fax).

**FOR FURTHER INFORMATION CONTACT:** Andrea Z. Warmbier, Patent Attorney, Office of Chief Counsel, NASA Langley Research Center, MS 30, Hampton, VA 23681; (757) 864–7686; Fax: (757) 864–9190. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

**Mark P. Dvorscak,**

*Agency Counsel for Intellectual Property.*

[FR Doc. 2015–18102 Filed 7–23–15; 8:45 am]

BILLING CODE 7510–13–P

## NUCLEAR REGULATORY COMMISSION

**[NRC–2015–0001]**

### Sunshine Act Meeting Notice

**DATE:** July 27, August 3, 10, 17, 24, 31, 2015.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Week of July 27, 2015**

There are no meetings scheduled for the week of July 27, 2015.

**Week of August 3, 2015—Tentative**

*Thursday, August 6, 2015*

9:30 a.m. Strategic Programmatic Overview of the Operating Reactors Business Line (Public Meeting); (Contact: Nathan Sanfilippo: 301–415–8744)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

1:00 p.m. Discussion of Management and Personnel Issues (Closed—Ex. 2 & 6)

**Week of August 10, 2015—Tentative**

*Thursday, August 13, 2015*

9:00 a.m. Briefing on Greater-Than-Class-C Low-Level Radioactive Waste (Public Meeting); (Contact: Gregory Suber—301–415–8087)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of August 17, 2015—Tentative**

There are no meetings scheduled for the week of August 17, 2015.

**Week of August 24, 2015—Tentative**

There are no meetings scheduled for the week of August 24, 2015.

**Week of August 31, 2015—Tentative**

There are no meetings scheduled for the week of August 31, 2015.

* * * * *

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 Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: July 22, 2015.

**Richard J. Laufer,**

*Technical Coordinator, Office of the Secretary.*

[FR Doc. 2015–18353 Filed 7–22–15; 4:15 pm]

**BILLING CODE 7590–01–P**

---

## NUCLEAR REGULATORY COMMISSION

**[NRC–2014–0277]**

## Guidance for ITAAC Closure

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Regulatory guide; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 2 to Regulatory Guide (RG) 1.215, ''Guidance for ITAAC Closure Under 10 CFR part 52.'' This RG describes a method that the staff of the NRC considers acceptable for use in satisfying the requirements for documenting the completion of inspections, tests, analyses, and acceptance criteria (ITAAC)

**ADDRESSES:** Please refer to Docket ID NRC–2014–0277 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0277. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.*
- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the ADAMS Public Documents Collections at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *''ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. Revision 2 of Regulatory Guide 1.215, is available in ADAMS under Accession No. ML15105A447. The regulatory analysis may be found in ADAMS under Accession No. ML14258B184.
- 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.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

**FOR FURTHER INFORMATION CONTACT:** James Gaslevic, Office of New Reactors, telephone: 301–415–2276, email: *James.Gaslevic@nrc.gov,* or Stephen Burton, Office of Nuclear Regulatory Research, telephone: 301–415–7000, email: *Stephen.Burton@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

Revision 2 of RG 1.215 was issued with a temporary identification as Draft Regulatory Guide, DG–1316. This revision (Revision 2) of RG 1.215 approves for use Nuclear Energy Institute (NEI) 08–01, ''Industry Guideline for the ITAAC Closure Process under 10 CFR part 52,'' Revision 5—Corrected (Ref. 2), subject to certain exceptions and additional guidance described in this regulatory guide under Section C, Staff Regulatory Guidance. The NEI 08–01, Revision 5—Corrected, was updated to include additional guidance related to ITAAC maintenance, lessons learned from simulated ITAAC closure implementation, changes to the information and formatting guidance for uncompleted ITAAC notifications, and other enhancements.

### II. Additional Information

Draft Guide 1316 was published in the **Federal Register** on January 5, 2015 (80 FR 265) for a 60-day public comment period. The public comment period closed on March 6, 2015. Public comments on DG–1316 and the staff responses to the public comments are available under ADAMS Accession Number ML15105A446.

### III. Congressional Review Act

This regulatory guide is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

### IV. Backfitting and Issue Finality

This regulatory guide approves updated industry guidance for ITAAC closure, including the different kinds of ITAAC notifications required by 10 CFR 52.99. Issuance of this regulatory guide is not inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the ''Implementation'' section of this regulatory guide, the NRC has no current intention to impose this regulatory guide on current holders of combined licenses. In addition, the matters in this regulatory guide are not within the matters subject to issue finality protection under 10 CFR 52.83 or 10 CFR 52.98. Therefore, any imposition of this regulatory guide on current holders of combined licenses, or

current and future applicants for combined licenses, would not be inconsistent with any issue finality protection under 10 CFR 52.83 or 10 CFR 52.98.

Dated at Rockville, Maryland, this 16th day of July, 2015.

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. 2015–18114 Filed 7–23–15; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–454 and 50–455; NRC–2013–0178]**

## Exelon Generating Company, LLC; Byron Station, Units 1 and 2

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Supplemental environmental impact statement; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing a final plant-specific supplement, Supplement 54, to NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants'' (GEIS), regarding the renewal of Exelon Generating Company, LLC (Exelon) operating licenses NPF–37 and NPF–66 for Byron Station, Units 1 and 2 (Byron), respectively, for an additional 20 years of operation.

**DATES:** The final Supplement 54 to the GEIS is available as of July 24, 2015.

**ADDRESSES:** Please refer to Docket ID NRC–2013–0178 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• • Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0178. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• • NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The final Supplement 54 to the GEIS is in ADAMS under Accession No. ML15196A263.

• • NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Lois James, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3306; email: *Lois.James@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

In accordance with § 51.118 of Title 10 of the *Code of Federal Regulations,* the NRC is making available final Supplement 54 to the GEIS regarding the renewal of Exelon operating licenses NPF–37 and NPF–66 for an additional 20 years of operation for Byron. Draft Supplement 54 to the GEIS was noticed by the NRC in the **Federal Register** on January 2, 2015 (80 FR 55), and noticed by the Environmental Protection Agency on January 2, 2015 (80 FR 41). The public comment period on draft Supplement 54 to the GEIS ended on February 20, 2015, and the comments received are addressed in final Supplement 54 to the GEIS. Final Supplement 54 to the GEIS is available as indicated in the **ADDRESSES** section of this document.

### II. Discussion

As discussed in chapter 5 of the final Supplement 54 to the GEIS, the NRC determined that the adverse environmental impacts of license renewal for Byron are not so great that preserving the option of license renewal for energy-planning decisionmakers would be unreasonable. This recommendation is based on: (1) The analysis and findings in the GEIS; (2) information provided in the environmental report and other documents submitted by Exelon; (3) consultation with Federal, State, local, and Tribal agencies; (4) the NRC staff's independent environmental review; and (5) consideration of public comments received during the scoping process and on the Draft Supplemental Environmental Impact Statement.

Dated at Rockville, Maryland, this 16th day of July 2015.

For the Nuclear Regulatory Commission.

**James G. Danna,**

*Chief, Projects Branch 2, Division of License Renewal, Office of Nuclear Reactor Regulation.*

[FR Doc. 2015–18110 Filed 7–23–15; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 040–09068; NRC–2008–0391]**

## Lost Creek ISR, LLC

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Temporary exemption; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing a temporary exemption from certain NRC financial assurance requirements to Lost Creek ISR, LLC (Lost Creek), in response to its annual financial assurance update for its Lost Creek *In-Situ* Recovery (ISR) project. Issuance of this temporary exemption will not remove the requirement for Lost Creek to provide adequate financial assurance through an approved mechanism, but will allow the NRC staff to further evaluate whether the State of Wyoming's separate account provision for financial assurance instruments it holds is consistent with the NRC's requirement for a standby trust agreement.

**ADDRESSES:** Please refer to Docket ID NRC–2008–0391 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0391. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each

document referenced (if it available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** John L. Saxton, Office of Nuclear Material Safety and Safeguards; U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–0697; email: *John.Saxton@nrc.gov.*

## I. Background

Pursuant to Part 40 of Title 10 of the *Code of Federal Regulations* (10 CFR), Appendix A, Criterion 9 and NRC materials license SUA–1598, License Condition 9.5, Lost Creek is required to submit to the NRC for review and approval an annual update of the financial surety to cover third-party costs for decommissioning and decontamination of the Lost Creek ISR facility located in Sweetwater County, Wyoming. By letter dated November 21, 2014, Lost Creek submitted to the NRC its annual surety update for 2014–2015 (ADAMS Accession No. ML14337A251). The NRC's staff reviewed the annual financial surety update and found the values reasonable for the required reclamation activities (ADAMS Accession No. ML14162A050). Lost Creek maintains an approved financial assurance instrument in favor of the State of Wyoming; however, it does not have a standby trust agreement (STA) in place, as required by 10 CFR part 40, Appendix A, Criterion 9.

## II. Description of Action

As of December 17, 2012, NRC's uranium milling licensees, which are regulated, in part, under 10 CFR part 40, Appendix A, Criterion 9, are required to have an STA in place. Criterion 9 provides that if a licensee does not use a trust as its financial assurance mechanism, then the licensee is required to establish a standby trust fund to receive funds in the event the Commission or State regulatory agency exercises its right to collect the funds provided for by surety bond or letter of credit. The purpose of an STA is to provide a separate account to hold the decommissioning funds in the event of a default.

Consistent with provisions of 10 CFR part 40, Appendix A, Criterion 9(d), Lost Creek has consolidated its NRC financial assurance sureties with those it is required to obtain by the State of Wyoming, and the financial instrument is held by the State of Wyoming. Lost Creek has not established an STA, nor has it requested an exemption from the requirement to do so.

Wyoming law requires that a separate account be set up to receive forfeited decommissioning funds, but does not specifically require an STA. Section 35–11–424(a) of the Code of Wyoming states that ''[a]ll forfeitures collected under the provisions of this act shall be deposited with the State treasurer in a separate account for reclamation purposes.'' Under Wyoming Department of Environmental Quality (WDEQ) financial assurance requirements, WDEQ holds permit bonds in a fiduciary fund called an agency fund. If a bond is forfeited, the forfeited funds are moved to a special revenue account. Although the Wyoming special revenue account is not an STA, the special revenue account serves a similar purpose in that forfeited funds are not deposited into the State treasury for general fund use, but instead are set aside in the special revenue account to be used exclusively for reclamation, *i.e.,* decommissioning, purposes.

The NRC has the discretion, under 10 CFR 40.14(a), to grant an exemption from the requirements of a regulation in 10 CFR part 40 on its own initiative, if the NRC determines the exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. The NRC has elected to grant Lost Creek an exemption to the STA requirements in 10 CFR part 40, Appendix A, Criterion 9, for the current surety arrangement until the next review cycle to allow the NRC an opportunity to evaluate whether the State of Wyoming's separate account requirements for financial assurance instruments it holds is consistent with the NRC's STA requirements.

## III. Discussion

### *A. The Exemption Is Authorized by Law*

The NRC staff concluded that the proposed exemption is authorized by law as 10 CFR 40.14(a) expressly allows for an exemption to the requirements in 10 CFR part 40, Appendix A, Criterion 9, and the proposed exemption would not be contrary to any provision of the Atomic Energy Act of 1954, as amended.

### *B. The Exemption Presents No Undue Risk to Public Health and Safety*

The exemption is related to the financial surety. The requirement that the licensee provide adequate financial assurance through an approved mechanism (*e.g.,* a surety bond, irrevocable letter of credit) would remain unaffected by the exemption. Rather, the exemption would only pertain to the establishment of a dedicated trust in which funds could be deposited in the event that the financial assurance mechanism needed to be liquidated. The requirement in 10 CFR part 40, Appendix A, Criterion 9(d), allows for the financial or surety arrangements to be consolidated within a State's similar financial assurance instrument. The NRC has determined that while the WDEQ does not require an STA, the special revenue account may serve a similar purpose in that forfeited funds are not deposited into the State treasury for general fund use, but instead are set aside in the special revenue account to be used exclusively for site-specific reclamation, *i.e.,* decommissioning, purposes. Because the licensee remains obligated to establish an adequate financial assurance mechanism for its licensed sites, and the NRC has approved such a mechanism, sufficient funds are available in the event that the site would need to be decommissioned. A temporary delay in establishing an STA does not impact the present availability and adequacy of the actual financial assurance mechanism. Therefore, the limited exemption being issued by the NRC herein presents no undue risk to public health and safety.

### *C. The Exemption Is Consistent With the Common Defense and Security*

The proposed exemption would not involve or implicate the common defense or security. Therefore, granting the exemption will have no effect on the common defense and security.

### *D. The Exemption Is in the Public Interest*

The proposed exemption would enable the NRC staff to evaluate the State of Wyoming's separate account provision and the NRC's STA requirement to determine if they are comparable. The evaluation process will allow the NRC to determine whether the licensee's compliance with the state law provision will sufficiently address the NRC requirement as well, and therefore provide clarity on the implementation of the NRC regulation in this instance. Therefore, granting the exemption is in the public interest.

### *E. Environmental Considerations*

The NRC staff has determined that granting of an exemption from the requirements of 10 CFR part 40, Appendix A, Criterion 9 belongs to a category of regulatory actions which the NRC, by regulation, has determined do not individually or cumulatively have a significant effect on the environment, and as such do not require an

environmental assessment. The exemption from the requirement to have an STA in place is eligible for categorical exclusion under 10 CFR 51.22(c)(25)(vi)(H), which provides that exemptions from surety, insurance, or indemnification requirements are categorically excluded if the exemption would not result in any significant hazards consideration; change or increase in the amount of any offsite effluents; increase in individual or cumulative public or occupational radiation exposure; construction impacts; or increase in the potential for or consequence from radiological accidents. The NRC staff finds that the STA exemption involves surety, insurance and/or indemnity requirements and that granting Lost Creek this temporary exemption from the requirement of establishing a standby trust arrangement would not result in any significant hazards or increases in offsite effluents, radiation exposure, construction impacts, or potential radiological accidents. Therefore, an environmental assessment is not required.

## IV. Conclusions

Accordingly, the NRC has determined that, pursuant to 10 CFR 40.14(a), the proposed temporary exemption is authorized by law, will not present an undue risk to the public health and safety, is consistent with the common defense and security, and is in the public interest. NRC hereby grants Lost Creek ISR, LLC an exemption from the requirement in 10 CFR part 40, Appendix A, Criterion 9 to set up a standby trust to receive funds in the event the NRC or the State regulatory agency exercises is right to collect the surety. This exemption will expire on February 10, 2015, for the Lost Creek ISR Project. At that time, Lost Creek will be required to ensure compliance with the STA requirements.

Dated at Rockville, Maryland, this 16th day of July 2015.

For the Nuclear Regulatory Commission.

**Andrew Persinko,**

*Deputy Director, Division of Decommissioning, Uranium Recovery and Environmental Programs, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2015–18236 Filed 7–23–15; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2015–0172]**

## Clarification of Reporting Requirements

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory issue summary; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is seeking public comment on a draft regulatory issue summary (RIS). This draft RIS clarifies reporting requirements related to analyses of emergency core cooling system performance and how these reporting requirements apply to applicants for and holders of nuclear power reactor operating licenses, construction permits, combined licenses, standard design approvals, and manufacturing licenses, and applicants for standard design certifications.

**DATES:** Submit comments by September 22, 2015. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0172. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, 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:** Alexandra Popova, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–001; telephone: 301–415–2876, email: *Alexandra.Popova@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Obtaining Information and Submitting Comments

### *A. Obtaining Information*

Please refer to Docket ID NRC–2015–0172 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- Federal rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0172.
- 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. ML15057A346.
- 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–2015–0172 in your comment submission.

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 enter 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 into ADAMS.

## II. Background

The NRC is issuing this draft RIS to clarify the reporting requirements under part 50.46 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Acceptance Criteria for Emergency

Core Cooling Systems for Light-Water Nuclear Power Reactors.'' Specifically, 10 CFR 50.46(a)(3) requires licensees to report to the NRC each change to or error discovered in an acceptable emergency core cooling system (ECCS) evaluation model, or in its application, and its estimated effect on the limiting ECCS analysis.

The NRC issues a RIS to communicate with stakeholders on a broad range of matters. This may include communicating and clarifying NRC technical or policy positions on regulatory matters that have not been communicated to or are not broadly understood by the nuclear industry.

*Proposed Action*

The NRC is requesting public comments on the draft RIS. The NRC staff will make a final determination regarding issuance of the RIS after it considers any public comments received in response to this request.

Dated at Rockville, Maryland, this 14th day of July 2015.

For the Nuclear Regulatory Commission.

**Sheldon D. Stuchell,**

*Chief, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.*

[FR Doc. 2015–18113 Filed 7–23–15; 8:45 am]

BILLING CODE 7590–01–P

## REAGAN-UDALL FOUNDATION FOR THE FOOD AND DRUG ADMINISTRATION

### Request for Steering Committee Nominations

**ACTION:** Request for nominations to the Steering Committee for the Foundation's PredicTox project.

**SUMMARY:** The Reagan-Udall Foundation (RUF) for the Food and Drug Administration (FDA), which was created by Title VI of the Food and Drug Amendments of 2007, is requesting nominations for its PredicTox Steering Committee. The Steering Committee will provide oversight and guidance for the PredicTox project, and will report to the Reagan-Udall Foundation for the FDA's Board of Directors.

**DATES:** All nominations must be submitted to the Reagan-Udall Foundation for the FDA by August 28, 2015. The PredicTox Steering Committee members will be selected by the Reagan-Udall Foundation for the FDA's Board of Directors; those selected will be notified by September 30 regarding the Board's decision. See the **SUPPLEMENTARY INFORMATION** section for Steering Committee responsibilities, selection criteria and nomination instructions.

**ADDRESSES:** The Reagan-Udall Foundation for the FDA is located at 1025 Connecticut Ave. NW., Suite 1000, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Questions should be sent to The Reagan-Udall Foundation for the FDA, 202–828–1205, *PredicTox@ReaganUdall.org.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Reagan-Udall Foundation for the FDA (the Foundation) is an independent 501(c)(3) not-for-profit organization created by Congress to advance the mission of FDA to modernize medical, veterinary, food, food ingredient, and cosmetic product development; accelerate innovation; and enhance product safety. The Foundation acts as a neutral third party to establish novel, scientific collaborations. With the ultimate goal of improving public health, the Foundation provides a unique opportunity for different sectors (FDA, patient groups, academia, other government entities, and industry) to work together in a transparent way to create exciting new research projects to advance regulatory science.

PredicTox is a public-private partnership led by the Foundation, which brings together multiple stakeholder groups to leverage collective knowledge, technical expertise, data, funding, and other resources to explore systems pharmacology approaches to better understand and predict adverse events (AEs). Developing new tools and approaches for mechanism-based drug safety assessment and prediction is a priority for the FDA, as highlighted in the Agency's 2011 *Strategic Plan for Advancing Regulatory Science.* This project aims to harness scientific and technological knowledge, data and computational capacity across various sectors and disciplines to develop and apply systems-based approaches and multi-scales models to drug safety assessment in a coordinated manner.

While systems-based approaches can be applied to the development of predictive models for any class of drug or AE, the PredicTox pilot seeks to first provide a proof of concept pilot by focusing on large and small molecule tyrosine kinase inhibitors (TKIs) and cardiac AEs, specifically left ventricular dysfunction. TKIs are a rapidly growing treatment for oncology and select other therapeutic areas, making them an area of intense importance for patients, the FDA, and pharmaceutical manufacturers. Learnings from the PredicTox pilot will then be applied to other drug classes and/or other toxicities.

The primary objective of PredicTox is to advance systems-based science and tools necessary to support mechanism-based drug safety assessment and prediction. To accomplish this objective, the PredicTox pilot project will be conducted in an iterative, phased manner over the course of several years. The first phase will center on building and populating a knowledge management platform for molecular data, preclinical in vivo pharmacologic and toxicologic data as well as clinical data from both public and private sources.

The PredicTox platform will enable integration, mining, and analysis of highly heterogeneous data not typically combined. Future phases of the project will focus on data mining and development of analytic and visualization tools along with development of multi-scale predictive models capable of linking events at the molecular level with events at the clinical level (AEs) for improved safety assessment. For additional project information, see the Reagan-Udall Foundation Web site.

### II. PredicTox Steering Committee Roles and Responsibilities

The PredicTox Steering Committee will provide guidance on the operation of PredicTox, in conjunction with the RUF Board, project staff, and others. The Steering Committee will provide overall programmatic oversight to ensure a focus on the long-term vision of the project, while the Scientific Advisory Committee will provide highly specialized technical expertise.

The PredicTox Steering Committee will be charged with several responsibilities, including:

- Reviewing and approving the PredicTox Charter
- Monitoring adherence to the PredicTox mission and operational principles in the Charter
- Developing metrics and evaluating the project at various milestones
- Reviewing and approving the PredicTox Research Agenda
- Reviewing proposals and contracts submitted to the project

The PredicTox Steering Committee Chair must be able to complete additional responsibilities, including:

- Defining the Steering Committee's meeting agendas and facilitating those meetings
- Recommending for termination, as necessary, any PredicTox Steering Committee members demonstrating dereliction of duties as specified in the PredicTox Charter

• Other responsibilities as required upon implementation of PredicTox

A full list of Steering Committee responsibilities, as well as responsibilities of the Chair, may be found on the Reagan-Udall Foundation Web site.

### III. PredicTox Steering Committee Positions and Selection Criteria

RUF is seeking nominations for 7 voting members of the PredicTox Steering Committee, comprised of the following 5 categories:

• Patient Advocate: 1 member
• Pharmaceutical sector: 2 members
• Technology sector: 1 member
• Academia/Research Institute: 2 members
• At Large: 1 member

The Steering Committee will also have 2 members from the FDA (appointed by the FDA) and 1 member from the National Institutes of Health (appointed by the National Institutes of Health). These 3 individuals will be non-voting members.

Nominees for the voting positions will be evaluated by the RUF Board based on the following required criteria for each of the 7 positions:

• Ability to complete Steering Committee responsibilities, listed above
• Currently employed by/volunteering for stakeholder field (*e.g.,* pharmaceutical, academia, patient advocate, etc.) with several years of relevant experience
• Leading expert in their relevant field (based on position, publications, or other experience)
• Working knowledge of at least one of the following areas: Risk assessment; drug safety profiling; pharmacology or systems pharmacology; toxicology or systems toxicology; biostatistics; cardiology; oncology; bioinformatics; ontology; multi-scale modeling; knowledge management platforms; software development; or data sharing
• Prior experience serving on a related or similar governance body
• Understanding of the landscape and the impact on the stakeholder group they are representing with their seat

### IV. Terms of Service

• The PredicTox Steering Committee meets in-person at least twice per year, with teleconferences in between meetings as deemed necessary by the Chair
• Members will serve two or three year, staggered terms, as determined by the RUF Board
• Members do not receive compensation from RUF
• Members can be reimbursed by RUF for actual and reasonable expenses incurred in support of PredicTox in accordance with applicable law and their specific institutional policies
• Members are subject to the PredicTox Conflict of Interest policies (additional information can be accessed on the Reagan-Udall Foundation Web site)

### V. Nomination Instructions

• The nomination form can be accessed on the Reagan-Udall Foundation Web site
• Individuals may be nominated for 1 or more of the 5 stakeholder categories
• Individuals may nominate themselves or others
• The nomination deadline is August 28, 2015.

Dated: July 20, 2015.

**Jane Reese-Coulbourne,**

*Executive Director, Reagan-Udall Foundation for the FDA.*

[FR Doc. 2015–18123 Filed 7–23–15; 8:45 am]

BILLING CODE 4164–04–P

---

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75491; File No. SR–CBOE–2015–064]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Options Regulatory Fee

July 20, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 10, 2015, Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') proposes to amend the Options Regulatory Fee. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to decrease the Options Regulatory Fee (''ORF'') from $.0086 to $.0064 per contract in order to help ensure that revenue collected from the ORF, in combination with other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The proposed fee change would be operative on August 1, 2015.

The ORF is assessed by the Exchange to each Trading Permit Holder for all options transactions executed or cleared by the Trading Permit Holder that are cleared by The Options Clearing Corporation (''OCC'') in the customer range (*i.e.,* transactions that clear in a customer account at OCC) regardless of the exchange on which the transaction occurs.[3] In other words, the Exchange imposes the ORF on all customer-range transactions executed by a Trading Permit Holder, even if the transactions do not take place on the Exchange. The ORF also is charged for transactions that are not executed by a Trading Permit Holder but are ultimately cleared by a Trading Permit Holder. In the case where a Trading Permit Holder executes a transaction and a different Trading Permit Holder clears the transaction, the ORF is assessed to the Trading Permit Holder who executed the transaction. In the case where a non-Trading Permit Holder executes a transaction and a Trading Permit Holder clears the transaction, the ORF is assessed to the Trading Permit Holder who clears the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The ORF also applies to customer-range transactions executed during Extended Trading Hours.

transaction. The ORF is collected indirectly from Trading Permit Holders through their clearing firms by OCC on behalf of the Exchange.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Trading Permit Holder customer options business, including performing routine surveillances, investigations, examinations, financial monitoring, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs. The Exchange notes that its regulatory responsibilities with respect to Trading Permit Holder compliance with options sales practice rules have largely been allocated to FINRA under a 17d–2 agreement. The ORF is not designed to cover the cost of that options sales practice regulation.

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange monitors its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission. The Exchange notifies Trading Permit Holders of adjustments to the ORF via regulatory circular. The Exchange endeavors to provide Trading Permit Holders with such notice at least 30 calendar days prior to the effective date of the change.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[5] which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed fee change is reasonable because it would help ensure that revenue collected from the ORF, in combination with other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. Moreover, the Exchange believes the ORF ensures fairness by assessing higher fees to those Trading Permit Holders that require more Exchange regulatory services based on the amount of customer options business they conduct. Regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* Trading Permit Holder proprietary transactions) of its regulatory program.[7] The Exchange believes the proposed fee change is equitable and not unfairly discriminatory in that it is charged to all Trading Permit Holders on all their transactions that clear in the customer range at the OCC.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it applies to all Trading Permit Holders. The proposed ORF is comparable to fees charged by other options exchanges for the same or similar service. The Exchange believes any burden on competition imposed by the proposed rule change is outweighed by the need to help the Exchange adequately fund its regulatory activities to ensure compliance with the Exchange Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and paragraph (f) of Rule 19b–4[9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2015–064 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–064. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] *Id.*

[7] If the Exchange changes its method of funding regulation or if circumstances otherwise change in the future, the Exchange may decide to modify the ORF or assess a separate regulatory fee on Trading Permit Holder proprietary transactions if the Exchange deems it advisable.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–064 and should be submitted on or before August 14, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–18131 Filed 7–23–15; 8:45 am]

**BILLING CODE 8011–01–P**

[10] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75488; File No. SR–Phlx–2015–65]**

## Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules 1092 and 124, and Modify the Phlx Pricing Schedule

July 20, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 15, 2015, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to (1) amend Rule 1092 to assess a $500 Appeal Fee against a member or member organization which initiates and loses an appeal of an Options Exchange Official (''Official'') determination regarding an Obvious Error or Catastrophic Error, and to pass through other market center charges associated with obvious error determinations; (2) amend Rule 124, to clarify that that the $250 appeal fee provided for in Rule 124(d) will not apply to appeals of Obvious Error or Catastrophic Error determinations, and (3) to modify the Phlx Pricing Schedule (''Pricing Schedule'') to reflect the new $500 Appeal Fee and pass-through charges from other market centers.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

On May 8, 2015 the Exchange filed a proposed rule change (the ''1092 Replacement Filing'') to delete Rule 1092, Obvious Errors and Catastrophic Errors, and replace it with new Rule 1092 entitled ''Nullification and Adjustment of Options Transactions including Obvious Errors'' (''New Rule 1092''). New Rule 1092 also became operative on May 8, 2015.[3]

The purpose of this proposed rule change is to adopt a $500 Appeal Fee that will apply in the event of unsuccessful appeals of Official determinations rendered pursuant to Section (l) of New Rule 1092 and to permit the Exchange to pass along charges assessed by another market center in connection with Obvious Error and Catastrophic Error determination requests presented to that market center by the Exchange on a member or member organization's behalf. To accommodate this proposed fee change, the Exchange proposes to amend Rule 124, Disputes-Options, to add new language to section (l) of New Rule 1092, and to make conforming changes to the Exchange's Pricing Schedule, as described below.

(I) *$500 Appeal Fee/Pass Through Charges.* The Exchange proposes to amend section (l) of the New Rule 1092, pursuant to which the Exchange will assess a $500 fee against members or member organizations who initiate a request for an appeal of an Official's Obvious Error or Catastrophic Error determination to the Exchange's Market Operations Review Committee (''MORC''), where the appeal is unsuccessful and the MORC votes to uphold the Official's determination. Further, the new rule permits the Exchange to pass any resulting charges through to the relevant member or member organization in instances where the Exchange, on behalf of the member or member organization, requests a determination by another market center that a transaction is an Obvious Error or Catastrophic Error.

(II) *Amendment to Rule 124.* Currently, Rule 124(d) provides for assessment of a $250 fee to a member or member organization seeking review by the MORC of an Official ruling regarding Obvious Errors or Catastrophic Errors if the Official's ruling is sustained and not overturned or modified by the MORC.[4] The Exchange proposes to amend Rule 124(a) to clarify that *no* provision of

[3] *See* SR–Phlx–2015–43. New Rule 1092 harmonizes rules related to the adjustment and nullification of erroneous options transactions with those of other exchanges. The Exchange believes that New Rule 1092, together with comparable rules filed by the other options exchanges, will provide transparency and finality with respect to the adjustment and nullification of erroneous options transactions, achieving consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest.

[4] Exchange Rule 124(a) currently provides that ''[t]his Rule 124(a) shall not apply to options transactions that are the result of an Obvious Error (as defined in Rule 1092).'' However, the Exchange currently applies Rule 124(d) to unsuccessful appeals of Official determinations of Obvious Errors to the MORC. The Exchange believes that fees associated with MORC appeals of Obvious Errors or Catastrophic Errors will be more logically set forth in the rulebook in Rule 1092(l) which describes the MORC appeals process for Obvious Errors and Catastrophic Errors.

Rule 124, including the Rule 124(d) $250 appeal fee, shall apply to Obvious Errors or Catastrophic Errors, both of which instead are to be subject to the new $500 Appeal Fee provision and procedures of Rule 1092. The Exchange does not propose to move or make any further changes to any provision of Rule 124, which will continue to apply to disputes occurring on and relating to the trading floor (but not to Obvious Errors or Catastrophic Errors).

(III) *Amendment to Pricing Schedule.* Currently, chapter VII, part D of the Exchange's Pricing Schedule reflects the $5,000 Catastrophic Error Fee provided for in prior Exchange Rule 1092(f)(ii), which was eliminated in favor of New Rule 1092 which does not contain such a fee.[5] The Pricing Schedule is being revised to reflect the elimination of the $5000 Catastrophic Error Fee and the addition instead, pursuant to the proposed new language in section (l) of New Rule 1092, of the $500 Appeal Fee and pass through charges described in (I) above.[6]

2. Statutory Basis

The Exchange believes that its proposal to amend Rule 124 and New Rule 1092 as well as the Pricing Schedule as proposed herein is consistent with section 6(b) of the Act[7] in general, and furthers the objectives of section 6(b)(4) and (b)(5) of the Act[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Phlx operates or controls, and is not designed to permit unfair discrimination between market participants to whom the Exchange's fees and rebates are applicable. The $500 Appeal Fee and the provision of pass through charges from other market centers are proposed herein are equitable, in that they apply equally to all member and member organizations lodging appeals to the MORC pursuant to New Rule 1092(l) or requesting Obvious Error or Catastrophic Error determinations from other market centers through the Exchange. The new fee and pass through charges are reasonable, in that they allow the Exchange to recoup administrative costs associated with such MORC appeals and with seeking Obvious Error or Catastrophic Error determinations of other market centers, while discouraging frivolous appeals or determination requests. The Exchange believes the new $500 Appeal Fee, which would reflect a $250 increase from the current appeal fee under Rule 124(d), is reasonable in that it will provide the Exchange additional resources with which to administer its regulatory functions, including the appeal of decisions made under New Rule 1092.

*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 Exchange does not believe the proposal will have any impact on competition. The $500 Appeal Fee and the provision of pass through charges from other market centers proposed herein will apply equally to all member and member organizations lodging appeals to the MORC pursuant to New Rule 1092(l) or requesting Obvious Error or Catastrophic Error determinations from other market centers through the Exchange.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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–Phlx–2015–65 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–Phlx–2015–65. 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.,

[5] Pursuant to section (f) of prior Exchange Rule 1092 titled ''Obvious Error and Catastrophic Errors,'' if an Exchange member believed that it had participated in a transaction that qualified as a Catastrophic Error, it could request a determination that a Catastrophic Error occurred. If an Options Exchange Official determined that a Catastrophic Error had occurred, the Options Exchange Official would adjust the execution price of the transaction according to Rule 1092. If it were determined that a Catastrophic Error had not occurred, the member requesting the determination would be assessed a charge of $5,000 pursuant to Exchange Rule 1092(f)(ii). *See* Securities Exchange Act Release No. 58002 (June 23, 2008), 73 FR 36581 (June 27, 2008).

[6] The purpose of removing the $5,000 Catastrophic Error Fee, as part of replacing prior Rule 1092 with New Rule 1092 in the 1092 Replacement Filing, was to remove a potential disincentive from requesting a review of what a market participant may believe to be a Catastrophic Error. Currently, the mere possibility—even if slight—that the Official could determine not to adjust or nullify the transaction in question and thus trigger the assessment of the $5,000 fee may unnecessarily deter members from requesting reviews which they believe to be justified. By eliminating the fee, the significant financial consequence of an adverse decision on a review will be lessened, and market participants should feel more comfortable with the fairness of the markets and the process adopted by the Exchange for requesting Officials to conduct reviews for determinations of Catastrophic Errors.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4), (5).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2015–65, and should be submitted on or before August 14, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–18134 Filed 7–23–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75490; File No. SR–BX–2015–041]**

## Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the BX Routing Order Rule

July 20, 2015.

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 July 10, 2015, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BX Rules at chapter VI (Trading Systems) at section 11 (Order Routing) to clarify the manner in which a SEEK Order will route again after an initial routing attempt to another market center.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange's rules at chapter VI, section 11 provide for the manner in which orders submitted to the System[3] will route to other market centers.[4] The System provides two routing options pursuant to which orders are sent to other available market centers for potential execution, per the entering firm's instructions. The routing options are SEEK and SRCH. Routing options may be combined with all available order types and times-in-force, with the exception of order types and times-in-force whose terms are inconsistent with the terms of a particular routing option. The Exchange is seeking to clarify the manner in which a SEEK order will route again, after it is initially routed (''re-route'').[5]

SEEK is a routing option pursuant to which an order will first check the System for available contracts for execution. After checking the System for available contracts, orders are sent to other available market centers for potential execution, per the entering firm's instructions. When checking the book, the System will seek to execute at the price at which it would send the order to a destination market center.

SRCH is a routing option pursuant to which an order will first check the System for available contracts for execution. After checking the System for available contracts, orders are sent to other available market centers for potential execution, per the entering firm's instructions. When checking the book, the System will seek to execute at the price at which it would send the order to a destination market center.

Both SEEK and SRCH eligible unexecuted orders will continue to be routed utilizing a route timer. The SEEK or SRCH order will post to the book and will be routed after a time period (''Route Timer'') not to exceed one second as specified by the Exchange on its Web site provided that the order's limit price would lock or cross other market center(s).[6] If, during the Route Timer, any new interest arrives opposite the order that is equal to or better than the ABBO[7] price, the order will trade against such new interest at the ABBO price. Eligible unexecuted orders will be routed at the end of the Route Timer provided the order was not filled and the order's limit price would continue to lock or cross the ABBO. If an order was routed with either the SEEK or SRCH routing option, and has size after such routing, it will execute against contra side interest in the book, post in the book, and route again pursuant to the process described above, if applicable, if the order's limit price would lock or cross another market center(s).

With respect to SRCH Orders, if contracts remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, it will re-route. With SEEK orders, the rule currently states, if contracts remain un-executed after routing, they are posted on the book. Once on the book at the limit price, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

The Exchange seeks to amend the rule text in chapter VI, section 11(a)(1)(A) to state, *while,* on the book at the limit price, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center. The purpose of this change is to make clear that the SEEK order will not re-route as long as that order is at the limit price. The SEEK order may re-

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''System'' is defined in BX Rules at chapter VI, section 1(a).

[4] Participants can designate orders as either available for routing or not available for routing. *See* chapter VI, sec. 11(a).

[5] If an order is only partially routed the portion that was not routed will be posted to the book.

[6] Pursuant to section 11(c) of chapter VI, orders sent by the System pursuant to the SEEK and SRCH routing options to other markets would not retain time priority with respect to other orders in the System. If an order routed pursuant to SEEK or SRCH is subsequently returned, in whole or in part, that order, or its remainder, will receive a new time stamp reflecting the time of its return to the System.

[7] ABBO is the away market's best bid or offer.

route, after it has initially routed, when such order reprices.

Example #1: By way of example, if an order is subject to Acceptable Trade Range [8] (''ATR'') with a price band of 0.80 and the order book is as follows:

- Order 1: Buy SEEK order 27 (10)
- Order 2: Sell SEEK order 31 (10)
- Order 3: Sell DNR order 29 (10)

Further, if BX's BBO is 27(10) × 29(10) and the away market is 27(10) × 33 (10) with an NBBO of 27(20) × 29(10); then

An incoming Order 4: Buy DNR 30 (100) triggers ATR and the following takes place within the order book:

- Order 4 first executes with Order 3 at 29 (10)
- ATR timer starts, with Order 4 re-priced and displayed at 29.80 (90)
- Exchange BBO becomes 29.80 (90) × 31 (10), offer 31 is non-firm
- Assume, during ATR timer, away market moves such that new away market is 31.10 (10) × 33 (10)
- After ATR processing concludes, Order 2 is repriced to be offered at 31.10 and displayed tick away at 31.20 to avoid locking/crossing the market.
- Exchange BBO becomes 30(90) × 31.20(10)
- After route timer, Order 2 routes to away market at 31.10

The Exchange proposes to add the following new sentence, ''SEEK orders will not be eligible for routing until the next time the option series is subject to a new opening or reopening.'' The purpose of this new sentence is to make clear that an opening and reopening will cause an order to be eligible for routing. The SEEK order will be treated as a new order and therefore will become subject to the routing process anew with an opening or reopening process, provided the order locks or crosses another market.

Example #2: By way of example, presume a halt occurred on BX with the following order book:

- Order 1: Buy SEEK Order is on the book at its limit price, 2.00 (15).
- The related underlying is halted.
- Immediately following the halt, before BX has re-opened the issue, the away market quotes at 1.95 (100) × 1.99 (100).
- Upon re-opening the issue on BX, the SEEK order routes at 1.99 (15). The System comes out of a halt with a new opening process and treats all orders as if they were new orders thus the SEEK order will re-route.

The Exchange proposes to modify the existing sentence which states, ''[o]nce on the book at the limit price, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center'' to ''[w]hile on the book at the limit price, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.'' The Exchange believes that this modification reflects more accurate rule text. The Exchange believes that market participants are aware of the manner in which the SEEK order operates as there has been no System change with respect to the function of the SEEK order. The proposed language serves to make clear that a SEEK order will not re-route while at its limit price, but once that order is re-priced, it may route again.[9]

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act [10] in general, and furthers the objectives of section 6(b)(5) of the Act [11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by amending the rule text to clarify the existing rule text and provide the circumstances when a SEEK order would be eligible to route, such as (1) when the order is repriced, after it is posted to the order book, at a price not at its limit price; and (2) when an opening or reopening (after a halt) occurs such that the System views these orders as new orders and they become subject to routing anew. The Exchange believes that these amendments provide transparency and specificity to the Rules and the corrected rule text protects investors and the public interest by reducing the potential for investor confusion.

The Exchange believes the additional language benefits other market participants who may not be currently familiar with the routing options on BX to understand the difference between the two routing options offered by the Exchange. While the Exchange is modifying the rule text, it notes that the System will continue to operate as it does today. Rather, the proposed rule text seeks to bring additional clarity to the current rule text to clarify when a SEEK order will re-route to another market center after it has initially routed. The Exchange believes this language corrects the current rule text and more clearly differentiates an order routed pursuant to the SEEK routing option as compared to the SRCH routing option.

*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 does not create an undue burden on competition as the proposed rule change is not a substantive change in that the System will continue to operate as it does today. The Exchange desires to amend the current rule text to provide two circumstances when the SEEK order would re-route after it has initially routed to an away market center. The Exchange believes that this proposed rule text will clarify the current rule which states that SEEK order will not re-route once it is on the book at the limit price. The Exchange is seeking to provide greater transparency in its rules. The amendments would apply to all market participants in the same manner.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act [12] and Rule 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 for 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

[8] The System will calculate an Acceptable Trade Range to limit the range of prices at which an order will be allowed to execute. The Acceptable Trade Range is calculated by taking the reference price, plus or minus a value to be determined by the Exchange. (*i.e.,* the reference price—(x) for sell orders and the reference price + (x) for buy orders). Upon receipt of a new order, the reference price is the national best bid (NBB) for sell orders and the national best offer (NBO) for buy orders or the last price at which the order is posted whichever is higher for a buy order or lower for a sell order. *See* BX Rules at chapter VI, section 10(7).

[9] *See* Example #1.

[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).

[13] 17 CFR 240.19b–4(f)(6).

effective pursuant to section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6) [16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. The Exchange states that the proposal would apply to all market participants in the same manner and believes that market participants would benefit from the additional clarity the Exchange asserts the proposal would provide in regard to the circumstances when a SEEK order is eligible to re-route. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal provides further clarity regarding the routing functionality of the Exchange's SEEK orders, which the Commission believes will benefit investors and market participants who use such orders to accomplish their trading objectives. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2015–041 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2015–041. 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–BX–2015–041, and should be submitted on or before August 14, 2015.

[19] 17 CFR 200.30–3(a)(12), (59).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–18132 Filed 7–23–15; 8:45 am]

**BILLING CODE 8011–01–P**

---

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75493; File Nos. SR–NYSEArca–2015–43; SR–NYSEMKT–2015–41]**

## Self-Regulatory Organizations; NYSEArca, Inc.; NYSEMKT LLC; Order Approving Proposed Rule Changes Relating to the Complex Order Auction Process and Order Exposure Requirements

July 20, 2015.

### I. Introduction

On May 21, 2015, NYSE Arca, Inc. (''NYSE Arca'') and NYSE MKT LLC (''NYSE MKT'') (each, an ''Exchange'' and, together, the ''Exchanges'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] proposed rule changes to amend NYSE Arca Rules 6.47A and 6.91(c) and NYSE MKT Rules 935NY and 980NY(e), respectively, to (1) allow Users to utilize the Complex Order Auction (''COA'') to satisfy the order exposure requirements of Rules NYSE Arca Rule 6.47A and NYSE MKT Rule 935NY; (2) allow any OTP Holder or ATP Holder, as applicable, to participate in a COA; and (3) provide for a COA Response Time Interval of no less than 500 milliseconds.[4] The proposed rule changes were published for comment in the in the **Federal Register** on June 8, 2014.[5] The Commission received no

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] An OTP Holder is the holder of an Options Trading Permit issued by NYSE Arca. *See* NYSE Arca Rules 1.1(p) and (q). Under NYSE Arca's rules, a User is any OTP Holder, OTP Firm, or Sponsored Participant that is authorized to obtain access to OX, NYSE Arca's electronic order delivery, execution and reporting system for designated option issues, pursuant to NYSE Arca Rule 6.2A. *See* NYSE Arca Rules 6.1A(13) and 6.1A(19). An ATP Holder is the holder of an Amex Trading Permit issued by NYSE MKT. *See* NYSE MKT Rules 900.2NY(4) and (5). Under NYSE MKT's rules, a User is any ATP Holder that is authorized to obtain access to the System pursuant to NYSE MKT Rule 902.1NY. *See* NYSE MKT Rule 900.2NY(87).

[5] *See* Securities Exchange Act Release Nos. 75096 (June 2, 2015), 80 FR 32420 (''NYSE Arca Notice''); and 75095 (June 2, 2015), 80 FR 32427 (''NYSE MKT Notice'').

comment letters regarding the proposals. This order approves the proposed rule changes.

## II. Description of the Proposals

NYSE Arca and NYSE MKT each operate a COA auction process, which allow an entering trading permit holder to initiate an auction for an eligible complex order.[6] At the commencement of a COA auction, an Exchange sends an automated request for response message (''RFR'') to all trading permit holders that subscribe to RFR messages.[7] During the Response Time Interval, trading permit holders that are eligible to respond to a COA may respond to an RFR message, indicating the price and number of contracts they would be willing to trade in the COA.[8] Under the current rules, the Exchanges may determine the length of the Response Time Interval, which has no minimum duration and will not exceed one second.[9]

The Exchanges' order exposure rules currently prohibit Users from executing as principal orders they represent as agent unless certain conditions are satisfied.[10] NYSE Arca Rule 6.47A provides that Users may not execute as principal orders they represent as agent unless (i) the agency orders are first exposed on NYSE Arca for at least one second; or (ii) the User has been bidding or offering on NYSE Arca for at least one second prior to receiving an agency order that is executable against such bid or offer. NYSE MKT Rule 935NY provides that Users may not execute as principal orders they represent as agent unless (i) the agency orders are first exposed on NYSE MKT for at least one second; (ii) the User has been bidding or offering on NYSE MKT for at least one second prior to receiving the agency order that is executable against such bid or offer; or (iii) the User utilizes the NYSE Amex Options Customer Best Execution (''CUBE'') auction.[11] The Exchanges propose to amend their rules to add the use of the COA as a means for a User to satisfy the order exposure requirements.[12] Thus, an electronic complex order subject to a COA would not be subject to the one-second order exposure requirements of NYSE Arca Rule 6.47A or NYSE MKT Rule 935NY, and a User that utilizes the COA pursuant to NYSE Arca Rule 6.91(c) or NYSE MKT Rule 980NY(e) would be able to submit a principal order during the Response Time Interval to trade against an order it represents as agent.[13] The Exchanges note that this exclusion from the order exposure requirement is consistent with the treatment of orders in the CUBE Auction, which, like the COA, has a minimum duration of 500 milliseconds, and with the treatment of orders in the BOX Options Exchange's Complex Order Price Improvement Period (''COPIP'') auction.[14] In addition, the Exchanges note that, consistent with NYSE Arca Rule 6.47A, Commentary .01, and NYSE MKT Rule 935NY, Commentary .01, trading permit holders may only use the COA where there is a genuine intention to execute bona fide transactions.[15]

Currently, only market makers with an appointment in the relevant options class, and trading permit holders acting as agent for orders resting at the top of the Consolidated Book in the relevant options series, may submit RFR Responses.[16] The Exchanges propose to amend their rules to allow any trading permit holder to submit an RFR Response. The Exchanges believe that this could increase participation in COAs, which could foster greater competition and provide additional price improvement opportunities for COA-eligible orders.[17] In addition, the Exchanges believe that this change would benefit market participants by enabling the Exchanges to better compete with options exchanges that permit all members to participate in electronic auctions for crossing transactions that are similar to the COA.[18]

The Exchanges also propose to revise their rules to provide that the Response Time Interval will not be less than 500 milliseconds. The maximum possible duration of the Response Time Interval will continue to be one second. The Exchanges believe that it is important to establish a minimum duration for the Response Time Interval to assure that orders entered into a COA are exposed for a sufficient time period to allow auction participants to submit RFR Responses.[19]

Each Exchange surveyed its trading permit holders to determine whether the proposed minimum Response Time Interval would provide sufficient time to respond to a COA.[20] Based on the survey responses—in which 77% of the respondents indicated that they would be able to respond to an auction lasting 100 milliseconds—the Exchanges believe that the proposed Response Time Interval duration of at least 500 milliseconds would provide a meaningful opportunity for Exchange participants to respond to a COA and, at the same time, facilitate the prompt execution of orders.[21] In addition, the Exchanges believe that a minimum Response Time Interval of 500 milliseconds would provide sufficient time to submit RFR Responses and would encourage competition among participants, thereby enhancing the potential for price improvement in the COA.[22] The Exchanges note that the 500 millisecond minimum duration is comparable to the response time interval for the CUBE Auction for single-leg orders, which disseminates an RFR message for an auction lasting for a random period of time of between 500 and 750 milliseconds.[23] The Exchanges note, further, that the BOX Options Exchange's COPIP auction lasts for only 100 milliseconds.[24] Although both the CUBE and the COPIP, unlike the COA, are auctions of paired orders that provide for a guaranteed execution, the

[6] Each Exchange may determine, on a class-by-class basis, which electronic orders are eligible for a COA, based on marketability (defined as a number of ticks away from the current market), size, number of series, and complex order origin types (*i.e.,* Customers, broker-dealers that are not Market-Makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange). *See* NYSE Arca Rule 6.91(c)(1) and NYSE MKT Rule 980NY(e)(1).

[7] The RFR message identifies the component series, size, and side of the market of the order being auctioned, and any contingencies. *See* NYSE Arca Rule 6.91(c)(2) and NYSE MKT Rule 980NY(e)(2).

[8] *See* NYSE Arca Rules 6.91(c)(3) and (4) and NYSE MKT Rules 980NY(e)(3) and (e)(4). *See also* NYSE Arca Notice, 80 FR at 32421 and NYS MKT Notice, 80 FR at 32427.

[9] *See* NYSE Arca Rule 6.91(c)(3) and NYSE MKT Rule 980NY(e)(3).

[10] *See* NYSE Arca Rule 6.47A and NYSE MKT Rule 935NY.

[11] *See* NYSE Arca Rule 6.47A; and NYSE MKT Rule 935NY.

[12] The proposals also make conforming changes to NYSE Arca Rule 6.91(c)(3) and NYSE MKT Rule 980NY(e)(3) to delete sentences stating that the obligations of NYSE Arca Rule 6.47A and 935NY are separate from the duration of the Response Time Interval.

[13] *See* NYSE Arca Notice, 80 FR at 32422 and NYSE MKT Notice, 80 FR at 32428.

[14] *See* NYSE Arca Notice, 80 FR at 32422; and NYSE MKT Notice, 80 FR at 32428.

[15] *See* NYSE Arca Notice, 80 FR at 32422; and NYSE MKT Notice, 80 FR at 32428.

[16] *See* NYSE Arca Rule 6.91(c)(4) and NYSE MKT Rule 980NY(e)(4).

[17] *See* NYSE Arca Notice, 80 FR at 32421; and NYSE MKT Notice, 80 FR at 32428.

[18] *See, e.g.,* ISE Rule 723(a).

[19] *See* NYSE Arca Notice, 80 FR at 32421 and NYSE MKT Notice, 80 FR at 32428.

[20] In May 2015, NYSE Arca and NYSE MKT surveyed their respective trading permit holders to determine whether they could respond to an auction lasting 100 milliseconds. Of the trading permit holders that have electronic access to NYSE Arca and NYSE MKT, and are able to submit responses to a COA, 13 responded to the surveys. In both surveys, ten respondents (77%) said that they could respond to an auction lasting 100 milliseconds. *See* NYSE Arca Notice, 80 FR at 32421; and NYSE MKT Notice, 80 FR at 32428.

[21] *See* NYSE Arca Notice, 80 FR at 32421; and NYSE MKT Notice, 80 FR at 32428.

[22] *See id.*

[23] *See* NYSE MKT Rule 971.1NY(c)(2)(B).

[24] *See* Box Rule 7245(f)(1).

Exchanges believe that the CUBE and COPIP are analogous to the COA in that they are designed to attract liquidity and provide opportunities for price improvement.[25]

## III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule changes are consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[26] In particular, the Commission finds that the proposed rule changes are consistent with section 6(b)(5) of the Act,[27] which requires that the rules of the exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Users trading as principal on the Exchanges may not trade with orders they represent as agent unless the one-second order exposure requirements of NYSE Arca Rule 6.47A or NYSE MKT Rule 935NY, as applicable, are satisfied. The proposals amend NYSE Arca Rule 6.47A and NYSE MKT Rule 935NY to allow Users to utilize the COA to satisfy the order exposure requirements.[28] Thus, an electronic complex order subject to a COA would not be subject to the one-second order exposure requirements of NYSE Arca Rule 6.47A or NYSE MKT Rule 935NY, and a User that utilizes the COA pursuant to NYSE Arca Rule 6.91(c) or NYSE MKT Rule 980NY(e) would be able to submit a principal order during the Response Time Interval to trade against an order it represents as agent.[29] The proposals also amend NYSE Arca Rule 6.91(c)(4) and NYSE MKT Rule 980NY(e)(4) to allow all trading permit holders—rather than only market makers in the relevant options class and trading permit holders representing orders at the top of the Consolidated Book in the relevant series—to respond to a COA. Finally, the proposals amend NYSE Arca Rule 6.91(c)(3) and NYSE MKT Rule 980NY(e)(3) to establish a minimum duration of 500 milliseconds for the Response Time Interval.[30]

The Commission believes that the changes establishing a minimum duration for the Response Time Interval and providing for expanded participation in the COA could enhance competition in the COA. As noted above, each Exchange surveyed its trading permit holders to determine whether they would be able to respond to a COA auction lasting 100 milliseconds. According to the Exchanges, 77% of the survey respondents indicated that they would be able to respond to an auction lasting 100 milliseconds.[31] Based on the Exchanges' statements, the Commission believes that establishing a minimum duration of 500 milliseconds for the Response Time Interval should provide market participants with an opportunity to compete for exposed bids and offers in a COA auction while facilitating the prompt execution of orders in the COA.[32] In addition, allowing all trading permit holders to submit RFR Responses could result in greater participation and increased competition in the COA, potentially leading to greater opportunities for price improvement for orders submitted to a COA. Accordingly, the Commission believes that it is consistent with the Act to allow Users to utilize the COA to satisfy the order exposure requirements of NYSE Arca Rule 6.47A and NYSE MKT Rule 935NY.

## IV. Conclusion

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act,[33] that the proposed rule changes (File Nos. SR–NYSEArca–2015–43 and SR–NYSEMKT–2015–41) are approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–18129 Filed 7–23–15; 8:45 am]

**BILLING CODE 8011–01–P**

[25] *See* NYSE Arca Notice, 80 FR at 32421; and NYSE MKT Notice, 80 FR at 32428.

[26] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[27] 15 U.S.C. 78(b)(5).

[28] The proposals also make conforming changes to NYSE Arca Rule 6.91(c)(3) and NYSE MKT Rule 980NY(e)(3) to delete sentences stating that the obligations of NYSE Arca Rule 6.47A and 935NY are separate from the duration of the Response Time Interval.

[29] *See* NYSE Arca Notice, 80 FR at 32422 and NYSE MKT Notice, 80 FR at 32428.

[30] The rules will continue to provide that the Response Time Interval will not exceed one second.

[31] *See* notes 20–21, *supra,* and accompanying text.

[32] The Commission notes that it has previously approved 500-millisecond response periods for other auctions, as well as a response period of 100 milliseconds for BOX's COPIP auction. *See* ISE Rules 716, Supplementary Material .04 (providing 500 milliseconds to submit Responses in the Block Order Mechanism, the Facilitation Mechanism, and the Solicited Order Mechanism); and 723(c)(1) (establishing a 500-millisecond exposure period for the Price Improvement Mechanism); and BOX Rule 7245(f)(1).

[33] 15 U.S.C. 78s(b)(2).

[34] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75494; File No. SR–NYSEArca–2015–38]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change Adopting New Equity Trading Rules Relating to Trading Sessions, Order Ranking and Display, and Order Execution To Reflect the Implementation of Pillar, the Exchange's New Trading Technology Platform

July 20, 2015.

## I. Introduction

On April 30, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt new equity trading rules relating to Trading Sessions, Order Ranking and Display, and Order Execution to reflect the implementation of Pillar, the Exchange's new trading technology platform. The proposed rule change was published for comment in the **Federal Register** on May 19, 2015.[3] The Commission received no comment letters on the proposed rule change. On June 23, 2015, pursuant to section 19(b)(2) of the Act,[3] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[4] This order approves the proposed rule change.

## II. Description of the Proposed Rule Change

The Exchange proposes to adopt new equity trading rules relating to the implementation of Pillar, the Exchange's new trading technology platform. The Exchange proposes to adopt the following new Pillar rules: (1) NYSE

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] *See* Securities Exchange Act Release No. 74951 (May 13, 2015), 80 FR 28721 (''Notice'').

[3] 15 U.S.C. 78s(b)(2).

[4] *See* Securities Exchange Act Release No. 75273, 80 FR 37033 (June 29, 2015).

Arca Equities Rule 7.34P (''Rule 7.34P'') related to trading session; (2) NYSE Arca Equities Rule 7.36P (''Rule 7.36P'') related to order ranking and display; and NYSE Arca Equities Rule 7.37P (''Rule 7.37P'') related to order execution. According to the Exchange, these three rules would set forth the foundation of the Exchange's equity trading model in Pillar, including the hours of operation, how orders would be ranked and displayed, and how orders would be executed.[5]

*A. Background*

The Exchange represents that Pillar is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by Arca and its affiliates, New York Stock Exchange LLC and NYSE MKT LLC. NYSE Arca Equities will be the first trading system to migrate to Pillar.[6] The Exchange states that during the first phase of Pillar implementation, it will roll out the new technology platform over a period of time based on a range of symbols.[7] Because orders entered in symbols not yet migrated to Pillar would continue to operate under current rules, the Exchange will keep its current rules, pending complete migration of symbols to Pillar and retirement of the current trading system, and will add new rules that would be applicable to symbols that trade on the Pillar trading platform.[8]

As proposed, the new rules governing trading on Pillar would have the same numbering as current rules, but with the modifier ''P'' appended to the rule number. The Exchange proposes that rules with a ''P'' modifier would operate for symbols that are trading on the Pillar trading platform. If a symbol is trading on the Pillar trading platform, a rule with the same number as a rule with a ''P'' modifier would no longer operate for that symbol and the Exchange would announce by Trader Update when symbols are trading on the Pillar trading platform. Definitions that do not have a companion version with a ''P'' modifier would continue to operate for all symbols. The Exchange has stated that once all symbols have migrated to the Pillar platform, it will file a rule proposal to delete rules that are no longer operative.[9]

*B. Proposed Modifications*

The Exchange represents that it is not proposing that the core functionality of rules applicable to trading on Pillar would be different from rules applicable to trading on the current NYSE Arca Equities trading system.[10] As described in detail in the Notice, Rules 7.34P, 7.36P, and 7.37P incorporate much of the substance of current NYSE Arca Rules 7.34, 7.36, and 7.37, respectively. However, with Pillar, the Exchange would introduce new terminology, reorganize and redraft certain provisions to improve clarity, and provide additional detail to other current provisions being redesignated.[11] The Exchange also proposes to make several changes that are more substantive in nature, as follows:

- The Core Open Auction would occur during the Core Trading Session, rather than during Early Trading Session; [12]
- Tracking Orders would now be permitted to participate in the Early Trading Session; [13]
- during the Early Trading Session, for securities that are not eligible for an auction on the Exchange, all Market Orders designated for the Core Trading Session and Auction-Only Orders would be routed to the primary listing market on arrival (unless the market is not accepting orders), whereas currently this only occurs if orders include a ''Primary Only'' designation; [14]
- Market Orders in securities that are not eligible for the Core Open Auction will be routed to the primary listing market until the first print of any size (the current rule does not specify that the first opening print can include an odd-lot transaction) on the primary listing market, and the Exchange would now stop routing Market Orders to the primary listing market and begin processing those orders on the Exchange at 10am EST; [15]
- during the Core Trading Session, Auction-Only Orders in securities that are not eligible for an auction on Arca would be accepted and routed directly to the primary listing market,[16] whereas currently this only occurs if orders include a ''Primary Only'' designation;
- Tracking Orders would now be eligible to participate in the Late Trading Session; [17] and
- an order marked ''short'' when a short sale price test restriction is in effect would not be routed and would be repriced or cancelled.[18]

## III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act [19] and the rules and regulations thereunder applicable to a national securities exchange.[20] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[21] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and that the rules are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission notes that the Exchange believes that the proposed rules would remove impediments to and perfect the mechanism of a free and open market because the proposed rule set would promote transparency by simplifying the structure of Exchange rules and using consistent terminology governing equities trading, and by clearly denoting the rules that govern once a symbol has been migrated to the Pillar platform.[22] With respect to proposed Rule 7.34P, the Exchange represents that it believes that the proposed changes to functionality would remove impediments to and perfect the mechanism of a fair and orderly market.[23] With respect to proposed Rules 7.36P and 7.37P, the Exchange stated that it believes that the

[5] *See* Notice at 28722.

[6] *See* Notice at 28722; *see also* Trader Update dated January 29, 2015, available here: *http://www1.nyse.com/pdfs/Pillar_Trader_Update_Jan_2015.pdf.*

[7] *See* Notice at 28722.

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *See id.* at 28723–31.

[12] *See* proposed rule 7.34P(a)(2); *see also* Notice at 28723.

[13] *See* current rule 7.34(d)(1)(C), which would not be carried over to proposed 7.34P; *see also* Notice at 28724.

[14] *See* proposed rule 7.34P(c)(1)(D); *see also* Notice at 28724.

[15] *See* proposed rule 7.34P(c)(2)(A); *see also* Notice at 28725.

[16] *See* proposed rule 7.34P(c)(2)(B); *see also* Notice at 28725.

[17] *See* current rule 7.34(d)(3)(C), which would not be carried over to proposed 7.34P; *see also* Notice at 28725.

[18] *See* proposed rule 7.37P(b)(8); *see also* Notice at 28730.

[19] 15 U.S.C. 78f.

[20] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b)(5).

[22] *See* Notice at 28732.

[23] *See id.*

proposed rule text promotes transparency through the use of consistent terminology that will serve as the foundation for additional Pillar-related rule proposals, and by providing notice of when orders would be accepted, routed, rejected, cancelled, or be assigned a working time by the Exchange.[24]

Based on the Exchange's representations, the Commission believes that the proposed rule change does not raise any novel regulatory considerations and should provide greater specificity with respect to the functionality available on the Exchange as symbols are migrated to the Pillar platform. For these reasons, the Commission believes that the proposal should help 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, in general, protect investors and the public interest.

## IV. Conclusion

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act,[25] that the proposed rule change (SR–NYSEArca–2015–38) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–18128 Filed 7–23–15; 8:45 am]

**BILLING CODE 8011–01–P**

[24] *See id.*

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

---

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75489; File No. SR–BOX–2015–26]**

## Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add Interpretive Material to BOX Rule 8050 To Indicate That Market Makers Will Not Be Obligated To Quote in Adjusted Option Series and To Define What Qualifies as an Adjusted Options Series

July 20, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 10, 2015, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to add Interpretive Material (''IM–8050–2'') to BOX Rule 8050 (Market Maker Quotations) to indicate that Market Makers will not be obligated to quote in adjusted option series and to define what qualifies as an adjusted options series. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to add Interpretive Material (''IM–8050–2'') to BOX Rule 8050 (Market Maker Quotations) to indicate that Market Makers will not be obligated to quote in adjusted option series and to define what qualifies as an adjusted options series. This is a competitive filing that is based on a proposal submitted by NYSE Arca, Inc. (''NYSE Arca'') and approved by the Commission.[3]

BOX Rule 8050 discusses the quoting obligations that are applicable to Market Makers on the Exchange. The Rule states that, in addition to other requirements, Market Makers must post valid quotes throughout the trading day in its appointed classes at least sixty percent (60%) of the time the classes are open for trading.

The Exchange proposes to define ''adjusted series'' for the purpose of BOX Rule 8050. An ''adjusted series'' under the Rule would be defined as an option series wherein, as a result of a corporate action by the issuer of the underlying security, one option contract in the series represents the delivery of other than 100 shares of underlying stock or Exchange Traded Fund Shares.

After a corporate action and a subsequent adjustment to the existing options, the series in question are identified by the Options Price Reporting Authority (''OPRA'') and at Options Clearing Corporation (''OCC'') with a separate symbol consisting of the underlying symbol and a numerical appendage. As a standard procedure, exchanges listing options on an underlying security which undergoes a corporate action resulting in adjusted series will list new standard option series across all appropriate expiration months the day after the existing series are adjusted. The adjusted series are generally active for a short period of time following adjustment, but orders to open an options position in the underlying are almost exclusively placed in the new standard contracts. Although the adjusted series may not expire for as much as 27 months, in a short time the adjusted series become inactive. Thus, the burden of quoting these series generally outweighs the benefit of being appointed in the class because of the lack of interest in the series by various market participants.

The proposed rule change is similar to the NYSE Arca rule, in that the Exchange is merely proposing to exclude the adjusted series from the continuous quoting obligation, but not from other obligations under BOX Rule 8050. The NYSE Arca rule excludes adjusted option series, and series with a time to expiration of nine months or greater, for options on equities and Exchange Traded Fund Shares, and series with a time to expiration of twelve months or greater for Index options. Similar to NYSE Arca, BOX already excludes from continuous quoting requirements options series where the time to expiration is greater than nine (9) months,[4] and is now proposing to add the exclusion of adjusted series. Of particular note, the proposal would not excuse a Market

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 65573 (October 14, 2011), 76 FR 65305 (October 20, 2011) (Order Approving SR–NYSEArca–2011–59). See also NYSE Arca Rule 6.37B Market Maker Quotations—OX.

[4] *See* BOX Rule 5070(a).

Maker from the obligation, when called upon by an Exchange Official, to submit a single valid two-sided quote or maintain continuous quotes in one or more series of an option class within the Market Maker's appointment whenever, in the judgment of such Exchange Official, it is necessary to do so in the interest of maintaining fair and orderly markets.[5]

The current quoting obligation in such illiquid series is a minor part of a Market Maker's overall obligation, and the proposed modicum of relief is mitigated by the obligation to respond to a request for quote from an Exchange Official. Because of the lack of interest in such series, there is little demonstrable benefit to being a Market Maker in them other than the ability to maintain Market Maker margins for what little activity may occur. In addition, the burden of continuous quoting in these series is counter to efforts to mitigate the number of quotes collected and disseminated.

The Exchange believes that the proposed rule change should incent Market Makers to continue appointments and thereby expand liquidity in options classes listed on the Exchange to the benefit of the Exchange and its Participants and public customers.

Additionally, the Exchange recently amended BOX Rule 7300 (Preferenced Orders)[6] by adding, among other things, the language of ''non-adjusted options series'' to indicate that a Preferred Market Maker will not be obligated to maintain continuous quotes in adjusted series and to define the term adjusted options series. The Exchange believes that this proposed rule change will harmonize the quoting obligations in adjusted series for Preferred Market Makers and Market Makers on the Exchange.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[7] in general, and section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, the Exchange believes that, on balance, the elimination of the continuous quoting obligations in adjusted series is a minor change and should not impact the quality of BOX's market. Among other things, adjusted series are not common, and trading interest is often very low after the corporate event has passed. Consequently, continuous quotes in such series increases quote traffic and burdens systems without a corresponding benefit. By not requiring Market Makers to continuously quote in such series, the Exchange's proposal would further its goal of measured quote mitigation. Further, while they will not be tasked with continually quoting such series, Market Makers will be obligated to quote the series when called upon by an Exchange Official. Accordingly, the proposal supports the quality of BOX's market by helping to ensure that Market Makers will continue to be obligated to quote in adjusted series when the need arises.

*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. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to a filing submitted by NYSE Arca and approved by the Commission.[9] Accordingly, the Exchange believes that the proposed rule change should incent Market Makers to continue appointments and thereby expand liquidity in options classes listed on the Exchange to the benefit of the Exchange and its Participants and public customers.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate 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[10] and Rule 19b–4(f)(6) thereunder.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## 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–BOX–2015–26 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–BOX–2015–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the

[5] *See* BOX Rule 8050(c)(4).

[6] See Securities Exchange Act Release No. 74952 (May 13, 2015), 80 FR 28738 (May 19, 2015) (Notice of Filing and Immediate Effectiveness of SR–BOX–2015–19).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See supra,* note 3.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2015–26, and should be submitted on or before August 14, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–18133 Filed 7–23–15; 8:45 am]

**BILLING CODE 8011–01–P**

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75486; File No. SR–MIAX–2015–48]**

## Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 515A to Extend the Pilot Period for Certain Aspects of the PRIME Auction to July 18, 2016

July 20, 2015.

Pursuant to the provisions of section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 16, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 515A.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to extend the pilot period applicable to certain aspects of the PRIME Auction which is currently set to expire on July 18, 2015, until July 18, 2016.

The current pilot allows PRIME Agency Orders of any size to initiate a PRIME Auction on MIAX at a price which is at or better than the national best bid or offer (''NBBO'').[3] The Exchange notes that other exchanges provide the same functionality.[4] The Exchange implemented the pilot in order to benefit customers through the encouragement of the entry of more orders into the PRIME Auction, thus making it more likely that such orders may receive price improvement. The Exchange believes that the pilot attracts order flow and promotes competition and price improvement opportunities for Agency Orders of fewer than 50 contracts. The Exchange believes that extending the pilot period is appropriate because it would allow the Exchange and the Commission additional time to analyze data regarding the pilot that the Exchange has committed to provide.

In the original filing, the Exchange committed to periodically submitting reports based on the comprehensive list of the data that the Exchange represented that it will collect in order to aid the Commission in its evaluation of the PRIME that incorporates the changes proposed.[5] As of August 1, 2015, the Exchange will submit periodic reports based on the revised list of data detailed in Exhibit 3 of this proposal. Any raw data which is submitted to the Commission pursuant to the pilot will be provided on a confidential basis. In further support of this proposal, the Exchange represents that it will provide certain additional data requested by the Commission regarding trading in the PRIME Auction for the six (6) month period from January 1, 2015 to June 30, 2015. The Exchange agrees to provide this data by January 18, 2016 and to make the summary of the data provided to the Commission publicly available. The Exchange continues to believe that there remains meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the PRIME Auction. The Exchange also continues to believe that there are significant opportunities for price improvement available in the PRIME Auction. The Exchange believes the additional data will substantiate the Exchange's belief and provide further evidence in support of permanent approval of the pilot.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with section 6(b) of the Act[6] in general, and furthers the objectives of section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster

[3] The Exchange notes that prior to the pilot, for PRIME Agency Orders for less than 50 standard option contracts or 500 mini-option contracts, the Initiating Member must stop the entire PRIME Agency Order as principal or with a solicited order at the better of the NBBO price improved by a $0.01 increment or the PRIME Agency Order's limit price (if the order is a limit order). In addition, to initiate the PRIME Auction for auto-match submissions, the Initiating Member must stop the PRIME Agency Order for less than 50 standard option contracts or 500 mini-option contracts at better of the NBBO price improved by a $0.01 increment or the PRIME Agency Order's limit price. *See* Securities Exchange Act Release No. 73590 (November 13, 2014), 79 68919 (November 19, 2014) (SR–MIAX–2014–56). *See also* Securities Exchange Act Release Nos. 72009 (April 23, 2014), 79 FR 24032 (April 29, 2014) (SR–MIAX–2014–20); 72418 (June 18, 2014), 79 FR 35833 (June 24, 2014) (SR–MIAX–2014–23).

[4] *See* PHLX Rule 1080(n).

[5] *See* Proposed Rule 515A, Interpretations and Policies .08. A comprehensive list of the data that the Exchange represented that it will collect is available in Exhibit 3 of SR–MIAX–2014–23. *See also* Securities Exchange Act Release Nos. 72009 (April 23, 2014), 79 FR 24032 (April 29, 2014) (SR–MIAX–2014–20); 72418 (June 18, 2014), 79 FR 35833 (June 24, 2014) (SR–MIAX–2014–23).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that extending the pilot is consistent with these principles because the pilot is reasonably designed to create tighter markets and ensure that each order receives the best possible price, which benefits investors by increasing competition thereby maximizing opportunities for price improvement. The proposed extension would allow the pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption in the pilot. Because the pilot is applicable to all PRIME Agency Orders for fewer than 50 contracts, the proposal to extend the pilot merely acts to maintain status quo on the Exchange, which promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system.

The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the pilot to ascertain whether there is meaningful competition for all size orders and whether there is an active and liquid market functioning on the Exchange outside of the PRIME Auction. The extension of the pilot period would also enable market participants to continue to benefit from the significant opportunities for price improvement available in the PRIME Auction.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change simply extends an established pilot program for an additional period and would allow for further analysis of the pilot. In addition, the proposed extension would allow the pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption in the pilot. Thus, the proposal would also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act [8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) [10] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay. The Exchange noted that waiver of the 30-day operative delay will allow the Exchange to extend the pilot program before it expires on July 18, 2015. The Exchange believes that the proposal to extend the pilot merely acts to maintain status quo on the Exchange and waiver of the operative delay would allow for the pilot to continue uninterrupted. According to the Exchange, the extension of the pilot period would allow the Commission and the Exchange to continue to assess the effect of the pilot.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption in the pilot program. Therefore, the Commission designates the proposed rule change to be operative on July 18, 2015.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email *to rule-comments@sec.gov.* Please include File Number SR–MIAX–2015–48 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2015–48. 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

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2015–48 and should be submitted on or before August 14, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–18136 Filed 7–23–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75492; File No. SR–C2–2015–019]**

## Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Options Regulatory Fee

July 20, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 10, 2015, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Options Regulatory Fee. The text of the proposed rule change is available on the Exchange's Web site (*http://www.c2exchange.com/Legal/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to increase the Options Regulatory Fee (''ORF'') from $.0002 to $.0051 per contract in order to help offset increased regulatory costs. The proposed fee change would be operative on August 1, 2015.

The ORF is assessed by the Exchange to each Permit Holder for all options transactions executed or cleared by the Permit Holder that are cleared by The Options Clearing Corporation (''OCC'') in the customer range (*i.e.,* transactions that clear in a customer account at OCC) regardless of the exchange on which the transaction occurs. In other words, the Exchange imposes the ORF on all customer-range transactions executed by a Permit Holder, even if the transactions do not take place on the Exchange. The ORF also is charged for transactions that are not executed by a Permit Holder but are ultimately cleared by a Permit Holder. In the case where a Permit Holder executes a transaction and a different Permit Holder clears the transaction, the ORF is assessed to the Permit Holder who executed the transaction. In the case where a non-Permit Holder executes a transaction and a Permit Holder clears the transaction, the ORF is assessed to the Permit Holder who clears the transaction. The ORF is collected indirectly from Permit Holders through their clearing firms by OCC on behalf of the Exchange.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Permit Holder customer options business, including performing routine surveillances, investigations, examinations, financial monitoring, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs. The Exchange notes that its regulatory responsibilities with respect to Permit Holder compliance with options sales practice rules have largely been allocated to FINRA under a 17d–2 agreement. The ORF is not designed to cover the cost of that options sales practice regulation.

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange monitors its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission. The Exchange notifies Permit Holders of adjustments to the ORF via regulatory circular. The Exchange endeavors to provide Permit Holders with such notice at least 30 calendar days prior to the effective date of the change.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[3] Specifically, the Exchange believes the proposed rule change is consistent with section 6(b)(4) of the Act,[4] which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Permit Holders and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[5] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed fee change is reasonable because it would help the Exchange offset increased regulatory costs but would not result in total regulatory revenue exceeding total regulatory costs. Moreover, the Exchange believes the ORF ensures fairness by assessing

[13] 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. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

[5] *Id.*

higher fees to those Permit Holders that require more Exchange regulatory services based on the amount of customer options business they conduct. Regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* Permit Holder proprietary transactions) of its regulatory program.[6] The Exchange believes the proposed fee change is equitable and not unfairly discriminatory in that it is charged to all Permit Holders on all their transactions that clear in the customer range at the OCC.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

C2 does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it applies to all Permit Holders. The proposed ORF is comparable to fees charged by other options exchanges for the same or similar service. The Exchange believes any burden on competition imposed by the proposed rule change is outweighed by the need to help the Exchange adequately fund its regulatory activities to ensure compliance with the Exchange Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[7] and paragraph (f) of Rule 19b–4[8] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2015–019 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–C2–2015–019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2015–019 and should be submitted on or before August 14, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–18130 Filed 7–23–15; 8:45 am]

**BILLING CODE 8011–01–P**

[6] If the Exchange changes its method of funding regulation or if circumstances otherwise change in the future, the Exchange may decide to modify the ORF or assess a separate regulatory fee on Permit Holder proprietary transactions if the Exchange deems it advisable.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f).

[9] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

### Investment Company Act of 1940; Release No. 31719/July 20, 2015; Order under Sections 6(c) and 17(b) of the Investment Company Act of 1940

In the Matter of: Cash Trust Series, Inc., Federated Adjustable Rate Securities Fund, Federated Core Trust, Federated Core Trust II, L.P., Federated Core Trust III, Federated Enhanced Treasury Income Fund, Federated Equity Funds, Federated Equity Income Fund, Inc., Federated Fixed Income Securities, Inc., Federated Global Allocation Fund, Federated Government Income Securities, Inc., Federated Government Income Trust, Federated High Income Bond Fund, Inc., Federated High Yield Trust, Federated Income Securities Trust, Federated Index Trust, Federated Institutional Trust, Federated Insurance Series, Federated International Series, Inc., Federated Investment Series Funds, Inc., Federated MDT Series, Federated MDT Stock Trust, Federated Managed Pool Series, Federated Municipal Securities Fund, Inc., Federated Municipal Securities Income Trust, Federated Premier Intermediate Municipal Income Fund, Federated Premier Municipal Income Fund, Federated Short-Intermediate Duration Municipal Trust, Federated Total Return Government Bond Fund, Federated Total Return Series, Inc., Federated U.S. Government Securities Fund: 1–3 Years, Federated U.S. Government Securities Fund: 2–5 Years, Federated World Investment Series, Inc., Intermediate Municipal Trust, Edward Jones Money Market Fund, Money Market Obligations Trust, Federated Advisory Services Company, Federated Equity Management Company of Pennsylvania, Federated Global Investment Management Corp., Federated Investment Counseling, Federated Investment Management Company, Federated MDTA LLC, Passport Research, Ltd., Federated Securities Corp., c/o Peter Germain, Federated Investors, Inc., Federated Investors Tower, 1001 Liberty Avenue, Pittsburgh, PA 15222–3779, (File No. 812–1385–47).

Cash Trust Series, Inc., *et al.* filed an application on March 1, 2011 and amendments to the application on August 29, 2011, July 3, 2012, December 7, 2012, August 29, 2013, June 15, 2015 and June 22, 2015, requesting an order

under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') exempting applicants from section 17(a) of the Act. The order permits certain registered management investment companies to engage in certain primary and secondary market transactions in fixed-income securities on a principal basis with certain broker-dealers and banks that are affiliated persons of the registered management investment companies solely by virtue of non-controlling ownership interests in such investment companies.

On June 24, 2015, a notice of the filing of the application was issued (Investment Company Act Release No. 31697). The notice gave interested persons an opportunity to request a hearing and stated that an order granting the application would be issued unless a hearing was ordered. No request for a hearing has been filed, and the Commission has not ordered a hearing.

The matter has been considered and it is found, on the basis of the information set forth in the application, as amended, that granting the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

It is also found that the terms of the proposed transactions, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transactions are consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Accordingly,

*It is ordered,* under sections 6(c) and 17(b) of the Act, that the relief requested by Cash Trust Series Inc., *et al.* (File No. 812–13875–47) is granted, effective immediately, subject to the conditions contained in the application, as amended.

For the Commission, by the Division of Investment Management, under delegated authority.

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–18127 Filed 7–23–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75487; File No. SR–DTC–2015–007]**

## Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change Regarding the Discontinuance of the Distribution of Fractional Shares in Respect of Corporate Actions for New Issues in DTC's System

July 20, 2015.

### I. Introduction

On May 27, 2015, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–DTC–2015–007 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 discontinue the option offered by DTC to issuers that allows for the distribution of fractional shares of securities in DTC's system, when DTC is handling fractional dispositions of shares resulting from corporate actions, for new issues, as more fully described below. The proposed rule change was published for comment in the **Federal Register** on June 8, 2015.[3] The Commission did not receive comment letters regarding the proposed change. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

### II. Description of the Proposed Rule Change

The following is a description of the proposed rule change, as provided by DTC:

DTC's purpose with the proposed rule change is to discontinue the option offered by DTC to issuers that allows for the distribution of fractional shares of securities in DTC's system, when DTC is handling fractional dispositions of shares resulting from corporate actions, for new issues, as more fully described below.[4]

*Background*

When a securities issue is made eligible at DTC, DTC has offered three options to the issuer for handling the disposition of fractional shares in DTC's system resulting from a corporate action for the issue. The issuer may: (i) Round up to the next full share or drop fractions, (ii) pay ''cash-in-lieu'' of fractional shares, or (iii) issue the fractional shares into an identifying number (''Fractional Identifier'') generated by DTC.[5] The assets comprising the disposition of fractional shares, whether in the form of shares or cash, once received from the issuer's transfer or paying agent, are credited by DTC in proportional amounts to the respective accounts of Participants depending on the amount shares of the issue they have on deposit. Participants then distribute credits on their own books, as applicable, to their customers that hold beneficial interests in those shares.

The first two options for handling the disposition of fractional shares are specified in the DTC Distributions Service Guide (''Guide'')[6] and DTC's Operational Arrangements (''OA'').[7] Distributions of fractional shares in DTC's system under the third option are delivered to Participants in accordance with the provisions of DTC Rule 6 that are applicable to DTC services related to Deposited Securities.[8]

*Proposal*

Fractional shares are not tradable. The distribution of fractional shares in respect of corporate actions reduces efficiencies for investors in an issue, including with respect to the value and transferability of assets delivered, as investors are required to wait for an extended period for the aggregation of fractional shares into a full share that may be traded. Tracking, processing and reporting of fractional shares separately from the associated CUSIP, which are necessitated by this process, increases costs to DTC and the industry.

In order to improve efficiencies for investors and reduce costs for DTC and the industry, DTC has proposed to discontinue the option for issuers to distribute any fractional shares for new issues into DTC's system. DTC will continue to allow issuers undergoing a corporate action with a choice between:

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 75094 (June 2, 2015), 80 FR 32425 (June 8, 2015) (File No. SR–DTC–2015–007).

[4] Terms not otherwise defined herein have the meaning set forth in the DTC Rules and Procedures (''DTC Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

[5] The Fractional Identifier generated for the third option above has been separate from the CUSIP® identifier (''CUSIP'') that is universally recognized by the marketplace.

[6] *See* the Guide, p. 31, *available at http://www.dtcc.com/~/media/Files/Downloads/legal/service-guides/Distributions%20Service%20Guide%20FINAL%20November%202014.pdf.*

[7] *See* the OA, p. 31, *available at http://www.dtcc.com/~/media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf.*

[8] *See* DTC Rules (Rule 6 (Services)), p. 45, *available at http://www.dtcc.com/~/media/Files/Downloads/legal/rules/dtc_rules.pdf.*

(i) the rounding up and dropping of fractions, and (ii) the payment of cash-in-lieu of fractional shares. DTC will maintain the Fractional Identifiers previously designated for existing fractional shares within DTC, and continue to perform corporate actions processing with respect to those Fractional Identifiers.

*Implementation*

The effective date of the proposed rule change will be announced via a DTC Important Notice.

**III. Discussion and Commission Findings**

Section 19(b)(2)(C) of the Act [9] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act 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, as well as, in general, protect investors and the public interest.[10]

The Commission finds the proposed rule change consistent with the Act. More specifically, the Commission finds that the proposed rule change is consistent with section 17A(b)(3)(F) of the Act.[11] By eliminating the distribution of fractional shares for new issues within DTC's system, the proposed rule change should, as represented by DTC, improve efficiencies for investors relating to the disposition of fractional shares in corporate-action events, as well as reduce the costs for DTC and the industry relating to DTC tracking, processing and reporting on separate Fractional Identifiers for those issues, consistent with the provisions of section 17A(b)(3)(F) of the Act which require that the rules of the clearing agency be designed, among other things, to promote the prompt and accurate clearance and settlement of securities transactions, as well as, in general, to protect investors and the public interest.[12]

**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 [13] and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act, that proposed rule change SR–DTC–2015–007 be, and hereby is, *approved.*[14]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–18135 Filed 7–23–15; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(2)(C).

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] *Id.*

[12] *Id.*

[13] 15 U.S.C. 78q–1.

[14] 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).

[15] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14371 and #14372]**

### Louisiana Disaster #LA–00009

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Louisiana (FEMA–4228–DR), dated 07/13/2015.

*Incident:* Severe Storms and Flooding.

*Incident Period:* 05/18/2015 through 06/20/2015.

**DATES:** *Effective Date:* 07/13/2015.

*Physical Loan Application Deadline Date:* 09/11/2015.

*Economic Injury (EIDL) Loan Application Deadline Date:* 04/13/2016.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 07/13/2015, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Parishes:*

Bossier, Caddo, Grant, Natchitoches, Red River.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Non-Profit Organizations With Credit Available Elsewhere | 2.625 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.625 |
| *For Economic Injury:* | |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.625 |

The number assigned to this disaster for physical damage is 14371B and for economic injury is 14372B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Lisa Lopez-Suarez,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2015–18186 Filed 7–23–15; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14344 and #14345]**

### Oklahoma Disaster Number OK–00081

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 5.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oklahoma (FEMA–4222–DR), dated 06/04/2015.

*Incident:* Severe storms, tornadoes, straight line winds, and flooding.

*Incident Period:* 05/05/2015 through 06/04/2015.

**DATES:** Effective Date: 07/10/2015.

*Physical Loan Application Deadline Date:* 08/03/2015.

*Economic Injury (EIDL) Loan Application Deadline Date:* 03/04/2016.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Oklahoma, dated 06/04/2015, is hereby amended to

include the following areas as adversely affected by the disaster.

*Primary Counties:* Delaware, Greer, Harmon, Mayes, Nowata

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2015–18230 Filed 7–23–15; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14334 and #14335]**

### Texas Disaster Number TX–00447

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 7.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA–4223–DR), dated 05/29/2015.

*Incident:* Severe Storms, Tornadoes, Straight-Line Winds and Flooding.

*Incident Period:* 05/04/2015 through 06/19/2015.

*Effective Date:* 07/10/2015.

*Physical Loan Application Deadline Date:* 08/27/2015.

*EIDL Loan Application Deadline Date:* 02/29/2016.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of Texas, dated 05/29/2015 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 08/27/2015.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2015–18229 Filed 7–23–15; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

### Military Reservist Economic Injury Disaster Loans Interest Rate for Fourth Quarter FY 2015

In accordance with the Code of Federal Regulations 13—Business Credit and Assistance § 123.512, the following interest rate is effective for Military Reservist Economic Injury Disaster Loans approved on or after July 20, 2015.

Military Reservist Loan Program—4.000%

Dated: July 16, 2015.

**Lisa Lopez-Suarez,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2015–18188 Filed 7–23–15; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14310 and #14311]**

### Kentucky Disaster Number KY–00024

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Kentucky (FEMA–4218–DR), dated 05/12/2015.

*Incident:* Severe winter storm, snowstorm, flooding, landslides, and mudslides.

*Incident Period:* 03/03/2015 through 03/09/2015.

*Effective Date:* 07/09/2015.

*Physical Loan Application Deadline Date:* 07/13/2015.

*Economic Injury (Eidl) Loan Application Deadline Date:* 02/12/2016.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the Commonwealth of Kentucky, dated 05/12/2015, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:* Bath, Harlan.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2015–18233 Filed 7–23–15; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

### Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for Rhode Island, entered April 8, 2015, the United States Small Business Administration hereby revokes the license of Fairway Capital Corporation, a Rhode Island Corporation, to function as a small business investment company under the Small Business Investment Company License No. 01010353 issued to Fairway Capital Corporation, on January 31, 1990, and said license is hereby declared null and void as of April 8, 2015.

United States Small Business Administration.

Dated: July 5, 2015.

**Javier E. Saade,**

*Associate Administrator for Investment.*

[FR Doc. 2015–18183 Filed 7–23–15; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14368 and #14369]**

### Wyoming Disaster #WY–00028

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for the State of Wyoming (FEMA–4227–DR), dated 07/07/2015.

*Incident:* Severe Storms and Flooding.

*Incident Period:* 05/24/2015 through 06/06/2015.

**DATES:** *Effective Date:* 607/07/2015.

*Physical Loan Application Deadline Date:* 09/08/2015.

*Economic Injury (EIDL) Loan Application Deadline Date:* 04/07/2016.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration,

409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 07/07/2015, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties* (Physical Damage and Economic Injury Loans): Johnson, Niobrara.

*Contiguous Counties* (Economic Injury Loans Only):

Wyoming: Big Horn, Campbell, Converse, Goshen, Natrona, Platte, Sheridan, Washakie, Weston.

Nebraska: Sioux.

South Dakota: Custer, Fall River.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Homeowners With Credit Available Elsewhere | 3.375 |
| Homeowners Without Credit Available Elsewhere | 1.688 |
| Businesses With Credit Available Elsewhere | 6.000 |
| Businesses Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations With Credit Available Elsewhere | 2.625 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.625 |
| *For Economic Injury:* | |
| Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.625 |

The number assigned to this disaster for physical damage is 14368B and for economic injury is 143690.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2015–18189 Filed 7–23–15; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14334 and #14335]**

### Texas Disaster Number TX–00447

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 6.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA–4223–DR), dated 05/29/2015.

*Incident:* Severe Storms, Tornadoes, Straight-Line Winds and Flooding.

*Incident Period:* 05/04/2015 through 06/19/2015.

*Effective Date:* 07/09/2015.

*Physical Loan Application Deadline Date:* 07/28/2015.

*EIDL Loan Application Deadline Date:* 02/29/2016.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the Presidential disaster declaration for the State of Texas, dated 05/29/2015 is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties: (Physical Damage and Economic Injury Loans):* Angelina, Erath, Frio, Jim Wells, Montgomery, Trinity.

*Contiguous Counties: (Economic Injury Loans Only):*

Texas: Atascosa, Dimmit, Duval, Hamilton, Jasper, La Salle, Live Oak, Mcmullen, Medina, San Augustine, Tyler, Uvalde, Zavala.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2015–18231 Filed 7–23–15; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14373 and #14374]**

### Wyoming Disaster #WY–00030

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Wyoming (FEMA–4227–DR), dated 07/15/2015.

*Incident:* Severe Storms and Flooding.

*Incident Period:* 05/24/2015 through 06/06/2015.

**DATES:** *Effective Date:* 07/15/2015.

*Physical Loan Application Deadline Date:* 09/14/2015.

*Economic Injury (EIDL) Loan Application Deadline Date:* 04/15/2016.

**ADDRESSES:** Submit completed loan applications to: U.S. SMALL BUSINESS ADMINISTRATION, PROCESSING AND DISBURSEMENT CENTER, 14925 KINGSPORT ROAD, FORT WORTH, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 07/15/2015, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by

*Primary Counties:* ALBANY, JOHNSON, NIOBRARA, PLATTE.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| NON-PROFIT ORGANIZATIONS WITH CREDIT AVAILABLE ELSEWHERE | 2.625 |
| NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE | 2.625 |
| *For Economic Injury:* | |
| NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE | 2.625 |

The number assigned to this disaster for physical damage is 14373B and for economic injury is 14374B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Lisa Lopez-Suarez,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2015–18187 Filed 7–23–15; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF STATE

**[Public Notice: 9200]**

### Notice of Receipt of Upland Pipeline, LLC's Application for a Presidential Permit To Construct, Connect, Operate, and Maintain Pipeline Facilities on the Border of the United States and Canada

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Department of State (DOS) has

received an application from Upland Pipeline, LLC (''Upland'') for a Presidential Permit authorizing the construction, connection, operation, and maintenance of pipeline facilities for the export of crude oil. If the application is approved, the proposed facilities will transport crude oil from the Williston Basin region in North Dakota across the U.S.-Canadian border near Burke County, North Dakota, for onward transportation to refineries in Canada and the eastern United States.

Upland is a limited liability corporation organized under the laws of the State of Delaware. The ultimate parent corporation of Upland is TransCanada Corporation (''TransCanada''). TransCanada is a major energy infrastructure firm whose assets include approximately 35,500 miles of natural gas pipelines and a 2,600-mile petroleum pipeline. Upland plans to enter into a development, management, and operations agreement with TransCanada Oil Pipeline Operations, Inc., a subsidiary of TransCanada, to provide operating services for the project.

Under E.O. 13337, the Secretary of State is designated and empowered to receive all applications for Presidential Permits for the construction, connection, operation, or maintenance, at the borders of the United States, of facilities for the exportation or importation of liquid petroleum, petroleum products, or other non-gaseous fuels to or from a foreign country. The Department of State has the responsibility to determine whether issuance of a new Presidential Permit for construction, connection, operation, and maintenance of the proposed Upland pipeline border facilities would serve the U.S. national interest.

The Department will conduct an environmental review consistent with the National Environmental Policy Act of 1969. The Department will provide more information on the review process in a future **Federal Register** notice.

Upland's application is available at: *http://www.state.gov/e/enr/applicant/applicants/index.htm*

**FOR FURTHER INFORMATION CONTACT:** Acting Director, Energy Resources Bureau, Energy Diplomacy (ENR/EDP/EWA) United States Department of State, 2201 C St. NW., Suite 4843, Washington, DC 20520.

Dated: April 27, 2015.

**Chris Davy,**

*Acting Director, Energy Resources Bureau, Energy Diplomacy (ENR/EDP/EWA), Bureau of Energy Resources, U.S. Department of State.*

[FR Doc. 2015–18208 Filed 7–23–15; 8:45 am]

**BILLING CODE 4710–07–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### System Wide Information Management (SWIM) Interactive Developer Workshop; Meeting Announcement

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

**System Wide Information Management (SWIM) Interactive Developer Workshop; Meeting Announcement**

Tuesday, September 22, 2015 to Thursday, September 24, 2015—From 8:00 a.m. to 4:30 p.m., FAA Florida NextGen Test Bed, 557 Innovation Way, Daytona Beach, FL 32114.

**Open Meeting—Interactive Workshop**

The Federal Aviation Administration (FAA) invites all interested stakeholders with a background in software development to attend an interactive workshop on System Wide Information Management (SWIM) at the state of the art NextGen Test Bed in Daytona Beach, FL. Join fellow developers as the FAA introduces and demonstrates current and new data services being made available from the agency's enterprise information gateway. Socializing new ideas on how to work with data from SWIM and what applications can be developed will be highly encouraged by the organizers.

Participants to the workshop who have an existing graphical user interface that visualizes data are encouraged to bring their application to use during the workshop. Participants that do not have an interface may be provided one at no cost. All participants must bring their own hardware (laptop preferred) to use during the event.

The FAA will be providing a connection to the Research & Development Data Domain allowing participants to engage and interact real time with data from SWIM in a non-operational environment. The following data types will be introduced and available to work with during the event:

- Notices to Airmen (NOTAM)
- Common Sourced Weather
- Terminal Data Distribution Services
- Flight Data Publication Services
- Traffic Flow Management Publication Services

Participants will be highly encouraged to introduce ideas of how they would incorporate SWIM data into their operation or application both before and after working with the data types provided. For more information or to register, visit *www.faa.gov/nextgen/swim.*

Space is limited so register early to secure a spot! Registration will close when all spots have been filled!

**About SWIM**

System Wide Information Management (SWIM) is the FAA's data distribution backbone of NextGen, the Next Generation Air Transportation System. SWIM utilizes a ''one to many'' data distribution model, allowing easier access to more data, providing it to the right person, at the right time, in the format they want. SWIM utilizes industry standard service oriented architecture (SOA) technology to be interoperable with many types of applications capable of web service and java based messaging. The FAA is also leading the use of standard data exchange models such as Aeronautical Information Exchange (AIXM) and Flight Information Exchange (FIXM).

**Paul Fontaine,**

*Director, NextGen Portfolio Management and Technology Development, Federal Aviation Administration.*

[FR Doc. 2015–18213 Filed 7–23–15; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Uniform Relocation and Real Property Acquisition for Federal and Federally-Assisted Programs; Fixed Payment for Moving Expenses; Residential Moves

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice.

**SUMMARY:** The purpose of this notice is to publish changes in the Fixed Residential Moving Cost Schedule for the States and Territories of Alabama, California, Colorado, District of Columbia, Florida, Guam, Hawaii, Idaho, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Jersey, North Dakota, Oklahoma, Puerto Rico, Rhode Island, South Carolina, Utah, Virginia, Wisconsin, and Wyoming as provided for by section 202(b) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. The schedule amounts for the States and Territories not listed above

remain unchanged. The Uniform Act applies to all programs or projects undertaken by Federal agencies or with Federal financial assistance that cause the displacement of any person.

**DATES:** The provisions of this notice are effective August 24, 2015, or on such earlier date as an agency elects to begin operating under this schedule.

**FOR FURTHER INFORMATION CONTACT:** Mary Jane Daluge, Office of Real Estate Services, (202) 366–2035, email address: *Maryjane.daluge@dot.gov* ; Robert Black, Office of the Chief Counsel, (202) 366–1359, email address: *Robert.Black@dot.gov;* Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## Electronic Access

Internet users may reach the Office of the Federal Register's home page at: *http://www.archives.gov/* and the Government Printing Office's database: *http://www.fdsys.gov.*

## Background

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601–4655 (Uniform Act), established a program, which includes the payment of moving and related expenses, to assist persons who move because of Federal or federally assisted projects. The FHWA is the lead agency for implementing the provisions of the Uniform Act, and has issued governmentwide implementing regulations at 49 CFR part 24.

The following 17 Federal departments and agencies have, by cross-reference, adopted the governmentwide regulations: Department of Agriculture; Department of Commerce; Department of Defense; Department of Education; Department of Energy; Department of Homeland Security; Environmental Protection Agency; Federal Emergency Management Agency; General Services Administration; Department of Health and Human Services; Department of Housing and Urban Development; Department of the Interior; Department of Justice; Department of Labor; Department of Veterans Affairs; National Aeronautics and Space Administration; Tennessee Valley Authority.

Section 202(b) of the Uniform Act provides that as an alternative to being paid for actual residential moving and related expenses, a displaced individual or family may elect payment for moving expenses on the basis of a moving expense schedule established by the head of the lead agency. The governmentwide regulations at 49 CFR 24.302 provide that the FHWA will develop, approve, maintain, and update this schedule, as appropriate.

The purpose of this notice is to update the schedule published on May 23, 2012, at 77 FR 30586.

The schedule is being updated to reflect the increased costs associated with moving personal property and was developed from data provided by State highway agencies. This update increases the schedule amounts in the States and Territories of Alabama, California, Colorado, District of Columbia, Florida, Guam, Hawaii, Idaho, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Jersey, North Dakota, Oklahoma, Puerto Rico, Rhode Island, South Carolina, Utah, Virginia, Wisconsin, and Wyoming. The schedule amounts for the States and Territories not listed above remain unchanged. The payments listed in the table below apply on a State-by-State basis. Two exceptions and limitations apply to all States and Territories. Payment is limited to $100.00 if either of the following conditions applies:

(a) A person has minimal possessions and occupies a dormitory style room, or

(b) A person's residential move is performed by an agency at no cost to the person.

The schedule continues to be based on the ''number of rooms of furniture''owned by a displaced individual or family. In the interest of fairness and accuracy, and to encourage the use of the schedule (and thereby simplify the computation and payment of moving expenses), an agency should increase the room count for the purpose of applying the schedule if the amount of possessions in a single room or space actually constitutes more than the normal contents of one room of furniture or other personal property. For example, a basement may count as two rooms if the equivalent of two rooms worth of possessions is located in the basement. In addition, an agency may elect to pay for items stored outside the dwelling unit by adding the appropriate number of rooms.

**Authority:** 42 U.S.C. 4622(b) and 4633(b); 49 CFR 1.85 and 24.302.

Issued on: July 17, 2015.

**Gregory G. Nadeau,**

*Acting Administrator, Federal Highway Administration.*

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED FIXED RESIDENTIAL MOVING COST SCHEDULE (2015)

| State | Occupant owns furniture | | | | | | | | | Occupant does not own furniture | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Number of rooms of furniture | | | | | | | | | | |
| | 1 room | 2 rooms | 3 rooms | 4 rooms | 5 rooms | 6 rooms | 7 rooms | 8 rooms | Addt'l room | 1 room/ no furn. | Addt'l room no furn. |
| Alabama | 600 | 800 | 1000 | 1200 | 1400 | 1600 | 1800 | 2000 | 200 | 400 | 50 |
| Alaska | 700 | 900 | 1125 | 1350 | 1550 | 1725 | 1900 | 2075 | 300 | 500 | 200 |
| American Samoa | 282 | 395 | 508 | 621 | 706 | 790 | 875 | 960 | 85 | 226 | 28 |
| Arizona | 700 | 800 | 900 | 1000 | 1100 | 1200 | 1300 | 1400 | 100 | 395 | 60 |
| Arkansas | 550 | 825 | 1100 | 1350 | 1600 | 1825 | 2050 | 2275 | 200 | 300 | 70 |
| California | 725 | 930 | 1165 | 1375 | 1665 | 1925 | 2215 | 2505 | 265 | 475 | 90 |
| Colorado | 675 | 895 | 1115 | 1270 | 1425 | 1580 | 1735 | 1890 | 155 | 385 | 55 |
| Connecticut | 620 | 810 | 1000 | 1180 | 1425 | 1670 | 1910 | 2150 | 150 | 225 | 60 |
| Delaware | 500 | 710 | 880 | 1110 | 1260 | 1410 | 1560 | 1710 | 160 | 400 | 60 |
| DC | 800 | 1000 | 1200 | 1500 | 1700 | 1900 | 2100 | 2300 | 200 | 500 | 100 |
| Florida | 750 | 900 | 1075 | 1250 | 1400 | 1550 | 1600 | 1850 | 300 | 500 | 150 |
| Georgia | 600 | 975 | 1300 | 1600 | 1875 | 2125 | 2325 | 2525 | 200 | 375 | 100 |
| Guam | 600 | 950 | 1300 | 1600 | 1900 | 2150 | 2400 | 2650 | 200 | 300 | 150 |
| Hawaii | 600 | 950 | 1300 | 1600 | 1900 | 2150 | 2400 | 2650 | 200 | 300 | 150 |
| Idaho | 600 | 800 | 1000 | 1200 | 1400 | 1600 | 1800 | 2000 | 200 | 350 | 100 |

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED FIXED RESIDENTIAL MOVING COST SCHEDULE (2015)—Continued

| State | Occupant owns furniture | | | | | | | | | Occupant does not own furniture | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Number of rooms of furniture | | | | | | | | | | |
| | 1 room | 2 rooms | 3 rooms | 4 rooms | 5 rooms | 6 rooms | 7 rooms | 8 rooms | Addt'l room | 1 room/ no furn. | Addt'l room no furn. |
| Illinois | 850 | 1000 | 1150 | 1250 | 1400 | 1600 | 1750 | 2050 | 450 | 650 | 150 |
| Indiana | 500 | 700 | 900 | 1100 | 1300 | 1500 | 1700 | 1900 | 200 | 400 | 100 |
| Iowa | 550 | 700 | 800 | 900 | 1000 | 1100 | 1225 | 1350 | 125 | 500 | 50 |
| Kansas | 400 | 600 | 800 | 1000 | 1200 | 1400 | 1600 | 1800 | 200 | 250 | 50 |
| Kentucky | 500 | 700 | 900 | 1100 | 1300 | 1500 | 1700 | 1900 | 200 | 350 | 50 |
| Louisiana | 600 | 800 | 1000 | 1200 | 1300 | 1550 | 1700 | 1900 | 300 | 400 | 70 |
| Maine | 650 | 900 | 1150 | 1400 | 1650 | 1900 | 2150 | 2400 | 250 | 400 | 100 |
| Maryland | 700 | 900 | 1100 | 1300 | 1500 | 1700 | 1900 | 2100 | 200 | 500 | 100 |
| Massachusetts | 700 | 850 | 1000 | 1200 | 1350 | 1500 | 1650 | 1800 | 250 | 450 | 150 |
| Michigan | 700 | 950 | 1150 | 1300 | 1450 | 1600 | 1750 | 1900 | 300 | 500 | 200 |
| Minnesota | 575 | 725 | 925 | 1125 | 1325 | 1525 | 1725 | 1925 | 275 | 450 | 100 |
| Mississippi | 750 | 850 | 1000 | 1200 | 1400 | 1550 | 1700 | 1850 | 300 | 400 | 100 |
| Missouri | 800 | 900 | 1000 | 1100 | 1200 | 1300 | 1400 | 1500 | 200 | 400 | 100 |
| Montana | 500 | 700 | 900 | 1100 | 1300 | 1500 | 1700 | 1900 | 200 | 350 | 100 |
| Nebraska | 390 | 545 | 700 | 855 | 970 | 1075 | 1205 | 1325 | 120 | 310 | 40 |
| Nevada | 500 | 700 | 900 | 1100 | 1300 | 1500 | 1700 | 1900 | 200 | 350 | 60 |
| New Hampshire | 500 | 700 | 900 | 1100 | 1300 | 1500 | 1700 | 1900 | 200 | 200 | 150 |
| New Jersey | 650 | 750 | 850 | 1000 | 1150 | 1300 | 1400 | 1600 | 200 | 200 | 50 |
| New Mexico | 650 | 850 | 1050 | 1250 | 1450 | 1650 | 1850 | 2050 | 200 | 400 | 60 |
| New York | 600 | 800 | 1000 | 1200 | 1400 | 1600 | 1800 | 2000 | 200 | 350 | 100 |
| North Carolina | 550 | 750 | 1050 | 1200 | 1350 | 1600 | 1700 | 1900 | 150 | 350 | 50 |
| North Dakota | 495 | 715 | 900 | 1080 | 1265 | 1415 | 1510 | 1695 | 185 | 430 | 65 |
| N. Mariana Is. | 282 | 395 | 508 | 621 | 706 | 790 | 875 | 960 | 85 | 226 | 28 |
| Ohio | 600 | 800 | 1000 | 1150 | 1300 | 1450 | 1600 | 1750 | 150 | 400 | 100 |
| Oklahoma | 700 | 900 | 1100 | 1300 | 1500 | 1700 | 1850 | 2000 | 200 | 350 | 100 |
| Oregon | 600 | 800 | 1000 | 1200 | 1400 | 1600 | 1800 | 2000 | 200 | 350 | 100 |
| Pennsylvania | 500 | 750 | 1000 | 1200 | 1400 | 1600 | 1800 | 2000 | 200 | 400 | 70 |
| Puerto Rico | 350 | 550 | 700 | 850 | 1000 | 1100 | 1200 | 1300 | 100 | 300 | 50 |
| Rhode Island | 600 | 850 | 1000 | 1200 | 1400 | 1600 | 1800 | 2000 | 150 | 300 | 100 |
| South Carolina | 700 | 805 | 1095 | 1285 | 1575 | 1735 | 1890 | 2075 | 225 | 500 | 75 |
| South Dakota | 500 | 650 | 800 | 950 | 1050 | 1200 | 1400 | 1600 | 200 | 300 | 40 |
| Tennessee | 500 | 750 | 1000 | 1250 | 1500 | 1750 | 2000 | 2250 | 250 | 400 | 100 |
| Texas | 600 | 800 | 1000 | 1200 | 1400 | 1600 | 1750 | 1900 | 150 | 400 | 50 |
| Utah | 650 | 800 | 950 | 1100 | 1250 | 1400 | 1550 | 1700 | 150 | 500 | 100 |
| Vermont | 400 | 550 | 650 | 850 | 1000 | 1100 | 1200 | 1300 | 150 | 300 | 75 |
| Virgin Islands | 500 | 700 | 850 | 950 | 1150 | 1300 | 1450 | 1600 | 150 | 425 | 100 |
| Virginia | 700 | 900 | 1100 | 1300 | 1500 | 1700 | 1900 | 2100 | 300 | 400 | 75 |
| Washington | 600 | 800 | 1000 | 1200 | 1400 | 1600 | 1800 | 2000 | 200 | 300 | 50 |
| West Virginia | 750 | 900 | 1050 | 1200 | 1350 | 1500 | 1650 | 1800 | 150 | 350 | 50 |
| Wisconsin | 550 | 730 | 935 | 1140 | 1350 | 1560 | 1765 | 1975 | 260 | 440 | 105 |
| Wyoming | 540 | 800 | 870 | 1020 | 1170 | 1325 | 1500 | 1670 | 200 | 370 | 60 |

Exceptions: 1. The payment to a person with minimal possession who is in occupancy of a dormitory style room or whose residential move is performed by an agency at no cost to the person is limited to $100.00.

2. An occupant will be paid on an actual cost basis for moving his or her mobile home from the displacement site. In addition, a reasonable payment to the occupant for packing and securing property for the move may be paid at the agency's discretion.

[FR Doc. 2015–18159 Filed 7–23–15; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement: Lexington and Richland Counties, South Carolina; Notice of Intent

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Lexington and Richland counties, South Carolina.

**FOR FURTHER INFORMATION CONTACT:** Emily O. Lawton, Division Administrator, Federal Highway Administration, Strom Thurmond Federal Building, 1835 Assembly Street, Suite 1270, Columbia, South Carolina 29201, Telephone: (803) 765–5411, Email: *emily.lawton@dot.gov.*

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the South Carolina Department of Transportation (SCDOT), will prepare an environmental impact statement (EIS) on a proposal to improve the I–20/I–26/I–126 Corridor located in Lexington and Richland counties, South Carolina. To date, the project area has been defined as a mainline corridor including I–20 from the Saluda River to the Broad River, I–26 from US 378 to Broad River Road, and I–126 from Colonial Life Boulevard to I–26.

The I–20/I–26/I–126 corridor is a vital link in South Carolina, serving residents, commuters, travelers, and commerce. Due to nearby residential and commercial development, proximity to downtown Columbia,

traffic volumes, and the overall geometric layout, including 12 interchange points, the I–20/I–26/I–126 corridor has become one of the most congested interstate sections in South Carolina. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand and to address the existing and projected future congestion. In order to address the existing and anticipated traffic volumes, SCDOT is developing an EIS that will promote informed decision making in the development of a solution to reduce congestion, improve traffic operations, increase safety and increase capacity.

The FHWA and SCDOT are seeking input as part of the scoping process to assist in identifying issues relative to this project and potential solutions. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed an interest in this proposal. Formal public scoping meetings will be held in Lexington and Richland counties. In addition, public information meetings will be held as the project is developed, and a public hearing will be conducted after the approval of the draft EIS. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Dated: July 7, 2015.

**Robert D. Thomas, II,**

*Assistant Division Administrator, Columbia, South Carolina.*

[FR Doc. 2015–17020 Filed 7–23–15; 8:45 am]

BILLING CODE 4910–22–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2003–15268]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 13 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective August 15, 2015. Comments must be received on or before August 24, 2015.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2003–15268], 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 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:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

*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:* 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.*

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 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 renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-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 procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

### II. Exemption Decision

This notice addresses 13 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 13 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Domenic J. Carassai (NJ)
Bruce E. Hemmer (WI)
Steven P. Holden (MD)
Christopher G. Jarvela (MI)
Donald L. Jensen (SD)
Brad L. Mathna (PA)

Vincent P. Miller (CA)
Warren J. Nyland (MI)
Dennis M. Prevas (WI)
Greg L. Riles (IA)
Wesley E. Turner (TX)
Mona J. Van Krieken (OR)
Paul S. Yocum (IN)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements 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 provides 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 and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded 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(e) and 31315.

## III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 13 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (66 FR 17743; 66 FR 30502; 66 FR 33990; 66 FR 41654; 68 FR 35772; 68 FR 37197; 68 FR 44837; 68 FR 48989; 70 FR 33937; 70 FR 41811; 70 FR 42615; 72 FR 40360; 74 FR 34632; 76 FR 49531; 79 FR 4531). Each of these 13 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

## IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

*Submitting Comments*

If you submit a comment, please include the docket number for this notice (FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2003–15268), 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 the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number, ''FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2003–15268'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in 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. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

*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* and in the search box insert the docket number, ''FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2003–15268'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed 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.

Issued on: July 13, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–18160 Filed 7–23–15; 8:45 am]

BILLING CODE 4910–EX–P

---

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2015–0239]**

### Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Volvo Trucks of North America

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption from Volvo Trucks of North America (Volvo) to allow the placement of rain and ambient light detection sensors on Volvo commercial motor vehicles (CMV) lower in the windshield than is currently permitted by the Agency's regulations in order to utilize a mounting location that allows the sensor to function correctly. The Federal Motor Carrier Safety Regulations (FMCSRs) currently require antennas, transponders, and similar devices to be located not more than 6 inches below the upper edge of the windshield, outside the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. Volvo believes that mounting the sensor lower in the windshield will allow it to function properly while maximizing the external view of the road and maintaining an adequate forward facing field of view for the driver.

**DATES:** Comments must be received on or before August 24, 2015.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–

2015–0239 using any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the Federal electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday–Friday, except Federal holidays.

*Instructions:* All submissions must include the Agency name and docket number for this notice. 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 *http://www.regulations.gov,* including any personal information provided. Please see the ''Privacy Act'' heading for further information.

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Room W12–140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*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 *http://www.regulations.gov* Web site is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the ''help'' section of the *http://www.regulations.gov* Web site as well as the DOT's *http://docketsinfo.dot.gov* Web site. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Huntley, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–4325, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

**SUPPLEMENTARY INFORMATION:**

## Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with 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)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must 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 381.315(c) and 49 CFR 381.300(b)).

## Volvo's Application for Exemption

Volvo has applied for an exemption from 49 CFR 393.60(e)(1) to allow the placement of rain and ambient light detection sensors on Volvo CMVs lower in the windshield than is currently permitted by the Agency's regulations in order to utilize a mounting location that allows the sensor to function correctly. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted on the windshield. Antennas, transponders and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road, highway signs and signals.

In its application, Volvo states:

> Volvo is making this request so that it becomes possible to introduce a rain and ambient light detection sensor as an option on some Volvo commercial motor vehicles. In order for the sensor to function correctly, it must be installed in the wiper swept area of the windshield. This is due to the fact that an unswept portion of the windshield, which would not necessarily be kept clean and dry by the wipers, could make it difficult for the sensor to determine if the wipers are needed or not. The sensor, which is approximately 2.6 inches tall by 2.2 inches wide, would be placed on the passenger side of the windshield, outside the driver's sight lines to all mirrors, highway signs, signals, and view of the road ahead. Therefore, we respectfully request an exemption to grant us permission to proceed with the installation of the sensor on the lower part of the windshield within the bottom 6 inches of the area swept by the wipers . . .
>
> This will enable Volvo to install this hands-free driver aid equipment for commercial motor vehicle operators while ensuring the adherence to the specified location requirements requested . . .
>
> The temporary exemption will allow Volvo to install equipment within 7 inches at the bottom of wiper swept area of the windshield to determine the viability of the system as shown in diagrams enclosed.

Without the proposed exemption, Volvo states that it will not be able to deploy the rain sensor and ambient light system in vehicle models because (1) its ''customers will be fined for violating the current regulation,'' and (2) ''the rain and ambient light sensing system will not perform adequately and will not generate the hands-free driver aid benefits that would be expected.''

The exemption would apply to all Volvo CMVs. Volvo believes that mounting the sensor lower in the windshield will allow it to function properly while maximizing the external view of the road and maintaining an adequate forward facing field of view for the driver.

## Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on Volvo's application for an exemption from 49 CFR 393.60(e)(1). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and

will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: July 17, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–18172 Filed 7–23–15; 8:45 am]

**BILLING CODE 4910–EX–P**

---

## DEPARTMENT OF TRANSPORTATION

## Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2015–0055]**

## Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemptions; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 45 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. 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. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

**DATES:** Comments must be received on or before August 24, 2015. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0055 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 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:* 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*.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (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 regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**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.'' FMCSA can renew exemptions at the end of each 2-year period. The 45 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

### II. Qualifications of Applicants

*Charles R. Airey*

Mr. Airey, 56, has had retinal disease in his right eye since 1988. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''I feel that Mr. Airey has sufficient vision in his Left eye to safely operate a commercial vehicle.'' Mr. Airey reported that he has driven straight trucks for seven years, accumulating 87,500 miles. He holds a Class AM CDL from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Harold D. Albrecht*

Mr. Albrecht, 60, has aphakia and a retinal detachment in his left eye due to a traumatic incident in 1990. The visual acuity in his right eye is 20/15, and in his left eye, 20/60. Following an examination in 2015, his optometrist stated, ''I find Mr [*sic*] Albrecht's vision sufficient to perform driving tasks required to operate a commercial vehicle.'' Mr. Albrecht reported that he has driven straight trucks for 38 years, accumulating 190,000 miles, and tractor-trailer combinations for 15 years, accumulating 1,500 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Joseph W. Bahr, Jr.*

Mr. Bahr, 55, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''I certify that based on my medical opinion, Mr. Bahr has sufficient vision to perform the drivers tasks required to operate a commercial vehicle.'' Mr. Bahr reported that he has driven straight trucks for 23 years, accumulating 874,000 miles. He holds a Class B CDL from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Jerry A. Bordelon*

Mr. Bordelon, 53, has had traumatic glaucoma with ocular hypertension in his right eye since 1981. The visual acuity in his right eye is counting

fingers, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Because this patient's monocular status is long-standing and he reports a safe, uneventful driving history, I can recommend that he drive a commercial vehicle.'' Mr. Bordelon reported that he has driven tractor-trailer combinations for 25 years, accumulating 3.72 million miles. He holds a Class A CDL from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Stephen C. Brueggemann*

Mr. Brueggemann, 55, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''In my medical opinion, I believe Stephen Brueggemann has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Brueggemann reported that he has driven straight trucks for 37 years, accumulating 259,000 miles, and tractor-trailer combinations for 36 years, accumulating 360,000 miles. He holds a Class DMA CDL from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Dale E. Bunke*

Mr. Bunke, 26, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2015, his optometrist stated, ''In my opinion Mr. Bunke has sufficient vision to operate a commercial vehicle.'' Mr. Bunke reported that he has driven straight trucks for two years, accumulating 120,000 miles, and tractor-trailer combinations for one year, accumulating 3,000 miles. He holds a Class A CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*James E. Byrnes*

Mr. Byrnes, 28, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''I feel he is very safe to continue driving due to longstanding nature of refractive amblyopia and excellent vision in his left eye. I feel he is more than capable of driving a commercial vehicle as he has in the past.'' Mr. Byrnes reported that he has driven tractor-trailer combinations for two years, accumulating 203,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Larry O. Cheek*

Mr. Cheek, 65, has complete loss of vision in his left eye due to a traumatic incident in 1986. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''Mr. Cheek is competent, visually to operate commercial vehicles.'' Mr. Cheek reported that he has driven tractor-trailer combinations for 11 years, accumulating 792,000 miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Louise D. Curtis*

Ms. Curtis, 65, has had retinal scarring in her left eye since 1995. The visual acuity in her right eye is 20/20, and in her left eye, 20/200. Following an examination in 2015, her optometrist stated, ''It is my opinion that Mr. Curtis has sufficient vision to operate a commercial vehicle.'' Ms. Curtis reported that he has driven straight trucks for nine years, accumulating 45,000 miles. She holds a Class AB CDL from Florida. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Marvin P. Cusey*

Mr. Cusey, 71, has had macular degeneration in his right eye since 2010. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''In my medical opinion, I feel that Marvin Cusey does have sufficient vision to safely perform the driving tasks required to operate a commercial vehicle.'' Mr. Cusey reported that he has driven tractor-trailer combinations for 50 years, accumulating 4.25 million miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Bradford W. Davis*

Mr. Davis, 64, has had retinal scarring in his right eye since 1980. The visual acuity in his right eye is 20/150, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''It is my opinion that he has sufficient vision to perform the driving tasks to operate a commercial vehicle.'' Mr. Davis reported that he has driven tractor-trailer combinations for one year, accumulating 50,000 miles, and buses for 35 years, accumulating 262,500 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Roy H. Degner*

Mr. Degner, 46, has a prosthetic left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2015, his optometrist stated, ''In my medical opinion, his vision should allow him to perform the tasks required in operating a commercial vehicle.'' Mr. Degner reported that he has driven straight trucks for six years, accumulating 30,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Chris DeJong*

Mr. DeJong, 56, has a prosthetic right eye due to a traumatic incident in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 2015, his optometrist stated, ''Mr. DeJong has been driving with a CDL, accident free for 17 years I feel his vision is sufficient to continue operating a commercial vehicle.'' Mr. DeJong reported that he has driven straight trucks for 17 years, accumulating 255,000 miles, and tractor-trailer combinations for one year, accumulating 10,000 miles. He holds a Class A CDL from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Jonathan G. Estabrook*

Mr. Estabrook, 72, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2015, his ophthalmologist stated, ''Mr. Estabrook has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Estabrook reported that he has driven tractor-trailer combinations for 36 years, accumulating 2.81 million miles. He holds a Class A CDL from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Robert J. Falanga*

Mr. Falanga, 45, has had amblyopia in his right eye since birth due to a cataract. The visual acuity in his right eye is 20/200, and in his left eye, 20/15. Following an examination in 2015, his optometrist stated, ''At this time, it is in my opinion that Mr. Falanga has sufficient vision to perform the driving tasks that are required to operate a commercial vehicle.'' Mr. Falanga reported that he has driven tractor-trailer combinations for 19 years, accumulating 988,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Elhadji M. Faye*

Mr. Faye, 40, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2015, his ophthalmologist stated, ''In my medical opinion, Mr. Faye has sufficient vision to drive a commercial vehicle.'' Mr. Faye reported that he has driven straight trucks for 22 years, accumulating 52,800 miles. He holds a Class B CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Donald A. Hall*

Mr. Hall, 53, has aphakia, retinal damage, and complete loss of vision in his right eye due to a traumatic incident in 1977. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''Due to his good peripheral vision and well developed monocular depth perception, he is visually fit to drive a commercial vehicle.'' Mr. Hall reported that he has driven straight trucks for three years, accumulating 135,000 miles. He holds an operator's license from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Willard D. Hall*

Mr. Hall, 48, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/300. Following an examination in 2014, his ophthalmologist stated, ''He adjusted to this problem in childhood and is visually capable of driving any vehicle, in my opinion, and should be allowed a Class A license.'' Mr. Hall reported that he has driven straight trucks for 14 years, accumulating 210,000 miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Refugio Haro*

Mr. Haro, 56, has had refractive in his right eye since childhood. The visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2015, his ophthalmologist stated, ''In my medical opinion and he experience with commercial driving, I feel that he sufficient vision to perform the driving tasks required to operate a commercial vehicle as long as he is wearing his correction and the vehicle he is driving has both side mirrors.'' Mr. Haro reported that he has driven straight trucks for 19 years, accumulating 361,000 miles. He holds a Class B CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Kevin L. Harrison*

Mr. Harrison, 48, has had complete loss of vision in his right eye since 1999 due to ocular sarcadosis. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2015, his ophthalmologist stated, ''In my professional opinion Mr. Kevin Harrison is able to continue driving as . . . commercial driver as he has been doing for the past 18 years. He is able to drive with his left eye, as long as he has correction.'' Mr. Harrison reported that he has driven straight trucks for 18 years, accumulating 140,400 miles. He holds an operator's license from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Timothy N. Hollenbeck*

Mr. Hollenbeck, 39, has a central retinal scar in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''In my medical opinion, Mr. Hollenbeck has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Hollenbeck reported that he has driven straight trucks for 24 years, accumulating 240,000 miles, and tractor-trailer combinations for 10 years, accumulating 15,000 miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Elmer G. Isenhart, Jr.*

Mr. Isenhart, 55, has had refractive amblyopia in his right eye since birth. The visual acuity in his right eye is 20/400, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, ''Given the long-standing congenital nature of Mr. Isenhart's amblyopia, I believe that he has sufficient vision, adaptation to and knowledge of his visual impairment to operate a commercial vehicle.'' Mr. Isenhart reported that he has driven straight trucks for 36 years, accumulating 10.89 million miles. He holds a Class B CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Abdullah T. Khalil*

Mr. Khalil, 64, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/25, and in his left eye, 20/600. Following an examination in 2014, his optometrist stated, ''Left Eye: Amblyopia . . . Please note patient is safe to drive a commercial vehicle according to your guidelines.'' Mr. Khalil reported that he has driven straight trucks for three years, accumulating 360,000 miles, and tractor-trailer combinations for three years, accumulating 450,000 miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Don J. Labrum*

Mr. Labrum, 51, has had complete loss of vision in his left eye since 1988 due to a traumatic optic nerve atrophy. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2015, his optometrist stated, ''The vision and optic nerve atrophy are stable. I am confident that Mr. Labrum is capable of reliably and safely operating a commercial vehicle.'' Mr. Labrum reported that he has driven straight trucks for 21 years, accumulating 436,800 miles. He holds a Class A CDL from Utah. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Scott E. Landegent*

Mr. Landegent, 50, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2014, his optometrist stated, ''In my opinion, Scott's vision is more than sufficient to perform the tasks related to commercial vehicle operation.'' Mr. Landegent reported that

he has driven straight trucks for six years, accumulating 240,000 miles. He holds an operator's license from South Dakota. His driving record for the last 3 years shows one crash, for which he was not cited and to which he did not contribute, and no convictions for a moving violation in a CMV.

*Steven D. Leonard*

Mr. Leonard, 43, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2015, his optometrist stated, ''Based off of the visual requirements necessary to obtain a commercial vehicle license, it is my opinion that Mr. Leonard be able to operate a commercial vehicle if a restriction is applied.'' Mr. Leonard reported that he has driven straight trucks for six years, accumulating 105,300 miles. He holds an operator's license from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Bruce A. Lloyd*

Mr. Lloyd, 60, has had central vision loss in his left eye since 2011 due to macular degeneration. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2015, his ophthalmologist stated, ''Please give him every consideration in allowing him this medical waiver. Mr. Lloyd has had this condition since 2011 and he has sufficient vision to perform his job duties.'' Mr. Lloyd reported that he has driven straight trucks for 35 years, accumulating 525,000 miles, and tractor-trailer combinations for 30 years, accumulating 180,000 miles. He holds a Class AM CDL from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Duane S. Lozinski*

Mr. Lozinski, 44, has had a retinal vein occlusion resulting in superior and temporal left quadronaopsia visual field defect in his left eye since 1997. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2015, his optometrist stated, ''In my professional opinion patient is able to operate a commercial vehicle with his current visual acuity and field of vision.'' Mr. Lozinski reported that he has driven straight trucks for two years, accumulating 4,000 miles, and tractor-trailer combinations for 2 years, accumulating 140,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Rob A. Matthews, Jr.*

Mr. Matthews, 69, has complete loss of vision in his right eye due to a traumatic incident in 1989. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Over the past 25 years Mr. Matthews seems to have adapted well to moncularity. For this reason, if the Federal Government has no binocularity requirements that would preclude a monocular applicant from holding a commercial driver's license, I see no reason that Mr. Matthews should not qualify for such.'' Mr. Matthews reported that he has driven straight trucks for 50 years, accumulating 250,000 miles. He holds an operator's license from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Keith W. McNabb*

Mr. McNabb, 25, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/15, and in his left eye, 20/200. Following an examination in 2015, his optometrist stated, ''I feel that his vision is stable. Please allow him his visual exemption as I believe he is as safe as any other commercial truck driver on the highway.'' Mr. McNabb reported that he has driven straight trucks for five years, accumulating 5,000 miles, and tractor-trailer combinations for three years, accumulating 15,000 miles. He holds a Class A CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Ronald W. Neujahr*

Mr. Neujahr, 68, has had ocular nerve damage in his right eye since birth. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''In my opinion, Mr. Neujahr has sufficient vision to perform all driving tasks required to operate a commercial vehicle.'' Mr. Neujahr reported that he has driven tractor-trailer combinations for 15 years, accumulating 135,000 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Frank L. Novich Jr.*

Mr. Novich, 43, has optic atrophy in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/15, and in his left eye, 20/400. Following an examination in 2015, his ophthalmologist stated, ''In my medical opinion, I feel this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Novich reported that he has driven straight trucks for 10 years, accumulating 200,000 miles, and tractor-trailer combinations for eight years, accumulating 240,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Russell Nutter*

Mr. Nutter, 44, has complete loss of vision in his right eye due to a traumatic incident in 1992. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''Based on my exam today, he should have sufficient vision to be able to drive a commercial vehicle.'' Mr. Nutter reported that he has driven tractor-trailer combinations for four years, accumulating 360,000 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows one crash, for which he was not cited and to which he did not contribute, and no convictions for moving violations in a CMV.

*Lonnie D. Prejean*

Mr. Prejean, 57, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/30, and in his left eye, 20/50. Following an examination in 2015, his optometrist stated, ''In my professional opinion, Lonnie Prejean has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Prejean reported that he has driven tractor-trailer combinations for 30 years, accumulating 1.92 million miles. He holds a Class AM CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Robert C. Reid*

Mr. Reid, 46, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my medical opinion, Robert Reid has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Reid reported that he has driven straight trucks for 15 years, accumulating 720,000 miles. He holds a Class DA CDL from Kentucky. His driving record for the last 3 years

shows no crashes and no convictions for moving violations in a CMV.

*Thomas E. Riley*

Mr. Riley, 53, has had macular edema, central retinal vein occlusion, rubeosis iridis, ocular hypertension, Coat's disease, and pseudophakia in his right eye since 2010. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2015, his ophthalmologist stated, ''This is important since he is stable enough and has adequate visual function to qualify for a commercial driver's license.'' Mr. Riley reported that he has driven straight trucks for 35 years, accumulating 1.27 million miles, and tractor-trailer combinations for 24 years, accumulating 1.87 million miles. He holds a Class A CDL from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Danilo A. Rivera*

Mr. Rivera, 34, has had a chorioretinal scar in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his ophthalmologist stated, ''This patient is able to operate a commercial vehicle based on current visual acuity.'' Mr. Rivera reported that he has driven straight trucks for two years, accumulating 80,000 miles, and tractor-trailer combinations for five years, accumulating 600,000 miles. He holds a Class A CDL from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Steven L. Roberts*

Mr. Roberts, 50, has complete loss of vision in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2015, his optometrist stated, ''Based on my findings of eye examination January 15, 2015, Mr. Steven Roberts displayed sufficient visual ability to operate a commercial vehicle.'' Mr. Roberts reported that he has driven straight trucks for 15 years, accumulating 117,000 miles. He holds an operator's license from Arkansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*John B. Stiltner*

Mr. Stiltner, 33, has had large optic nerve coloboma in his right eye since birth. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''In my professional opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Stiltner reported that he has driven straight trucks for five years, accumulating 250,000 miles, and tractor-trailer combinations for five years, accumulating 325,000 miles. He holds a Class DA CDL from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*James M. Stroupe*

Mr. Stroupe, 60, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2015, his optometrist stated, ''After successfully operating a commercial vehicle for three plus decades and without any significant change in his visual or eye health status, I feel confident in recommending that he be allowed to continue his same occupation of driving a commercial vehicle.'' Mr. Stroupe reported that he has driven straight trucks for 41 years, accumulating 5.13 million miles, and tractor-trailer combinations for 12 years, accumulating 1.5 million miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 15 mph.

*Steven W. Stull*

Mr. Stull, 60, has had a prosthetic right eye since 2002. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 2015, his optometrist stated, ''In my opinion he has the vision abilities to operate a commercial vehicle.'' Mr. Stull reported that he has driven tractor-trailer combinations for 12 years, accumulating 300,000 miles. He holds a Class AM CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Dale R. Sweigart*

Mr. Sweigart, 46, has corneal scarring in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''Upon examining his cornea, I found he has significant scarring. This is the reason for this reduced acuity . . . He has been driving commercially for 20 years with no problems.'' Mr. Sweigart reported that he has driven straight trucks for seven years, accumulating 490,000 miles, and tractor-trailer combinations for 13 years, accumulating 845,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he failed to obey a traffic control device.

*Rick R. Warner*

Mr. Warner, 53, has no light perception in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2015, his optometrist stated, ''I believe that Mr. Warner should have sufficient vision to operate a commercial vehicle even though he has only one functional eye.'' Mr. Warner reported that he has driven straight trucks for 35 years, accumulating 350,000 miles, and tractor-trailer combinations for 35 years, accumulating 350,000 miles. He holds a Class CA CDL from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Theodore White*

Mr. White, 50, has complete loss of vision in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2015, his ophthalmologist stated, ''In my professional opinion, Mr. White has vision sufficient to drive a commercial vehicle without restriction.'' Mr. White reported that he has driven straight trucks for 28.5 years, accumulating 30,800 miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Larry L. Yow*

Mr. Yow, 59, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2015, his ophthalmologist stated, ''As his vision has not been precluding operation of a commercial motor vehicle, I do not expect if [*sic*] should cause any problems at this time.'' Mr. Yow reported that he has driven tractor-trailer combinations for 15 years, accumulating 1.35 million miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

## III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

*Submitting Comments*

If you submit a comment, please include the docket number for this notice, 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 the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2015–0055 in the ''Keyword'' box, and click ''Search. When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in 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.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

*Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number FMCSA–2015–0055 in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed 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.

Issued on: July 17, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–18161 Filed 7–23–15; 8:45 am]

BILLING CODE 4910–EX–P

---

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. MCF 21064]**

### Prisoner Transportation Services, LLC—Control—Pts of America, LLC d/b/a Pts and Brevard Extraditions, Inc. d/b/a U.S. Prisoner Transport

**AGENCY:** Surface Transportation Board, Department of Transportation.

**ACTION:** Notice tentatively approving and authorizing finance transaction.

**SUMMARY:** On June 24, 2015, Prisoner Transportation Services, LLC (Applicant), a newly created corporation, filed an application under 49 U.S.C. 14303 so that it can acquire common control of PTS of America, LLC d/b/a PTS (PTS) and Brevard Extraditions, Inc. d/b/a U.S. Prisoner Transport (USPT). The Board is tentatively approving and authorizing the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action. Persons wishing to oppose the application must follow the rules at 49 CFR 1182.5 and 1182.8.

**DATES:** Comments must be filed by September 8, 2015. Applicant may file a reply by September 22, 2015. If no comments are filed by September 8, 2015, this notice shall be effective on September 9, 2015.

**ADDRESSES:** Send an original and 10 copies of any comments referring to Docket No. MCF 21064 to: Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, send one copy of comments to Applicant's representative: Henry E. Seaton, Esq., Law Office of Seaton & Husk, L.P., 2240 Gallows Road, Vienna, VA 22182.

**FOR FURTHER INFORMATION CONTACT:** Matthew Bornstein (202) 245–0385. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** Applicant, a non-carrier, states that it is a newly created limited liability company under the laws of Tennessee. Applicant states that it has been established as a holding company for the purpose of acquiring the corporate stock of PTS and USPT, both engaged in for-hire transportation of incarcerated prisoners.

Applicant states that PTS is a limited liability corporation established under the laws of Tennessee. According to Applicant, PTS holds authority from the Federal Motor Carrier Safety Administration (FMCSA) as a motor carrier of passengers in Docket No. MC–689407. Applicant explains that PTS's current shareholders are Kent Wood and Alan Sielbeck, individuals residing in Tennessee. USPT, according to Applicant, is a Florida corporation that holds authority from the FMCSA as a motor carrier of passengers in Docket No. MC–643115. Applicant states that Robert Downs owns 80 percent of USPT's stock and Lisa Kyle owns 20 percent. Applicant states that both of these individuals are Florida residents.

Applicant states that PTS and USPT both perform a specialized type of interstate transportation of passengers by motor carrier. According to Applicant, each carrier has separate contracts of carriage with state and local prisons, correctional facilities, and sheriff's departments for the for-hire transportation of incarcerated prisoners, including convicts, parole jumpers, and individuals under criminal indictment who have escaped to foreign jurisdictions. The services rendered by these companies, Applicant states, include recovery and extradition of prisoners from jails and detention facilities in one state and delivery to points of incarceration in interstate commerce under guard. Applicant states that both motor carriers operate specially equipped van and bus equipment suitable for the transportation of prisoners and in compliance with the Interstate Transportation of Dangerous Criminals Act. Applicant adds that PTS currently operates 20 vehicles, including two 30-passenger buses, six specifically designed transporters suitable for the transportation of as many as 20 inmates, and 12 15-passenger vans. USPT, according to Applicant, operates 12 vehicles, including two transporters and 10 passenger vans.

Applicant explains that the proposed transaction would be structured as an acquisition of common control of two carriers through contribution of the outstanding stock of both carriers to a holding company, Prisoner Transportation Services, LLC, for common control and management. Applicant seeks to acquire 100 percent of PTS through acquisition of the stock of Mr. Wood and Mr. Sielbeck, and 100 percent of USPT through acquisition of the stock of Mr. Downs and Ms. Kyle. As a result, Applicant states, both PTS and USPT would become wholly operating subsidiaries of the holding

company, with the current owners of PTS (Mr. Wood and Mr. Sielbeck) owning 31.5 percent and 38.5 percent of the outstanding corporate stock of the holding company and the current owners of USPT (Mr. Downs and Ms. Kyle) owning the remainder of the stock. Applicant states that, as a result of this transaction, the current owners of each company would jointly control both carriers, with both companies continuing to offer their existing service.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) The effect of the proposed transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees. Applicant submitted information, as required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), and a statement that the aggregate gross operating revenues of PTS and USPT exceeded $2 million for the preceding 12-month period, *see* 49 U.S.C. 14303(g).

Applicant submits that the proposed transaction would have no significant impact on the adequacy of transportation services to the public. Rather, Applicant anticipates that common control of the carriers would result in more efficient and timely transportation. By combining the pickup and delivery schedules of both companies, Applicant states, detainees scheduled for pickup could be booked more expeditiously on the nearest available bus or transporter, regardless of whether the vehicle is operated by PTS or USPT. Applicant notes that consolidation would permit vehicle sharing arrangements, coordinated driver training, and safety management and load sharing arrangements. It further claims that consolidation would allow for the centralization of various management support functions such as vehicle licensing, legal affairs, accounting, human resources, purchasing, and environmental compliance.

With respect to fixed charges, Applicant asserts that the efficiencies generated by the transaction would reduce the variety of unit costs now being incurred to operate these carriers under separate ownership. Additionally, Applicant states that the combined carriers would be able to enhance their purchasing power, thereby reducing insurance premiums and achieving deeper discounts for equipment and fuel. Applicant also claims that affected employees would benefit from the transaction. It says that employees would maintain job security and would have an increased opportunity to schedule shorter tours of duty, resulting in less time away from their home base.

Applicant further claims that the proposed transaction would not have any adverse competitive effect on any portion of the passenger transportation industry. Applicant states that the vast majority of prisoners and detainees are transported by U.S. Marshals, state law enforcement officers, sheriffs, deputies, or local police officers. Furthermore, Applicant states, other for-hire carriers such as Transcor, STS, U.S. Corrections, Texas Prisoner Transport, GEO Transport, Lock and Load, G4S, and Global Prisoner Services are also in the marketplace.[1] According to Applicant, competitors would not be adversely affected by the transaction because prisoner extradition services are provided based upon open competition among qualified service providers for contracts of one to three years in duration. Applicant also states that there is nothing to preclude existing carriers from expanding their routes, rates and services, and nothing to keep well capitalized new entrants from entering the market at any time.

On the basis of the application, the Board finds that the proposed acquisition is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV*''.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. The proposed transaction is approved and authorized, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective September 9, 2015, unless opposing comments are filed by September 8, 2015.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590.

Decided: July 20, 2015.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Miller.

**Brendetta S. Jones,**

*Clearance Clerk.*

[FR Doc. 2015–18182 Filed 7–23–15; 8:45 am]

**BILLING CODE 4915–01–P**

[1] In total, after consummation, Applicant asserts that the combined operation would constitute less than 5 percent of the population being transported.

## 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 meeting on August 13, 2015, from 8:00 a.m. to 4:00 p.m. (EDT) in the Crystal City Marriott at Reagan National Airport, 1999 Jefferson Davis Highway, Arlington, VA 22202.

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) Welcome Remarks, (2) Opening Remarks, (3) Update on Key Issues at ITS JPO, (4) Guest Presentation, (5) Subcommittee Meetings, (6) Subcommittee Updates to

Committee, and (7) Discussion of Action Items and Next Meeting.

The meeting will be open to the public, but limited space will be available on a first-come, first-served basis. Members of the public who wish to present oral statements at the meeting must submit a request to *ITSPAC@dot.gov,* not later than August 6, 2015.

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 August 6, 2015.

Notice of this meeting is provided in accordance with the Federal Advisory Committee Act and the General Services Administration regulations (41 CCFR 102–3) covering management of Federal advisory committees.

Issued in Washington, DC, on the 21st day of July 2015.

**Stephen Glasscock,**

*Designated Federal Official, ITS Joint Program Office.*

[FR Doc. 2015–18211 Filed 7–23–15; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF THE TREASURY

### Bureau of the Fiscal Service

### Proposed Collection of Information: ''Notice of Reclamation—Electronic Funds Transfer, Federal Recurring Payments''

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning Notice of Reclamation—Electronic Funds Transfer, Federal Recurring Payments.

**DATES:** Written comments should be received on or before September 22, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments and requests for further information to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4–A, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Kwema Ledbetter, Director, Project Management Division, Room 611B, 3700 East West Highway, Hyattsville, MD 20782, 202–874–5151 *kwema.ledbetter@fiscal.treasury.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Notice of Reclamation—Electronic Funds Transfer, Federal Recurring Payments.

*OMB Number:* 1530–0003 (Previously approved as 1510–0043 as a collection conducted by Department of the Treasury/Financial Management Service.) Transfer of OMB Control Number: The Financial Management Service (FMS) and the Bureau of Public Debt (BPD) have consolidated to become the Bureau of the Fiscal Service (Fiscal Service). Information collection requests previously held separately by FMS and BPD will now be identified by a 1530 prefix, designating Fiscal Service.

*Form Number:* FS Form 133.

*Abstract:* FS Form 133 is utilized to notify financial institutions of an obligation to repay payments erroneously issued to a deceased Federal benefit payment recipient. The information collected from the financial institutions is used by Treasury to close out the request from a program agency to collect an EFT payment from the financial institution to which a beneficiary was not entitled.

*Current Actions:* Extension of a currently approved collection.

*Type of Review:* Regular.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 223,128.

*Estimated Time per Respondent:* 8 minutes.

*Estimated Total Annual Burden Hours:* 29,750.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 21, 2015.

**Bruce A. Sharp,**

*Bureau Clearance Officer.*

[FR Doc. 2015–18194 Filed 7–23–15; 8:45 am]

**BILLING CODE 4810–AS–P**

## DEPARTMENT OF THE TREASURY

### Bureau of the Fiscal Service

### Proposed Collection of Information: Claims Against the United States for Amounts Due in the Case of a Deceased Creditor

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning ''Claims Against the United States for Amounts Due in the Case of a Deceased Creditor.''

**DATES:** Written comments should be received on or before September 22, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments and requests for further information to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4–A, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Mary Morris, Judgement Fund Section, Room 6E15, 3700 East West Highway, Hyattsville, MD 20782, 202–874–1130, *mary.morris@fiscal.treasury.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Claims Against the United States for Amounts Due in the Case of a Deceased Creditor.

*OMB Number:* 1530–0004 (Previously approved as 1510–0042 as a collection conducted by Department of the Treasury/Financial Management Service.) Transfer of OMB Control

Number: The Financial Management Service (FMS) and the Bureau of Public Debt (BPD) have consolidated to become the Bureau of the Fiscal Service (Fiscal Service). Information collection requests previously held separately by FMS and BPD will now be identified by a 1530 prefix, designating Fiscal Service.

*Form Number:* SF–1055.

*Abstract:* The information is required to determine who is entitled to funds of a deceased Postal Savings depositor or deceased award holder. The form properly completed with supporting documents enables the Judgement Fund Branch to decide who is legally entitled to payment.

*Current Actions:* Extension of a currently approved collection.

*Type of Review:* Regular.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 400.

*Estimated Time per Respondent:* 27 minutes.

*Estimated Total Annual Burden Hours:* 180.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 21, 2015.

**Bruce A. Sharp,**

*Bureau Clearance Officer.*

[FR Doc. 2015–18195 Filed 7–23–15; 8:45 am]

**BILLING CODE 4810–AS–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Taxpayer Advocacy Panel Meeting Cancellation

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting cancellation.

**SUMMARY:** Notice is hereby given of the cancellation of the open meeting of the Taxpayer Advocacy Panel Joint Committee scheduled for Wednesday, July 29, 2015, at 1:00 p.m. Eastern Time via teleconference, which was originally published in the **Federal Register** on June 5, 2015, (Volume 80, Number 108, Page 32205).

The meeting is cancelled pending face-to-face meeting in August 2015.

**FOR FURTHER INFORMATION CONTACT:** Lisa Billups at 1–888–912–1227 or 214–413–6523.

Dated: July 20, 2015.

**Sheila Andrews,**

*Director, Taxpayer Advocacy Panel.*

[FR Doc. 2015–18116 Filed 7–23–15; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Art Advisory Panel—Notice of Availability of Report of 2014 Closed Meetings

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice.

**SUMMARY:** Pursuant to 5 U.S.C. App. 2, section 10(d), of the Federal Advisory Committee Act, and 5 U.S.C. 552b, of the Government in the Sunshine Act, a report summarizing the closed meeting activities of the Art Advisory Panel during Fiscal Year 2014 has been prepared. A copy of this report has been filed with the Assistant Secretary for Management of the Department of the Treasury.

**DATES:** *Effective Date:* This notice is effective *July 24, 2015.*

**ADDRESSES:** The report is available for public inspection and requests for copies should be addressed to: Internal Revenue Service, Freedom of Information Reading Room, Room 1621, 1111 Constitution Avenue NW., Washington, DC 20224, Telephone number (202) 622–5164 (not a toll free number). The report is also available at *www.irs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Maricarmen R. Cuello, AP:SO:AAS, Internal Revenue Service/Appeals, 51 SW. 1st Avenue, Room 1014, Miami, FL 33130, telephone (305) 982–5364 (not a toll free telephone number).

**SUPPLEMENTARY INFORMATION:** It has been determined that this document is not a major rule as defined in E.O. 12291 and that a regulatory impact analysis therefore, is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

**Kirsten B. Wielobob,**

*Chief, Appeals.*

The Art Advisory Panel of the Commissioner of Internal Revenue

Annual Summary Report for Fiscal Year 2014 (Closed meeting activity)

**Overview**

Created in 1968, the Art Advisory Panel of the Commissioner of Internal Revenue (the Panel) provides advice and makes recommendations to the Art Appraisal Services (AAS) unit in the Office of Appeals for the Internal Revenue Service (IRS). Chartered under the Federal Advisory Committee Act (FACA), the Panel helps the IRS review and evaluate the acceptability of tangible personal property appraisals taxpayers submit to support the fair market value claimed on the wide range of works of art involved in income, estate, and gift tax returns.

When a tax return selected for audit includes an appraisal of a single work of art or cultural property valued at $50,000 or more, the IRS examining agent or appeals officer must refer the case to AAS for possible referral to the Panel, unless a specific exception exists. The AAS staff supports and coordinates the Panel meetings, while the AAS appraisers independently review taxpayers' appraisals for art works not referred to the Panel.

The Panel provides essential information to help foster voluntary compliance. The information and recommendations play an important role in the IRS's efforts to cost-effectively address the potentially high abuse area of art valuation. The panelists provide information, advice, and insight into the world of art which cannot be obtained effectively from within the IRS. The Panel does not duplicate work performed in the IRS. The AAS appraisers review appraisals by researching publicly available information; the Panel provides additional knowledge of private sales based on their personal experience as dealers, scholars, and museum curators, and from information obtained from other members of their relatively small industry. The panelists' knowledge is particularly beneficial when questions exist about the authenticity or condition of works of art.

Art Appraisal Services takes steps to ensure objectivity and taxpayer privacy. Information provided to the panelists does not include the taxpayer's name, the type of tax, the tax consequences of any adjustments to the value, or who did the appraisal. To minimize the possibility that panelists recognize a taxpayer's entire collection, the art works are usually discussed in alphabetical order by artist or, in the case of decorative art, by object type. If there is a conflict of interest with a panelist and a work of art under review, the panelist does not participate in the discussion and is excused from that portion of the meeting.

Before Panel meetings, AAS appraisers send photographs and written materials to the panelists about the works of art under

review. The materials include information from the taxpayer's appraisal, such as size, medium, physical condition, provenance, any comparable sales, and appraised value, and the AAS appraiser's own research, including available information on public and private sales of relevant art work.

During their meetings, the panelists review the information provided, along with the research and findings of both the panelists and AAS appraisers. After discussing each item individually, the panel reaches consensus on its value. Panel discussions are lively and serious. Despite the different perspectives of dealers, museum curators, and scholars, substantial disagreements are rare. When disagreements happen, they generally result from insufficient information. In these cases, the panelists may recommend additional research, such as inspecting the property or consulting with additional experts, before making a recommendation as to value. Once the AAS appraiser completes the additional work, the item may be brought up for review at a subsequent Panel meeting.

The Panel's recommendations are advisory. The AAS staff reviews all of the Panel's recommendations, which become the position of the IRS only with AAS concurrence. In Fiscal Year 2014, AAS adopted in full 90% of the Panel's recommendations and adopted the rest in part.

The AAS staff provides written reports or memos to the requesting IRS office, with a copy for the taxpayer, outlining the Panel's recommendations for any adjustments to fair market value with all supporting evidence.

Taxpayers may request reconsideration of an adjusted claimed value only if they provide new information or probative evidence. The AAS staff may submit such information to the Panel for reconsideration at a subsequent meeting.

**Panel Leadership**

The Director, Art Appraisal Services serves as the Panel Chair and Designated Federal Officer (DFO) for FACA purposes.

**Panel Sub-Committees**

The DFO has the authority to create subcommittees or workgroups. Subcommittees may be established for any purpose consistent with the Panel's charter, and are comprised of Panel members. There are currently two subcommittees: the Fine Arts Panel, which reviews items such as paintings, sculpture, watercolors, prints, and drawings; and the Decorative Arts Panel, which reviews items such as antique furniture, decorative art, ceramics, textiles, carpets, and silver.

**Meetings**

The Panel generally meets once or twice a year in each subcommittee area. Panel meetings are closed to the public since all portions of the meetings concern matters that are exempted from disclosure under the provisions of section 552b(c)(3), (4), (6) and (7) of Title 5 of the U.S. Code. This determination, which is consistent with section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), is necessary to protect the confidentiality of tax returns and return information as required by Internal Revenue Code § 6103.

The meetings held during this reporting period included:

| Type | Date | Location |
|---|---|---|
| Fine Arts | April 16, 2014 | New York, NY. |
| Fine Arts | September 11, 2014 | Washington, DC. |

The Decorative Arts Panel did not meet in Fiscal Year 2014.

**Summary of Panel Recommendations**

During Fiscal Year 2014, the Panel reviewed 315 items with an aggregate taxpayer valuation of $250,800,500 on 54 taxpayer cases under examination. The average claimed value of a charitable contribution item was $634,000; the average claimed value for an estate and gift item was $799,341.

The Panel recommended accepting 38 percent and adjusting 62 percent of the appraisals it reviewed. On the adjusted items, the Panel recommended total net adjustments of $55,706,000 in estate and gift tax appraisals, a 23 percent increase. Net adjustments for charitable contributions totaled $2,077,000, a 55 percent reduction.

The Panel reconsidered seven items in three taxpayer cases originally valued at $13,235,000 by the taxpayers and $18,300,000 by the Panel. After reviewing the additional information, the Panel revised their recommendations to $17,300,000. The items from these three taxpayer cases are not included in the information above or that follows.

**Comprehensive Recommendations Report**

| Type of tax | Number of items | T/P claimed value | Type of adjustment | Panel recommendation | Net change (panel less claimed value) |
|---|---|---|---|---|---|
| Estate | 70 | $32,275,000 | No Change | $32,275,000 | $0 |
| | 58 | 36,257,000 | Increase | 66,839,000 | 30,582,000 |
| | 31 | 18,207,000 | Decrease | 10,308,500 | (7,898,500) |
| Gift | 50 | 42,935,000 | No Change | 42,935,000 | 0 |
| | 49 | 66,262,500 | Increase | 113,730,000 | 47,467,500 |
| | 51 | 51,060,000 | Decrease | 36,615,000 | (14,445,000) |
| Charitable Contribution | 6 | 3,804,000 | ALL | 1,727,000 | (2,077,000) |
| Totals | 315 | 250,800,500 | | 304,429,500 | 53,629,000 |
| Items Adjusted | 194 | | | | 53,629,000 |

**Art Advisory Panel of the Commissioner of Internal Revenue 2014**

Ms. Stephanie Barron Senior Curator of Modern Art, Los Angeles County Museum of Art, Los Angeles, CA

Mr. Douglas Baxter* President, The Pace Gallery, New York, NY

Mr. Leon Dalva Dalva Brothers, Inc., New York, NY

Ms. Alice Duncan Director, Gerald Peters Gallery, New York, NY

Mr. Michael Findlay Director, Acquavella Galleries, Inc., New York, NY

Mr. Brock Jobe Professor of American Decorative Arts, Winterthur Museum, Winterthur, DE

Mr. Christian Jussel Independent Scholar/ Art Adviser, New York, NY

Ms. Rebecca Lawton Curator of Paintings and Sculpture, Amon Carter Museum, Fort Worth, TX

Ms. Barbara Mathes Barbara Mathes Gallery, New York, NY

Ms. Nancy McClelland McClelland + Rachen, New York, NY

Ms. Susan Menconi Partner, Menconi & Schoelkopf Fine Art, New York, NY

Mr. Howard Rehs Director, Rehs Galleries, Inc., New York, NY

Mr. James L. Reinish Principal, James Reinish & Associates, Inc., New York, NY

Mr. Joseph Rishel The Gisela and Dennis Alter Senior Curator of European Painting before 1900, and John G Johnson Collection, Philadelphia Museum of Art, Philadelphia, PA

Dr. Andrew Robison Mellon Senior Curator of Prints and Drawings, National Gallery of Art, Washington, DC
Mr. Louis Stern Louis Stern Fine Arts Inc., Los Angeles, CA
Dr. Scott Schaefer** Senior Curator of Paintings, J. Paul Getty Museum, Los Angeles, CA
Mr. David Tunick President, David Tunick, Inc., New York, NY

* Resigned in January 2015
** Changed employers and subsequently resigned in January 2015

[FR Doc. 2015–18115 Filed 7–23–15; 8:45 am]

BILLING CODE 4830–01–P

## U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

### Notice of Open Meetings To Prepare the 2015 Annual Report to Congress; Advisory Committee: U.S.-China Economic and Security Review Commission; Correction

**AGENCY:** U.S.-China Economic and Security Review Commission.

**ACTION:** Notice; date change.

**SUMMARY:** The U.S.-China Commission published a document in the **Federal Register** on June 15, 2015, concerning notice of open meetings to be held in Washington, DC to review and edit drafts of the 2015 Annual Report to Congress. The document contained a meeting date that has changed.

**FOR FURTHER INFORMATION CONTACT:** Rickisha Berrien-Lopez, 202–624–1454.

*Correction:*

In the **Federal Register** of July 15, 2015, in FR Doc. 2015–14456 on page 34199, in the third column, correct the ''Dates, Times, and Room Locations'' caption to read:

- Wednesday, July 8, 2015 (9:00 a.m. to 5:00 p.m.). May continue to Thursday, July 9 if necessary—Room 231.
- Tuesday, August 11, 2015 (9:00 a.m. to 5:00 p.m.). May continue to Wednesday, August 12 if necessary—Room 231.
- Wednesday, September 16, 2015 (9:00 a.m. to 5:00 p.m.). May continue to Thursday, September 17 if necessary—Room 231.
- Wednesday, October 07, 2015 (9:00 a.m. to 5:00 p.m.) May continue to Thursday, October 08 if necessary—Room 231.

Dated: July 21, 2015.

**Michael Danis,**

*Executive Director, U.S.-China Economic and Security Review Commission.*

[FR Doc. 2015–18238 Filed 7–23–15; 8:45 am]

BILLING CODE 1137–00–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0577]**

### Proposed Information Collection (Award Attachment for Certain Children With Disabilities Born of Vietnam and Certain Korea Service Veterans) Activity; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

VA Form 21–0307 is used to provide children who have Spina Bifida or other certain birth defects with information about VA health care and vocational training and gives the steps they must take to apply for such benefits.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before September 22, 2015.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0577'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Award Attachment for Certain Children with Disabilities Born of Vietnam and Certain Korea Service Veterans (VA Form 21–0307).

*OMB Control Number:* 2900–0577.

*Type of Review:* Revision of a currently approved collection.

*Abstract:* VA Form 21–0307 provides information to a child of a Vietnam Veteran with Spina Bifida or certain birth defects to inform them of potential entitlement to VA health care benefits and vocational training programs. Without the information provided on this form, potentially eligible children would not be able to apply for these benefits and VA could not authorize them.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 19 hours.

*Estimated Average Burden per Respondent:* 15 minutes.

*Frequency of Response:* One time.

*Estimated Number of Respondents:* 75.

By direction of the Secretary.

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015–18165 Filed 7–23–15; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–NEW]**

### Proposed Information Collection: Patient Aligned Care Team (PACT) Evaluating Peer Notifications To Improve Statin Medication Adherence Among Patients With Coronary Artery Disease

**ACTIVITY:** Under OMB Review.

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Health Administration (VHA), Department of

Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to evaluate the project aims to enhance PACT implementation by evaluating the effects of the VA PACT initiative and by test new, innovative strategies for patient care that can be spread if proven effective.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before August 24, 2015.

**ADDRESSES:** Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900—NEW (PACT Evaluating Peer Notifications to Improve Statin Medication Adherence among Patients with Coronary Artery Disease)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–NEW (PACT Evaluating Peer Notifications to Improve Statin Medication Adherence among Patients with Coronary Artery Disease)'' in any correspondence.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Titles:* PACT Evaluating Peer Notifications to Improve Statin Medication Adherence among Patients with Coronary Artery Disease, VA Form 10–10139.

*OMB Control Number:* 2900—NEW.

*Type of Review:* New data collection.

*Abstract:* Despite the importance of medication adherence, we have few effective tools to help patients improve taking their medications. One strategy to improve medication adherence is using newer technology to make engagement with patients significantly easier and more immediate. These studies evaluating how best to use these technologies and engage different support providers (family/friends/or peers) to improve medication adherence.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 336 burden hours.

*Estimated Average Burden per Respondent:* 90 minutes.

*Frequency of Response:* once annually.

*Estimated Number of Respondents:* 224.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 79 FR 72248, December 5, 2014.

By direction of the Secretary.

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015–18169 Filed 7–23–15; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0525]**

## Proposed Information Collection (VA MATIC Enrollment/Change); Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments on information needed to determine claimants' eligibility to reinstate lapsed Government Life Insurance policy.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before September 22, 2015.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov*; or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0525 in any correspondence. During the comment period, comments may be viewed online through FDMS at *www.Regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

**Titles**

VA MATIC Enrollment/Change, VA Form 29–0165.

*OMB Control Number:* 2900–0525.

*Type of Review:* Revision of a currently approved collection.

*Abstract:* VA Form 29–0165 is used by the insured to enroll or change the account number and/or bank from which a VA MATIC deduction was previously authorized. The information requested is authorized by law, 38 U.S.C. 1908.

*Affected Public:* Individuals or Households.

*Estimated Annual Burden:* 1,250 hours.

*Estimated Average Burden per Respondent:* 15 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 5,000.

By direction of the Secretary:

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015–18168 Filed 7–23–15; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0208]**

## Proposed Information Collection (Architect—Engineer Fee Proposal, VA Form 10–6298, Daily Log (Contract Progress Report—Formal Contract), VA Form 10–6131, and Supplement Contract Progress Report, VA Form 10–61001a) Activity: Comment Request

**AGENCY:** Office of Management, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Office of Management (OM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before September 22, 2015.

**ADDRESSES:** Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Waleska Pierantoni-Monge, Office of Acquisition and Logistics (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; or email: *waleska.pierantoni-monge@va.gov.* Please refer to ''OMB Control No. 2900–0208'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:** Waleska Pierantoni-Monge at (202) 632–5400, Fax (202) 343–1434.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

**Titles**

a. Architect—Engineer Fee Proposal, VA Form 10–6298.

b. Daily Log (Contract Progress Report—Formal Contract), VA Form 10–6131.

c. Supplement Contract Progress Report, VA Form 10–61001a.

*OMB Control Number:* 2900–0208.

*Type of Review:* Reinstatement of a previously approved collection.

**Abstract**

a. An Architect-engineering firm selected for negotiation of a contract with VA is required to submit a fee proposal based on the scope and complexity of the project. VA Form 10–6298 is used to obtain such proposal and supporting cost or pricing data from the contractor and subcontractor.

b. VA Forms 10–6131 and 10–6001a are used to record data necessary to assure the contractor provides sufficient labor and materials to accomplish the contract work. VA Form 10–6131 is used for national contracts and VA Form 10–6001a is used for smaller VA Medical Center station level projects and as an option on major projects before the interim schedule is submitted. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

*Affected Public:* Business or other for-profit.

**Estimated Annual Burden**

a. VA Form 10–6298—1,000.

b. VA Form 10–6131—3,591.

c. VA Form 10–6001a—750.

**Estimated Average Burden per Respondent**

a. VA Form 10–6298—4 hours.

b. VA Form 10–6131—12 minutes.

c. VA Form 10–6001a—12 minutes.

*Frequency of Response:* On occasion.

**Estimated Number of Respondents**

a. VA Form 10–6298—250.

b. VA Form 10–6131—17,955.

c. VA Form 10–6001a—3,750.

By direction of the Secretary:

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015–18164 Filed 7–23–15; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0730]**

## Proposed Information Collection (Deployment Risk and Resilience Inventory) Activity: Comment Request

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed for Veterans, Veteran Representatives and health care providers to request reimbursement from the federal government for emergency services at a private institution.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before September 22, 2015.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or Audrey Revere, Office of Regulatory and Administrative Affairs, Veterans Health Administration (10B4), Department of Veterans Affairs, 810 Vermont Avenue

NW, Washington, DC 20420 or email: *Audrey.revere@va.gov.* Please refer to ''OMB Control No. 2900–0730'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Audrey Revere at (202) 461–5694.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Titles:* Development of the Deployment Risk and Resilience Inventory (DRRI)

*OMB Control Number:* 2900–0730

*Type of Review:* Extension.

*Abstract:* The need to validate measures for use with the newest deployment cohort, including Veterans of the wars in Iraq and Afghanistan, has been identified as a critical need by both VA and DoD. The current request for a revision to OMB 2900–0730 is responsive to this identified need by proposing additional data collection with a sample of Operation Enduring Freedom/Operation Iraqi Freedom (OEF/OIF) Veterans for the purpose of validating updated scales for assessing deployment-related risk and resilience factors that have documented implications for PTSD and other mental health problems. The originally approved OMB project (VA Form 10–21087) involved collecting data from Operation Enduring Freedom/Operation Iraqi Freedom (OEF/OIF) veterans to further refine and validate updated Deployment Risk and Resilience Inventory (DRRI) scales with respect to mental health outcomes. The purpose of the present request for a revision to this OMB-approved project is to conduct additional data collections with OEF/OIF Veterans who participated in the original survey for the purpose of further exploring the construct validity of these scales. Specifically, the goal of this follow-up study is to examine deployment-related factors assessed in the DRRI as they relate to subsequently assessed occupational and family outcomes, as well as VA service use. The long-term goal of this project is to provide a suite of scales that will be optimally useful to researchers and clinicians interested in studying factors that increase or reduce risk for PTSD and other health problems among Veteran and military samples.

Legal authority for this data collection is found under 38 U.S.C., part I, chapter 5, section 527 that authorizes the collection of data that will allow measurement and evaluation of the Department of Veterans Affairs Programs, the goal of which is improved health care for veterans.

*Affected Public:* Individuals or Households,

*Estimated Annual Burden:* 1,383 burden hours.

*Estimated Average Burden per Respondent:* 50 minutes.

*Frequency of Response:* Annually.

*Estimated Number of Respondents:* 2000.

By direction of the Secretary.

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015–18166 Filed 7–23–15; 8:45 am]

**BILLING CODE 8320–01–P**

---

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0734]**

### Agency Information Collection: VA Form 27–0820, Report of General Information, VA Form 27–0820a, Report of Death of Veteran/Beneficiary, VA Form 27–0820b, Report of Nursing Home Information, VA Form 27–0820c, Report of Defense Finance and Accounting Service (DFAS), VA Form 27–0820d, Report of Lost Check, VA Form 27–0820e, Report of Incarceration, VA Form 27–0820f, Report of Contact-Month of Death Check

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before August 24, 2015.

**ADDRESSES:** Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0734'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0734.''

**SUPPLEMENTARY INFORMATION:**

*Title:* Report of General Information.

*OMB Control Number:* 2900–0734.

*Type of Review:* Revision of a currently approved collection.

*Abstract:* The forms will be used by VA personnel to document verbal information obtained telephonically from claimants or their beneficiary. The data collected will be used as part of the evidence needed to determine the claimant's or beneficiary's eligibility for benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 80 FR 01665 on January 29, 2015.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 212,500 (Total of: VA Form 27–0820(19,667), VA Form 27–0820a(6,667), VA Form 27–0820b (2,500) VA Form 27–0820c(2,500), VA Form 27–0820d(2,500), VA Form 27–0820e (833), and VA Form 27–0820f (833).

*Estimated Average Burden per Respondent:* 5 minutes.

*Frequency of Response:* One-time.

*Estimated Number of Respondents:* 2,550,000 (Total of: VA Form 27–0820 (2,360,000), VA Form 27–0820a

(80,000), VA Form 27–0820b(30,000), VA Form 27–0820c (30,000), VA Form 27–0820d (30,000), VA Form 27–0820e (10,000), and VA Form 27–0820f (10,000)).

By direction of the Secretary.

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015–18167 Filed 7–23–15; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900—NEW]**

### Proposed Information Collection; From War to Home: Improving Patient-Centered Care and Promoting Empathy for ''Operation Enduring Freedom'' and ''Operation Iraqi Freedom'' (OEF/OIF) Veterans in the Veterans Health Administration Patient Aligned Care Team Demo Lab VISN 4

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**ACTIVITY:** Under OMB Review.

**SUMMARY:** The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to evaluate the project aims to enhance PACT implementation by evaluating the effects of the VA PACT initiative and by test new, innovative strategies for patient care that can be spread if proven effective.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before August 24, 2015.

**ADDRESSES:** Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov*. Please refer to ''OMB Control No. 2900—NEW (Audience Feedback Questionnaire—PACT Demo Lab VISN 4)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov*. Please refer to ''OMB Control No. 2900–NEW (Audience Feedback Questionnaire—PACT Demo Lab VISN 4)'' in any correspondence.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Titles:* From War to Home: Improving Patient-Centered Care and Promoting Empathy for OEF/OIF Veterans in the VHA—PACT Demo Lab VISN 4, VA Form 10–10130.

*OMB Control Number:* 2900—NEW.

*Type of Review:* New data collection.

*Abstract:* This project is being conducted under the auspices of the VISN 4 Demonstration Lab, which was funded by Patient Care Services to assess the Patient Aligned Care Team (PACT) model of care for Veterans. There is considerable interest in and urgency to implement the PACT model—reflecting both a desire to improve health care for Veterans and to sustain the VA's leadership in health care quality. CEPACT aims to contribute to these goals by evaluating the effects of the VA PACT initiative and by testing new, innovative strategies for patient care that can be spread if proven effective.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 83 burden hours.

*Estimated Average Burden per Respondent:* 5 minutes.

*Frequency of Response:* Once annually.

*Estimated Number of Respondents:* 1000.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 80 FR 4336, January 27, 2015.

By direction of the Secretary.

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015–18170 Filed 7–23–15; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–NEW]**

### Proposed Information Collection; Patient Aligned Care Team (PACT) Telehealth in the Parkinson's Disease Research, Education & Clinical Center (PADRECC), Healthcare Experiences of Patients With Congestive Heart Failure (CHF)

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**ACTIVITY:** Under OMB Review.

**SUMMARY:** The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to evaluate the project aims to enhance PACT implementation by evaluating the effects of the VA PACT initiative and by test new, innovative strategies for patient care that can be spread if proven effective.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before August 24, 2015.

**ADDRESSES:** Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–NEW (Patient Aligned Care Team (PACT) Telehealth in the Parkinson's Disease Research, Education & Clinical Center (PADRECC), Healthcare Experiences of Patients with Congestive Heart Failure (CHF))'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–NEW (Patient Aligned Care Team (PACT) Telehealth in the Parkinson's Disease Research, Education & Clinical Center (PADRECC), Healthcare Experiences of Patients with Congestive Heart Failure (CHF))'' in any correspondence.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Titles:* PACT Telehealth in the PADRECC, Healthcare Experiences of Patients with CHF, VA Forms 10–10135a, 10–10135b, 10–10135c, 10–10135d, 10–10136, 10–10137

*OMB Control Number:* 2900–NEW.

*Type of Review:* New data collection.

*Abstract* The Office of Patient Care Services, Primary Care Program Office, has undertaken an initiative to implement a patient-centered medical home model at all Veterans Health Administration (VHA) Ambulatory Primary Care sites. In addition to the VHA's Universal Health Care Services implementation of the Patient Aligned Care Team (PACT), Patient Care Services has funded 5 PACT Demonstration Laboratories across the country.

**Focus Group Survey**

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 20 hours.

*Estimated Average Burden per Respondent:* 10 minutes.

*Frequency of Response:* Once annually.

*Estimated Number of Respondents:* 40.

**10–10135a (GDS)**

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 35 hours.

*Estimated Average Burden per Respondent:* 7 minutes.

*Frequency of Response:* Once annually.

Estimated Number of Respondents: 100.

**10–10135b (PDQ–8)**

Affected Public: Individuals or households.

Estimated Annual Burden: 35 hours.

Estimated Average Burden per Respondent: 7 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 100.

**10–10135(c) Cost & Patient Outcomes**

Affected Public: Individuals or households.

Estimated Annual Burden: 35 hours.

Estimated Average Burden per Respondent: 7 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 100.

**10135(d) Patient Assessment of Communication During Telehealth**

Affected Public: Individuals or households.

Estimated Annual Burden: 35 hours.

Estimated Average Burden per Respondent: 7 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 100.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 79 FR 72249, December 5, 2015.

By direction of the Secretary.

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015–18171 Filed 7–23–15; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0018]**

## Agency Information Collection-Application for Accreditation as Service Organization Representative Activity Under OMB Review

**AGENCY:** Office of the General Counsel, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Office of the General Counsel (OGC), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before August 24, 2015.

**ADDRESSES:** Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0018'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Dana Raffaelli, Office of the General Counsel (022O), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *dana.raffaelli2@va.gov.* Please refer to ''OMB Control No. 2900–0018'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Title:* Application for Accreditation as Service Organization Representative, VA Form 21; Accreditation Cancellation Information.

*OMB Control Number:* 2900–0018.

*Type of Review:* Revision of a currently approved collection and modification to the collection.

*Abstract:* Service organizations are required to file an application with VA to establish eligibility for accreditation for representatives of that organization to represent benefit claimants before VA. VA Form 21 is completed by service organizations to establish accreditation for representatives, recertify the qualifications of accredited representatives.

Organizations requesting cancellation of a representative's accreditation based on misconduct or incompetence or resignation to avoid cancellation of accreditation based upon misconduct or incompetence, are required to inform VA of the specific reason for the cancellation request. VA will use the information collected to determine whether service organizations representatives continue to meet regulatory eligibility requirements to ensure claimants have qualified representatives to assist in the preparation, presentation and prosecution of their claims for benefits. VA is modifying the collection to include an optional request to permit the organization to provide an email address and phone number in which the representative may be reached. VA believes that the additional contact information pertaining to the organization will be helpful in that it provides an additional means of communication between VA and the organization as well as provides an additional way that Veterans and their family may contact the representative. The organization may choose to provide a general phone number and email address for the organization, *e.g., tampa@vso.com,* or the representative's individual email address through the organization and direct phone number, *e.g., johnsmith@vso.com.VA* does not anticipate the modification request will result in an additional burden. VA believes that the organizations already have the information available to them, and adding that information to the form should not take additional time. This is supported by the fact that many organizations are already providing the additional contact information. Finally, this request will be optional.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on May 20, 2015, at 80 FR 29158.

*Affected Public:* Not-for profit institutions.

*Estimated Annual Burden:* 782 hours.

*Estimated Average Burden per Respondent:* 15 minutes for new applicants, 10 minutes for recertification, and 30 minutes for accreditation cancellation information responses.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 3,157 (2962 new applicants, 170 recertification, and 25 accreditation cancellation information responses).

By direction of the Secretary.

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015–18163 Filed 7–23–15; 8:45 am]

**BILLING CODE 8320–01–P**

---

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0205]**

## Agency Information Collection: Applications and Appraisals for Employment for Title 38 Positions and Trainees

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice; Activities: Under OMB Review.

**SUMMARY:** The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revised collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to furnish hospital care and medical services to the family members of certain veterans who were stationed at Camp Lejeune. In order to furnish such care, VA must collect certain information from the family members to ensure that they meet the requirements of the law. The specific hospital care and medical services that VA must provide are for a number of illnesses and conditions connected to exposure to contaminated drinking water while at Camp Lejeune.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before August 24, 2015.

**ADDRESSES:** Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0205, Applications and Appraisals for Employment for Title 38 Positions and Trainees'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0205, Applications and Appraisals for Employment for Title 38 Positions and Trainees'' in any correspondence.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Applications and Appraisals for Employment for Title 38 Positions and Trainees.

*OMB Control Number:* 2900–0205.

*Type of Review:* Revision of a currently existing collection.

*Abstract:* VA Forms 10–2850 and 2850a through c are applications designed specifically to elicit appropriate information about each candidate's qualifications for employment with Department of Veterans Affairs (VA) as well as educational and experience. To assure that a full evaluation of each candidate's credentials can be made prior to

employment, the forms require disclosure of details about all licenses ever held, Drug Enforcement Administration certification, board certification, clinical privileges, revoked certification or registration, liability insurance history, and involvement in malpractice proceedings.

The collection of this information is authorized by Title 38, United States Code (U.S.C.) 7403, (Veterans' Benefits), which provides that appointments of Title 38 employees will be made only after qualifications have been satisfactorily verified in accordance with regulations prescribed by the Secretary. Occupations listed in 38 U.S.C. 7401(1) and 7401(3) (Appointments in Veterans Health Administration), are appointed at a grade and step rate or an assignment based on careful evaluation of their education and experience.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 80 FR 8951 on February 19, 2015.

*Affected Public:* Individuals or Households.

*Estimated Total Annual Burden:* 136,832 hours.

*Estimated Average Burden per Respondent:* 25.5 minutes.

*Frequency of Response:* Annually.

*Estimated Number of Respondents:* 378,784.

By direction of the Secretary:

**Kathleen M. Manwell,**

*VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2015–18162 Filed 7–23–15; 8:45 am]

BILLING CODE 8320–01–P

# FEDERAL REGISTER

Vol. 80 Friday,

No. 142 July 24, 2015


Part II

## Department of Transportation

Federal Aviation Administration

Final Order 1050.1F Environmental Impact: Policies and Procedures; Notice

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[FAA–2013–0685]**

### Final Order 1050.1F Environmental Impact: Policies and Procedures

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

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) has revised its procedures for implementing the National Environmental Policy Act (NEPA) by issuing Order 1050.1F, *Environmental Impacts: Policies and Procedures.* Order 1050.1F cancels Order 1050.1E, *Environmental Impacts: Policies and Procedures.* The revisions in Order 1050.1F include reorganization of the Order to make it easier to use, clarification of requirements, additions to the list of Categorical Exclusions (CATEXs), updating of policies and procedures to be consistent with recent guidance, addition of provisions for emergency actions, and updating of terminology to incorporate the Next Generation Air Transportation System (NextGen). The FAA issued a notice and request for comment in the **Federal Register** on August 14, 2013 (78 FR 49596). All comments received were considered in the issuance of the final Order. This notice summarizes the changes made to Order 1050.1E and includes responses to substantive comments received.

**DATES:** Order 1050.1F is effective July 16, 2015.

**SUPPLEMENTARY INFORMATION:** NEPA and the implementing regulations promulgated by the Council on Environmental Quality (CEQ) (40 Code of Federal Regulations [CFR] parts 1500–1508) establish a broad national policy to protect the quality of the human environment and provide policies and goals to ensure that environmental considerations and associated public concerns are given careful attention and appropriate weight in all decisions of the Federal government. Section 102(2) of NEPA and 40 CFR 1505.1 and 1507.3 require Federal agencies to develop and, as needed, revise implementing procedures consistent with the CEQ Regulations.

The FAA's previous NEPA Order, Order 1050.1E, *Environmental Impacts: Policies and Procedures,* provided the FAA's policy and procedures for compliance with (a) the CEQ Regulations for implementing the procedural provisions of NEPA; (b) Department of Transportation (DOT) Order 5610.1C, *Procedures for Considering Environmental Impacts,* and (c) other applicable environmental laws, regulations, Executive Orders, and policies. The FAA proposed to replace Order 1050.1E with Order 1050.1F and incorporate certain changes based on notice and request for comment published in the **Federal Register** (78 FR 49596, August 14, 2013). All comments received were considered in the issuance of the final Order 1050.1F.

This notice provides a synopsis of the changes adopted including those additional changes resulting from comments received. The Order is distributed throughout the FAA by electronic means only. The Order is available for viewing and downloading by all interested persons at *http://www.faa.gov/about/office_org/headquarters_offices/apl/environ_policy_guidance/policy/draft_faa_order/.* If the public is not able to use an electronic version, they may obtain a photocopy of the Order, for a fee to cover the cost of reproducing copies, by contacting the FAA's rulemaking docket at the FAA Office of the Chief Counsel, Attn: Rules Docket (AGC–200)—Docket No. FAA–2013–0685, 800 Independence Avenue SW., Washington, DC 20591.

In November 2014, DOT issued guidance on implementing Section 1319 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), 42 U.S.C. 4332a. The guidance, which applies to all DOT components, including the FAA, is available at *http://www.dot.gov/sites/dot.gov/files/docs/MAP-21_1319_Final_Guidance.pdf.* Section 1319(a) of MAP–21, which relates to the use of errata sheets for environmental impact statements and largely mirrors the CEQ regulations on that topic (see 40 CFR 1503.4(c)), was already reflected in the draft Order 1050.1F published for public comment. The FAA has made minor changes to the final Order 1050.1F to ensure it is not in conflict with Section 1319(b) of MAP–21, which requires DOT, to the maximum extent practicable, to expeditiously develop a single document that consists of a final Environmental Impact Statement (EIS) and a Record of Decision (ROD), unless certain conditions exist. The FAA will be issuing additional guidance on implementing Section 1319(b) of MAP–21 and will update Order 1050.1F as appropriate to reflect that guidance. In the meantime, the FAA will comply with Section 1319(b) to the extent applicable.

*Synopsis of Changes From Order 1050.1E:* The final Order 1050.1F incorporates all changes proposed in 78 FR 49596. Additional changes and clarifications were added to the final Order in response to comments received as a result of the **Federal Register** notice and deliberative discussions with the Office of the Secretary of Transportation, CEQ, and internal elements of the FAA. References throughout the Preamble refer to paragraph references for Order 1050.1F unless otherwise noted. These changes include:

The information contained in Appendix A of FAA Order 1050.1E, *Analysis of Environmental Impact Categories,* has been moved to the 1050.1F Desk Reference. This was done to allow for updates to the 1050.1F Desk Reference, as needed. Any FAA-specific analysis, modeling, and documentation requirements that were contained in Appendix A of FAA Order 1050.1E have been moved to Appendix B of FAA Order 1050.1F, *Federal Aviation Administration Requirements for Assessing Impacts Related to Noise and Noise-Compatible Land Use and Section 4(f) of the Department of Transportation Act (49 U.S.C. 303).*

The Order has been restructured to reduce redundancies and improve clarity. Order 1050.1F is divided into eleven chapters as opposed to the five chapters of 1050.1E. The numbering and structure are changed to more closely follow FAA Order 1320.1, *FAA Directives Management.* In addition, systematic editorial changes have been applied to ensure 1050.1F is consistent with the FAA's plain language guidelines as established in FAA Order 1000.36, *FAA Writing Standards* (*e.g.,* changes use of the term ''shall'' to ''should'' or ''must,'' as appropriate).

The language referring to the applicability of the Order and CEQ Regulations to FAA actions has been modified for clarity to state ''[t]he provisions of this Order and the CEQ Regulations apply to actions directly undertaken by the FAA and to actions undertaken by a non-Federal entity where the FAA has authority to condition a permit, license, or other approval.'' This change has been made throughout the Order, where applicable.

The FAA's policy statement (see Paragraph 1–8) has been updated to include the FAA's goals of ensuring timely, effective, and efficient environmental reviews and includes a discussion of NextGen. The policy reflects established expedited environmental review procedures and processes including the legislative provisions in the *FAA Modernization and Reform Act of 2012, Public Law 112–95 (''FAA Reauthorization of 2012'' or ''the Act'')* to expedite the

environmental review process for certain air traffic procedures.

The titles and roles of FAA Lines of Businesses and Staff Offices (LOB/SOs) have been updated to reflect changes to the FAA's organizational structure and responsibilities since publication of FAA Order 1050.1E (see Paragraph 2–2.1.b). These revisions include: Removing Aviation Policy, Planning, and Environment (AEP) and International Aviation (AIP), since these divisions have been combined to form a new office known as Policy, International Affairs and Environment (APL); revising Office of Financial Services (ABA) to Office of Finance and Management (AFN), revising Regulation and Certification (AVR) to Aviation Safety (AVS); revising the text to reflect that the Office of Corporate Learning and Development is now located under Human Resource Management (AHR); and adding the staff office NextGen (ANG).

The Order breaks out the roles and responsibilities of the FAA (see Paragraph 2–2.1), applicants (see Paragraph 2–2.2), and contractors (see Paragraph 2–2.3) into separate paragraphs for easy reference and transparency.

A paragraph on the roles and responsibilities under the State Block Grant Program has been added to the Order (see Paragraph 2–2.1.e). This language is also currently located in the Office of Airports NEPA procedures in FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Projects,* but has been added to Order 1050.1F as it involves multiple FAA Lines of Businesses LOBs.

The similarities and differences between Environmental Assessments (EAs) and EISs are clarified throughout Order 1050.1F. The terminology ''EIS or EA'' has been replaced with ''NEPA documentation'' when guidance would apply to either type of document to help clarify Paragraph 206a of Order 1050.1E, which states that requirements that apply to EISs may also be used for the preparation of EAs. Alternatively, when guidance is specific to an EA or to an EIS, but not to both, the appropriate type of document is stated.

A discussion of Environmental Management Systems (EMS) has been added to highlight the importance of EMS and the potential benefit of aligning NEPA with the elements of EMS (see Paragraph 2–3.3).

The discussion on mitigation has been reorganized and updated to be consistent with CEQ's guidance on *Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact,* 76 FR 3843 (January 21, 2011) (see Paragraphs 2–3.6, 4–4, 6–2.3, and 7–1.1.h). The proposed changes also clarify which projects may warrant environmental monitoring and the type and extent of such monitoring.

The list of actions normally requiring an EA has been modified to reflect the FAA's experience.

Actions newly identified as normally requiring an EA are:

Paragraph 3–1.2.b(13): Establishment or modification of an Instrument Flight Rules Military Training Route (IR MTR); and

Paragraph 3–1.2.b(16): Formal and informal runway use programs that may significantly increase noise over noise sensitive areas.

Actions normally requiring an EA that have been amended include:

Paragraph 3–1.2.b(2) modifies the language of 401b of 1050.1E to include all types of certificates for aircraft types for which environmental regulations have not been issued, and new amended engine types for which emission regulations have not been issued where an environmental analysis has not been prepared in connection with a regulatory action.

Paragraph 3–1.2.b(10), formerly 401k of Order 1050.1E, was changed to limit the typical EA to new commercial service airport locations that would not be located in a Metropolitan Statistical Area (MSA). In addition, the description of a new runway was limited by stating that the new runway is at an existing airport that is not located in an MSA. Major runway extension projects were removed from this list and added to the list of actions that typically require an EIS. This is because the definition of major runway extension includes runway extensions that cause a significant adverse environmental impact.

Paragraph 3–1.2.b(11) changes Paragraph 401l of Order 1050.1E to provide more clarity when the issuance of operations specifications normally requires an EA; specifically, any approval of operations specifications that may significantly change the character of the operational environment when authorizing passenger or cargo service, or authorizing an operator to serve an airport with different aircraft when that service may significantly increase noise, air, or other environmental impacts, normally requires an EA.

Paragraph 3–1.2.b(12) combines Paragraphs 401m and 401n from Order 1050.1E and includes a caveat that certain procedures may be categorically excluded under new legislative CATEXs in the *FAA Reauthorization of 2012.*

Paragraph 3–1.2.b(14) modifies Paragraph 401p of Order 1050.1E to remove the four requirements for the notice of proposed rulemaking for Special Use Airspace (SUA) projects since these criteria are not based on environmental impacts, but on the process for establishing a SUA. The new paragraph describes SUA actions as normally requiring an EA (unless otherwise explicitly listed as an advisory action (see Paragraph 2–1.2.b, Advisory Actions) or categorically excluded (see Paragraph 5–6, the FAA's List of Approved Categorical Exclusions)).

Paragraph 3–1.2.b(15) modifies Paragraph 401c of Order 1050.1E to clarify the type of commercial space launch actions that normally require an EA. The proposed paragraph states issuance of any of the following requires an EA: (a) A commercial space launch site operator license for operation of a launch site at an existing facility on disturbed ground where little to no infrastructure would be constructed (*e.g.,* co-located with a Federal range or municipal airport); or (b) A commercial space launch license, reentry license, or experimental permit to operate a vehicle to/from an existing site.

The Order has added the following examples of actions normally requiring an EIS (see Paragraph 3–1.3.b):

(1) Unconditional Airport Layout Plan (ALP) approval of, or federal financial participation in, the following categories of airport actions:

(a) Location of a new commercial service airport in an MSA;

(b) A new runway to accommodate air carrier aircraft at a commercial service airport in an MSA; and

(c) Major runway extension

(2) Issuance of a commercial space launch site operator license, launch license, or experimental permit to support activities requiring the construction of a new commercial space launch site on undeveloped land.

The Order expands the discussion of programmatic NEPA documents and tiering to provide more guidance on the use of programmatic NEPA documents (see Paragraph 3–2). The discussion is consistent with CEQ's guidance on *Effective Use of Programmatic NEPA Reviews (December 18, 2014) at http://www.whitehouse.gov/sites/default/files/docs/effective_use_of_programmatic_nepa_reviews_final_dec2014_searchable.pdf.*

A statement was added to the Order that FAA LOB/SOs will, whenever possible, use the FAA NEPA Database to track projects and make final documents

available to others in the FAA (see Paragraph 3–3).

A new chapter was added to describe environmental impact categories, significance thresholds, and factors to consider in determining the significance of environmental impacts (see Chapter 4). The environmental impact categories were originally contained in Appendix A of Order 1050.1E. There are some additions and modifications to the list of environmental impact categories. Climate has been added to the list of impact categories to be considered in the FAA's NEPA documents. Climate was previously addressed in FAA Order 1050.1E Guidance Memo #3, *Considering Greenhouse Gases and Climate under the National Environmental Policy Act (NEPA): Interim Guidance.* Noise and noise-compatible land use have been combined into a single environmental impact category to provide better context and clarity. The remaining land use topics are discussed as a separate category. Fish, Wildlife, and Plants has been renamed Biological Resources. Light Emissions and Visual Impacts has been renamed Visual Effects. Water Resource impacts have been combined to include water quality, wetlands, floodplains, surface waters, groundwater, and wild and scenic rivers. Construction and secondary impacts have been removed as separate categories and instead are to be analyzed within each applicable environmental impact category. Further guidance on environmental impact category analysis is contained within the 1050.1F Desk Reference.

A table has been provided, Exhibit 4–1, that summarizes the significance thresholds that were formerly described under individual environmental impact categories in Appendix A of FAA Order 1050.1E. This table also includes factors to consider in making determinations of significant impacts. These factors to consider are not exhaustive. There may also be other factors that should be evaluated when making a determination of significance. There are three modifications to the significance thresholds found in Appendix A of Order 1050.1E: (1) Air Quality threshold includes ''or to increase the frequency or severity of any such existing violations'' to help clarify that increase in the frequency or severity of any existing violations would also be considered a trigger; (2) Surface Waters now includes ''contaminate a public drinking water supply such that public health may be adversely affected'' as a threshold, and (3) Groundwater includes ''contaminate an aquifer used for public water supply such that public health may be adversely affected'' as a threshold. (See Exhibit 4–1, Significance Determination for FAA Actions).

The list of extraordinary circumstances for CATEXs (see Paragraph 5–2.b) has been modified. National marine sanctuaries and wilderness areas have been added to the list of resources that must be considered in evaluating actions for extraordinary circumstances that would preclude the use of a CATEX for a proposed action. The Order makes other text revisions, including modifying (1) the description of wild and scenic rivers to be consistent with CEQ's memorandum *Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory* (August 10, 1980); and (2) the description of hazardous materials to specify projects likely to cause environmental contamination by hazardous materials, or likely to disturb an existing hazardous material contamination site such that new environmental contamination risks are created.

The FAA's guidance regarding CATEX documentation has been updated to be consistent with CEQ's 2010 Guidance on *Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act,* 75 FR 75628 (December 6, 2010) (hereafter referred to as ''CEQ's CATEX Guidance'') (see Paragraph 5–3). These updates include: Clarifying when and what level of documentation is needed in the application of a CATEX and explaining what to include in CATEX documentation.

A new paragraph has been added to the Order providing information on combining a decision document with a CATEX (CATEX/ROD) (see Paragraph 5–3.e). CATEX/RODs are not commonly used, but may be advisable in certain circumstances.

Guidance on public notification of CATEXs has been added, consistent with CEQ's CATEX Guidance (see Paragraph 5–4).

New CATEXs have been added to the Order for actions which the FAA has determined do not have the potential to significantly affect the environment individually or cumulatively, absent extraordinary circumstances. The following CATEXs have been added:

Paragraph 5–6.3.i adds a CATEX for the unconditional approval of an ALP, Federal financial assistance, or FAA projects for the installation of solar or wind powered energy, provided the installation does not involve more than three total acres and would not have the potential to cause significant impacts on bird or bat populations.

Paragraph 5–6.4.bb adds a CATEX for an unconditional ALP approval or Federal financial assistance for actions related to a purchase of land for a runway protection zone (RPZ) or other aeronautical purpose, provided there is no land disturbance.

Paragraph 5–6.4.cc adds a CATEX for an unconditional ALP approval or Federal financial assistance to permanently close a runway and use it as a taxiway at small, low activity airports provided any changes to lights or pavement would be on previously developed airport land.

Paragraph 5–6.4.dd adds a CATEX for FAA construction, reconstruction or relocation of a non-Radar, Level 1 air traffic control tower at an existing visual flight rule (VFR) airport, or FAA unconditional approval of an ALP and/or Federal funding provided the action would occur on a previously disturbed area of the airport and not: (1) Cause an increase in the number of aircraft operations, a change in the time of aircraft operations, or a change in the type of aircraft operating at the airport; (2) cause a significant noise increase in noise sensitive areas; or (3) cause significant air quality impacts.

Paragraph 5–6.4.ee adds a CATEX for environmental investigation of hazardous waste or hazardous substance contamination on previously developed land provided the work plan or Sampling and Analysis Plan (SAP) for the project integrates current industry best practices and addresses, as applicable, surface restoration, well and soil boring decommissioning, and the collection, storage, handling, transportation, minimization, and disposal of investigation derived wastes and other Federal or state regulated wastes generated by the investigation. The work plan or SAP must be coordinated with and, if required, approved by the appropriate or relevant governmental agency or agencies prior to commencement of work.

Paragraph 5–6.4.ff adds a CATEX for remediation of hazardous wastes or hazardous substances impacting approximately one acre in aggregate surface area provided remedial or corrective actions must be performed in accordance with an approved work plan (*i.e.,* remedial action plan, corrective action plan, or similar document) that documents applicable current industry best practices and addresses, as applicable, permitting requirements, surface restoration, well and soil boring decommissioning, and the minimization, collection, any necessary associated on-site treatment, storage, handling, transportation, and disposal of Federal or state regulated wastes. The

work plan must be coordinated with, and if required, approved by, the appropriate governmental agency or agencies prior to the commencement of work. As a matter of policy, actions under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and corrective actions under the Resource Conservation and Recovery Act (RCRA) generally do not require separate analysis under NEPA or the preparation of a NEPA document. The FAA will rely on CERCLA processes for environmental review of actions to be taken under CERCLA, and will address NEPA values to the extent practicable. As a matter of law, there is a statutory conflict between NEPA and CERCLA; NEPA, therefore, does not apply to CERCLA cleanup actions. The FAA may rely on the CERCLA process for RCRA corrective action if the action is to be taken under a compliance agreement for an FAA site on the CERCLA National Priorities List that integrates the requirements of RCRA and CERCLA to such an extent that the requirements are largely inseparable in a practical sense.

Paragraph 5–6.5.f adds a CATEX for actions to increase the altitude of SUA.

In addition, two legislative CATEXs, provided in Section 213(c) of the *FAA Reauthorization of 2012,* are added (see Paragraphs 5–6.5.q and 5–6.5.r). One allows for a CATEX for Area Navigation/Required Navigation Performance (RNP) procedures proposed for core airports and any medium or small hub airports located within the same metroplex area that are identified by the Administrator, and for RNP procedures proposed at 35 non-core airports selected by the Administrator, subject to extraordinary circumstances. The second provides a CATEX for any navigation performance or other performance based navigation procedure (PBN) developed, certified, published, or implemented that, in the determination of the Administrator, would result in measurable reductions in fuel consumption, carbon dioxide emissions, and noise on a per flight basis as compared to aircraft operations that follow existing instrument flight rules procedures in the same airspace irrespective of the altitude.

Four CATEXs have been substantially modified:

Paragraph 5–6.4.e (formerly Paragraph 310e of Order 1050.1E), is modified to include widening of a taxiway, apron, loading ramp, or runway safety area (RSA) including an RSA using Engineered Material Arresting System (EMAS), or widening of an existing runway.

Paragraph 5–6.4.i (formerly Paragraph 310i of Order 1050.1E) is modified to allow for financial assistance for or unconditional approval of an ALP for the demolition or removal of non-FAA owned buildings and structures on airports except those of historic, archeological, or architectural significance as officially designated by Federal, state, tribal or local governments. This CATEX also adds the expansion of a facility or structure where no hazardous substance contamination or contaminated equipment is present on the site.

Paragraph 5–6.4.u (formerly Paragraph 310u in Order 1050.1E) is expanded to include unconditional approval of an ALP for the installation, repair, or replacement of on-airport aboveground storage tanks or underground storage tanks. The CATEX further clarifies that the closure and removal applies to the fuel storage tank, and remediation applies to the contaminants resulting from the use of the fuel storage tank. It also clarifies that distribution systems are not within the scope of the CATEX.

Paragraph 5–6.5.l (formerly Paragraph 311l in Order 1050.1E) is modified to allow for Federal financial assistance, unconditional ALP approval, or other FAA action to establish a displaced threshold on an existing runway. It further states that removal or establishment of a displaced threshold is allowed within the scope of the CATEX provided the action does not require establishing or relocating an approach light system that is not on airport property or an instrument landing system.

Several CATEXs have been slightly modified as follows:

Paragraph 5–6.2.c (formerly Paragraph 308c in Order 1050.1E) is modified to include operating certificates. This is a clarification since these certificates are similar to the other types of certificates already contained in Paragraph 308c of Order 1050.1E.

Paragraph 5–6.2.d (formerly Paragraph 308d in Order 1050.1E) has been modified to clarify that [these types of actions] do not have the potential to cause significant impacts.

Paragraph 5–6.3.h (formerly Paragraph 309h in Order 1050.1E) is revised for clarity. The terminology ''launch facility'' is changed to ''commercial space launch site.'' The FAA regulations at 14 CFR part 107, *Airport Security,* have been withdrawn and no longer apply. Therefore, reference to this regulatory provision has been removed.

Paragraph 5–6.4.f (formerly Paragraph 310f in Order 1050.1E) is modified to include hangers and t-hangers. Hangers and t-hangers are included in this CATEX so long as a review of extraordinary circumstances demonstrates that any increase in aircraft does not contribute to significant noise increases in noise sensitive areas or significant air impacts.

Paragraph 5–6.4.h (formerly Paragraph 310h in Order 1050.1E) has been clarified to include non-aeronautical uses at existing airports or commercial space launch sites.

Paragraph 5–6.5.b (formerly Paragraph 311b in Order 1050.1E) adds clarification that this CATEX for procedural actions applies to establishment of jet routes as they are one type of Federal airway.

Paragraph 5–6.5.c (formerly Paragraph 311c in Order 1050.1E) adds the example ''reduction in times of use (*e.g.,* from continuous to intermittent, or use by a Notice to Airmen (NOTAM))'' to the list of ''such as'' actions. This clarifies that actions to return all or part of SUA to the National Airspace System (NAS) include reduction in times of use.

Paragraph 5–6.5.g (formerly Paragraph 311g in Order 1050.1E) is slightly modified to include RNP. It also specifies that a Noise Screening Tool or other FAA-approved environmental screening methodology should be used.

Paragraph 5–6.5.h (formerly Paragraph 311h in Order 1050.1E) is slightly modified to include ''modification'' of helicopter routes to clarify that establishment of helicopter routes also includes modification of these routes as long as they channel helicopter activity over major thoroughfares. The FAA has also added ''would not have the potential to significantly increase noise over noise sensitive areas'' to highlight significant increase in noise as a specific extraordinary circumstance to be aware of when applying this CATEX.

Paragraph 5–6.5.i (formerly Paragraph 311i in Order 1050.1E) updates reference to a Noise Screening Tool or other FAA-approved environmental screening methodology.

Paragraph 5–6.6.b is modified to provide clarity that the CATEX applies to an aerobatic practice area containing one aerobatic practice box in accordance with 1050.1E Guidance Memo #5, *Clarification of FAA Order 1050.1 CATEX 312b for Aerobatic Actions.*

The discussion of EA format and process has been revised to simplify the explanation of each element and clarify that an EA should be concise and focused and generally should not be as detailed as an EIS (see Paragraphs 6–2.1 and 6–2.2). As this discussion has been reduced in detail, there are cross-

references to the corresponding EIS sections for EAs that may need to be more substantial.

The language required to be included in notices soliciting public comment on draft EAs and draft EISs has been revised, stating that personal information provided by commenters (*e.g.,* addresses, phone numbers, and email addresses) may be made publicly available (see Paragraphs 6–2.2.g and 7–1.2.d(1)(a)).

The Order adds two paragraphs on the use of errata sheets when the modifications to a draft EA or draft EIS are minor and confined to factual corrections or explanations of why the comments do not warrant additional agency response (see Paragraphs 6–2.2.i and 7–1.2.f).

A new paragraph has been added to explain the conditions under which the FAA may choose to terminate preparation of an EIS and to clarify what steps the FAA should take when this situation occurs (see Paragraph 7–1.3).

The timing of a decision on a proposed action for which an EIS is prepared has been revised slightly to allow for the joint issuance of a Final EIS and ROD pursuant to Section 1319(b) of Map–21 (see Paragraph 7–1.2.j).

The requirements relating to review of other agencies' NEPA documents and FAA's adoption of other agencies' NEPA documents have been clarified (see Paragraphs 8–1 and 8–2). Please note the discussion of recirculation requirements for EISs to highlight that there are some circumstances in which adopted documents must be recirculated (see Paragraph 8–2.e).

A discussion of FAA policy with respect to consideration of transboundary impacts resulting from FAA actions has been added (see Paragraph 8–5). This was added to differentiate analysis of impacts to other countries versus FAA actions that occur in other countries. This is not intended to create a requirement to discuss global climate change impacts from FAA actions.

The discussion of international actions has been modified to be consistent with DOT Order 5610.1, including guidance on coordination within the FAA/DOT and U.S. State Department when communication with foreign governments is needed (see Paragraph 8–6).

The alternative process to consider environmental impacts before taking actions necessary to protect the lives and safety of the public in emergency circumstances has been amended. Alternative arrangements are limited to actions necessary to control the immediate impacts of an emergency. Order 1050.1F expands this paragraph to provide for emergency procedures when a CATEX or EA would be the appropriate level of NEPA review (see Paragraph 8–7).

Provisions relating to written re-evaluations have been modified and clarified. The FAA has added language requiring a written re-evaluation before further FAA approval may be granted for an action if, after the FAA has approved an EA or EIS for the action, there are changes to the action, or new circumstances or information, that could trigger the need for a supplemental EA or EIS, or all or part of the action is postponed beyond the time period analyzed in the EA or EIS. The FAA added a statement to explain that written re-evaluations may be prepared in other circumstances and added a discussion of combining decision documents with written re-evaluations (*i.e.,* a ''Written Re-evaluation/ROD'') (see Paragraph 9–2).

The section on Supplemental Environmental Impact Statements was modified to incorporate Section 1319(b) of Map–21 (see Paragraph 9–3).

The provisions relating to review, approval, and signature authority for FAA NEPA documents have been consolidated (see Chapter 10).

Paragraph 11–2 clarifies the authority of various parties and is consistent with other FAA Orders (see Paragraph 11–2).

Provisions relating to explanatory guidance have been amended to show a two-step process for coordination and review with the FAA's Office of Environment and Energy (AEE) and Office of Chief Counsel (AGC) (see Paragraph 11–4).

The definitions paragraph has been modified to add ''extraordinary circumstances,'' ''NEPA lead,'' ''special purpose laws and requirements,'' and ''traditional cultural properties.'' ''Environmental Due Diligence Audit'' has been deleted because this term is no longer used in FAA Order 1050.1F. Definitions of ''environmental studies,'' ''approving official,'' and ''decisionmaker'' are revised to reflect current practice. The definition of ''human environment'' was modified to more closely align with the CEQ Regulations. The term ''launch facility'' is changed to ''commercial space launch site'' to be consistent with 14 CFR part 420. The definition of ''noise sensitive area'' is revised to include a reference to Table 1 of 14 CFR part 150 rather than Appendix A of FAA Order 1050.1E, to provide context in light of the removal of Appendix A from Order 1050.1F. ''Major Federal action'' was added to the list of definitions as a cross reference to the CEQ Regulations (See Paragraph 11–5.b).

**Disposition of Comments**

The FAA appreciates the thoughtful responses to its request for comments on the draft Order 1050.1F, *Environmental Impacts: Policies and Procedures*. The FAA received more than 800 comments. Commenters included private citizens, elected officials, corporations, trade associations, and Federal and state agencies. Those comments that raised policy or substantive concerns within the scope of the order have been grouped thematically, summarized, and addressed in this Notice. The term ''comment'' used in this Notice refers to each individual issue raised by a commenter, thus, numerous comments may have been identified within the correspondence submitted by a commenter. The comments that address similar themes or issues, even if submitted by different commenters, have been combined for response where possible. References to specific paragraphs in this Preamble refer to the revised paragraph and subparagraph numbering of the final Order. Due to the number of comments received on helicopters and the two legislative CATEXs, these comments are addressed after the general Order 1050.1F comments.

**I. General Order 1050.1F Comments**

*Several commenters were concerned that changes in Order 1050.1F would relax requirements for environmental review or public involvement including concerns that the Order exempts the FAA from further environmental studies and the Order evades community and general stakeholder input.*

FAA Order 1050.1F provides the FAA's policies and procedures for compliance with NEPA. Under NEPA, Federal agencies must disclose significant impacts of their actions to the public. Order 1050.1F has not relaxed any standards and is consistent with NEPA and the CEQ Regulations. Actions that cause significant impacts will require preparation of an EIS and compliance with the associated public involvement requirements before being implemented.

**Chapter 1: General**

*Paragraph 1–6. Related Publications*

*One commenter was concerned with potential conflicts between Order 1050.1F and other FAA environmental guidance documents and Orders (i.e., the Office of Airport's Order 5050.4B and the accompanying Environmental Desk Reference for Airport Actions).*

AEE developed Order 1050.1F and its accompanying 1050.1F Desk Reference in a workgroup with all LOB/SOs, including the FAA's Office of Airports, to ensure that any modifications are consistent throughout the agency. As specified in Paragraph 11–4, Order 1050.1F supersedes any inconsistent explanatory guidance and FAA LOB/SOs must update any current explanatory guidance to be consistent with Order 1050.1F. If any conflicts exist, Order 1050.1F would take precedence until other explanatory guidance is revised.

The Office of Airports will be updating Order 5050.4B and the *Environmental Desk Reference for Airport Actions* to provide guidance on airport specific projects consistent with Order 1050.1F. The *Environmental Desk Reference for Airport Actions* will not be discontinued because it contains specific information that is relevant to airport projects that is not contained in 1050.1F Desk Reference.

*Several commenters requested that the 1050.1F Desk Reference be made available to the public for comment and stated that they could not provide adequate comments on the Order until the Desk Reference was made available for comment.*

The FAA recognizes the public's interest in reviewing and providing comments on the 1050.1F Desk Reference. The 1050.1F Desk Reference is guidance material intended to assist FAA employees with NEPA implementation. Although the Order refers the reader to the 1050.1F Desk Reference in numerous places, this is to identify where additional guidance is available regarding significant impact determinations, information on FAA-approved models, and compliance with other environmental laws, regulations and requirements so that the NEPA practitioner can more easily prepare an adequate analysis under NEPA for each environmental impact category.

The FAA undertook a careful review of Appendix A from Order 1050.1E when determining the content that could reasonably and appropriately be placed in the desk reference. Any requirements of the FAA's NEPA procedures that were contained in Appendix A of Order 1050.1E and that do not originate from an independent law, regulation, executive order, or other directive external to the FAA, such as requirements associated with noise analysis, have been retained in the main body of or appendices to Order 1050.1F. Content that has been removed from the Order and placed in the desk reference is limited to explanatory or technical guidance intended to assist FAA employees with implementation of NEPA and other environmental laws, regulations and requirements. As such, there are no FAA NEPA review requirements that are solely located in the desk reference, and as a result, the FAA has provided interested members of the public an opportunity to make meaningful comment on the FAA's NEPA policies and procedures as embodied in Order 1050.1F. Although the FAA is not providing a formal comment period on the 1050.1F Desk Reference, the users of the 1050.1F Desk Reference can submit comments on it through the FAA Web site at *http://www.faa.gov/about/office_org/headquarters_offices/apl/environ_policy_guidance/policy/draft_faa_order/*. These comments will be reviewed and incorporated into the 1050.1F Desk Reference on an ongoing basis, as needed.

*One commenter stated that the Administrative Procedure Act (APA) and the FAA Policy on Public Involvement require that the FAA make the 1050.1F Desk Reference available to the public under notice and comment procedures.*

The APA's requirements regarding notice and comment for agency rulemaking are not applicable to the Order 1050.1F Desk Reference. Content that has been placed in the Order 1050.1F desk reference is limited to explanatory or technical guidance intended to assist FAA employees with NEPA implementation, and does not contain any requirements or obligations that are not otherwise contained in Order 1050.1F or other statutes, regulations, or directives. As a result, the comment period provided for Order 1050.1F was adequate, as concurrent review of the Order 1050.1F desk reference was not necessary to facilitate review of the Order.

The APA does not require that guidance documents be publicly available under notice and comment procedures. The 1050.1F Desk Reference is a guidance document that provides information to NEPA practitioners on how to comply with environmental regulations, Orders, and requirements in the NEPA setting.

The FAA is unaware of an ''FAA Policy on Public Involvement'' and can only assume that the commenter is referring to the *Community Involvement Policy Statement* (April 17, 1995). This policy statement was issued almost 20 years ago, but is still valid. The FAA regards community involvement as an essential element in the development of programs and decisions that affect the public. The 1050.1F Desk Reference is available to the public. However, it will not undergo a formal review and comment period since it is a guidance document that may need to be updated as other environmental laws and regulations are amended. Individuals may submit comments on the Desk Reference through the FAA Web site at: *http://www.faa.gov/about/office_org/headquarters_offices/apl/environ_policy_guidance/policy/draft_faa_order/*. All comments will be considered on an ongoing basis for future editions of the 1050.1F Desk Reference.

*Two commenters expressed concern that the 1050.1F Desk Reference will not be updated as stated, citing the fact that the Office of Airports made their Environmental Desk Reference for Airport Actions separate from their Order 5050.4B in 2006 for the same reasons and it has never been updated.*

The FAA understands the concerns of the commenter. To help improve the efficiency and ease of updating the 1050.1F Desk Reference, the Office of Environment and Energy has implemented a process for receiving comments on the 1050.1F Desk Reference and will review and update the 1050.1F Desk Reference on a regular basis to address any concerns and changes that are needed. The length of time between updates to the 1050.1F Desk Reference will be dictated by any changes to special purpose laws, regulations, or other requirements and/or applicable guidance and the content of comments received on the 1050.1F Desk Reference.

*One commenter stated that by removing the information within Appendix A to a Desk Reference, this could limit the ability to cite to this material appropriately in NEPA documents. The commenter encouraged the FAA to note what authority to cite in NEPA documents.*

The 1050.1F Desk Reference provides guidance to FAA personnel on how to prepare a NEPA document. The FAA encourages preparers of documents to reference the appropriate underlying statutes, regulations, or other authorities for the analytical and disclosure requirements that are described in the 1050.1F Desk Reference. The 1050.1F Desk Reference provides additional guidance on the appropriate situations and manner for citing the 1050.1F Desk Reference. It is important to note that if there is an underlying statutory, regulatory, or other requirement, the underlying authority should be cited instead of the 1050.1F Desk Reference.

*One commenter stated that not allowing public review of the 1050.1F Desk Reference is not proper policy because this information contains FAA requirements concerning noise and thus*

*should be available to the public for review.*

Appendix B of Order 1050.1F is comprised of excerpts from the 1050.1F Desk Reference that contain FAA-specific requirements on noise analysis. Appendix B was made available to the public during the public comment review period of this Order. When developing the public draft of Order 1050.1F, the FAA carefully reviewed not only the noise chapter, but also the Section 4(f) chapter of the 1050.1F Desk Reference to ensure that any FAA-specific requirements that are not already based on other special purpose laws are contained within Appendix B of draft Order 1050.1F, and thus made available for public review and comment.

*One commenter stated to the extent that FAA places new, substantive requirements in the 1050.1F Desk Reference that otherwise would trigger full notice and comment procedures, the 1050.1F Desk Reference should be subjected to such review.*

Although the 1050.1F Desk Reference does contain substantive requirements, the majority of these requirements are based on authorities outside of the FAA (*i.e.,* the Clean Air Act, the Clean Water Act, National Historic Preservation Act, etc.). It is not appropriate to solicit notice and comment on these authorities. To the extent that there are FAA-specific requirements within the 1050.1F Desk Reference, these have been placed within Appendix B of Order 1050.1F. These include FAA-specific requirements for noise and Section 4(f). Appendix B was published as part of the draft Order 1050.1F to allow for public review and comment.

*Two commenters were concerned that important information that was previously contained in Order 1050.1E has been left out of this Order and without review of the 1050.1F Desk Reference they could not provide meaningful comments. One commenter stated, as an example, Chapter 4 seems to leave out light emissions, cumulative impacts, construction, and secondary (induced) impacts.*

Throughout the updates to Order 1050.1, the FAA has carefully reviewed this Order to ensure that information contained in Order 1050.1E has been included in either Order 1050.1F and/or the 1050.1F Desk Reference, as appropriate.

As stated in Paragraph 1–10.13, the FAA has made several changes to the environmental impact categories. One of which was combining light emissions with the chapter on visual impacts. The FAA has changed the title of visual effects in the draft Order 1050.1F to ''visual effects (including light emissions)'' in this final version of Order 1050.1F, to ensure clarity that light emissions is included within the visual impacts.

As Paragraph 1–10.13 also stated, the FAA has eliminated construction and secondary impacts as separate environmental impact categories and these are now discussed within each relevant environmental impact category. To address this comment, the FAA has added a statement to Paragraph 4–1 to highlight this.

Cumulative impacts is not considered a specific environmental impact category, which is why it is not listed in Paragraph 4–1; however, there is a chapter devoted to cumulative impacts in the 1050.1F Desk Reference.

*One commenter requested that the 1050.1F Desk Reference contain specific examples of air traffic actions since the current Desk Reference, Environmental Desk Reference for Airport Actions, focuses on airport actions.*

The *Environmental Desk Reference for Airport Actions* referred to by the commenter was prepared by and for the Office of Airports and therefore is appropriately focused on airport actions. The 1050.1F Desk Reference provides guidance for all the FAA LOB/SOs to utilize and is general in nature. Specific examples are included where applicable. The FAA LOB/SOs were encouraged to provide specific examples related to their programs that would be useful to include in the 1050.1F Desk Reference.

*Paragraph 1–8. Federal Aviation Administration Policy*

*One commenter stated that since there was an emphasis on expedited reviews in the policy section, there should be a paragraph in Order 1050.1F on the process for expedited reviews or references to those applicable expedited steps in the policy statement.*

The paragraph referenced by the commenter is the FAA's policy statement for this Order. The policy statement is general in nature and provides an overview of the FAA's policies in NEPA. Specific expedited review processes are generally LOB specific and therefore are not contained within Order 1050.1F.

However, information regarding timely, effective, and efficient environmental reviews has been incorporated throughout the Order where appropriate.

The expedited reviews referred to in the policy statement are not new to the FAA. For instance, the policy statement contained in Order 1050.1E cites the expedited reviews under Title III of Vision 100—Century of Aviation Reauthorization Act, also cited as the Aviation Streamlining Approval Process Act of 2003, 49 United States Code (U.S.C.) 47171–47175.

Since the expedited review processes are for specific FAA LOB actions, the details of these processes are most appropriately listed in the specific LOB's environmental Orders. For example, FAA Order 5050.4B contains specific expedited processes for airport actions and FAA Order 7400.2K contains specific expedited processes for air traffic actions.

*One commenter asked why there was an emphasis on NextGen in Order 1050.1F since this is being addressed in the Air Traffic Organization's (ATO's) NEPA Order.*

NextGen is not just ATO-specific and applies across FAA LOBs. One of the purposes for updating Order 1050.1F was to incorporate NextGen terms and processes to ensure that NextGen actions adhere to the requirements of NEPA. Although Order 7400.2 has been updated, it only addresses ATO-specific NextGen activities.

*One commenter stated that the NextGen EMS text in the policy paragraph seems out of place unless it explains how an EMS can be used in meeting the FAA's NEPA requirements.*

The policy statement in Order 1050.1F highlights the FAA's policies with regard to NEPA compliance and other environmental responsibilities. Since the last revision of FAA Order 1050.1E in 2006, the FAA has begun implementation of NextGen. As a result, NextGen concepts, including NextGen EMS, have been included in the policy statement of FAA Order 1050.1F. The FAA has included the reference to the NextGen EMS in the policy statement because the NextGen EMS is a new approach to improve the integration of environmental performance into the planning, decision-making, and operation of NextGen, which is consistent with the goals of NEPA. More information on how the EMS approach, in general, can be used in the NEPA process is contained in Paragraph 2–3.3.

*One commenter stated that the NextGen EMS is conceived simply as a tool to track the environmental impacts of NextGen deployment to ensure its beneficial impacts will support sustained aviation growth.*

Based on the comment, it seems there is a misunderstanding of the NextGen EMS program. The NextGen EMS provides the framework for improving NextGen's environmental performance by integrating environmental considerations into the planning, decision-making, and operation of

NextGen to achieve environmental protection that allows sustained aviation growth and is not a tool to track environmental impacts of NextGen deployment as the commenter has suggested.

*One commenter questioned how the check and act portion of NextGen EMS is being implemented relative to the airport stakeholders and how does it affect the NEPA process?*

The check and act portion of NextGen EMS does not apply to airport stakeholders or their actions. The NextGen EMS is a strategic application of the EMS approach (Plan-Do-Check-Adapt), and is being used to integrate environmental considerations into FAA decision-making. The check and act portion of NextGen EMS pertains to the FAA's 'check' for progress against the goals articulated in our Environmental and Energy Policy Statement. The FAA plans to use the results of the 'check' to inform and 'adapt' its programs and policies as needed. The NextGen EMS helps to inform the FAA's implementation of NEPA.

In contrast, the Order identifies how EMSs can be integrated within NEPA. For instance, EMS data collection, tracking, and analysis may be useful in the preparation of NEPA documentation, including providing input to the affected environment and assessment of potential impacts (see Paragraph 2–3.3). EMSs can also be useful in tracking and monitoring mitigation commitments (see Paragraph 4–4.d).

Using this approach, an airport EMS could not only provide data useful in the analysis within a NEPA document, but also could be used to help monitor any mitigation commitments that are agreed to in implementing a proposed action. However, the use of an EMS approach in this context is not a NEPA requirement.

*Paragraph 1–9. Applicability and Scope*

*One commenter was concerned about the effective date of the Order and how it would be applied to ongoing activities.*

Order 1050.1F will be effective on the date the final Order is published in the **Federal Register**. Order 1050.1F applies to the extent practicable to ongoing activities and environmental documents that began before the effective date, but only to those that do not require substantial revisions. Additional text has been added to Paragraph 1–9 to emphasize that procedures contained in this Order should not apply to ongoing environmental reviews where substantial revisions to ongoing environmental documents would be required.

**Chapter 2. National Environmental Policy Act Planning and Integration**

*Paragraph 2–1. Applicability of National Environmental Policy Act Procedures to Federal Aviation Administration Actions*

Paragraph 2–1.1. Federal Aviation Administration Actions Subject to National Environmental Policy Act Review

*One commenter asked what Federal actions the FAA would take that it views it does not have ''sufficient control and responsibility to condition a license or approval?''*

This language has been modified to ''authority to condition a permit, license, or approval'' (see Paragraph 1–9). It is well-settled law that the provisions of NEPA apply only to discretionary Federal actions. The language of Paragraph 1–9 of the Order expresses this requirement for Federal discretion and decisional authority within the typical program and project paradigm of FAA actions. This general statement of applicability of the CEQ Regulations and this Order is clarified further through a series of more specific, though not exhaustive, examples of discretionary actions taken routinely by the FAA (see Paragraph 2–1.1).

Neither Paragraph 1–9 nor Paragraph 2–1.1 was intended to definitively identify the complete universe of actions over which the FAA does or does not have authority to condition a permit, license, or approval. The FAA has modified this text to make it clear that these actions are (1) directly undertaken by the FAA; and (2) undertaken by a non-Federal entity where the FAA has authority to condition a permit, license, or approval.

*One commenter requested emphasis on ''major Federal action'' as a requirement triggering NEPA review. The commenter stated that without clarifying that FAA actions subject to NEPA review must constitute ''major Federal action'' and otherwise meet the requirements triggering NEPA review, Paragraph 2–1.1 could be interpreted that the listed actions are subject to NEPA review regardless of whether the statutory triggers have been satisfied.*

The FAA does not interpret ''major Federal action'' as a limitation on the applicability of NEPA to specific Federal actions. The CEQ Regulations at 40 CFR 1508.18 define a major Federal action as ''actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (Section 1508.27).'' Therefore, the FAA has not defined the concept of a ''major Federal action'' as an initial threshold for determining the applicability of NEPA review.

FAA actions are subject to NEPA except as provided in Paragraph 2–1.2 of Order 1050.1F. FAA actions not subject to NEPA include actions that applicable Federal law or congressional mandate expressly prohibits or makes compliance with NEPA impossible, actions excepted by CEQ Regulations, advisory actions, judicial or administrative civil enforcement actions, and actions that are done in furtherance of NEPA (*i.e.,* development and implementation of NEPA documents and Orders).

Paragraph 2–1.2. Federal Aviation Administration Actions Not Subject to National Environmental Policy Act Review

*One commenter stated that NEPA should apply to FAA Determinations of Hazard or No Hazard to Air Navigation, especially when determinations are made for wind farms and cell towers.*

Hazard determinations are advisory actions under 14 CFR part 77, *Safe, Efficient Use, and Preservation of the Navigable Airspace.* As noted by the United States Court of Appeals for the District of Columbia Circuit in *Town of Barnstable, Massachusetts* v. *FAA,* 659 F.3d. 28 (D.C. Cir. 2011), the FAA's determinations under part 77 are not legally binding. Furthermore, the Court noted that the FAA has no authority to countermand an approval of a project that the FAA has reviewed under part 77 or to require changes to such a project in response to environmental concerns. Because the FAA lacks the necessary discretion and control over actions reviewed under part 77, the most basic requirements for the application of NEPA are lacking. Therefore, part 77 determinations are advisory actions and as such, not subject to NEPA. Paragraph 2–1.2 of this Order identifies the FAA's advisory actions, including hazard determinations under part 77.

*One commenter specified that the statement describing administrative actions is not clear and recommended clarifying whether specific air traffic administrative actions (such as air space boundary changes) are included in Paragraph 2–1.2.d. Administrative Actions.*

The statement describing administrative actions states that administrative actions for compliance with NEPA procedures and the promulgation of NEPA Orders are not subject to NEPA. This would include preparation of Order 1050.1F and other

similar Orders that provide requirements and guidance to NEPA practitioners. In addition, it covers contractual arrangements for the preparation of NEPA documents.

Specific air traffic actions that would fall within Paragraph 2–1.2.d include the creation or revision of an air traffic-specific NEPA Order, such as FAA Order 7400.2K. In addition, this would include administrative actions such as hiring a contractor for preparation of a NEPA document.

Air traffic actions, including airspace boundary actions, are subject to NEPA and Order 1050.1F. Some of these actions can be categorically excluded under Paragraph 5–6 of this Order and would not need preparation of an EA or EIS. If these actions are not within the scope of a CATEX, or there is a potential for extraordinary circumstances, an EA or EIS may need to be prepared.

*Paragraph 2–2. Responsibilities*

Paragraph 2–2.1. Responsibilities of the Federal Aviation Administration

Paragraph 2–2.1.a. General FAA Responsibilities

*One commenter stated that special purpose laws should be noted as an FAA responsibility.*

Special purpose laws are already covered under Paragraph 2–2.1.a(1) that includes ''ensuring compliance with NEPA, the CEQ Regulations, this Order, and other environmental requirements'' as a general FAA responsibility. The FAA did not add additional language to specify special purpose laws since these are covered under other environmental requirements.

*One commenter suggested the Order should more clearly note that the ultimate decision regarding the NEPA document rests with the FAA. For instance, the FAA should approve an initial scope and make the decision on whether or not a NEPA document is ready for public review.*

The FAA has the ultimate responsibility for complying with NEPA. Under Paragraph 2–2.1.a(3) of Order 1050.1F, the FAA is responsible for ''independently and objectively evaluating applicant-submitted information and EAs and taking responsibility for content and adequacy of any such information or documents used by the FAA for compliance with NEPA or other environmental requirements.''

Each FAA LOB/SO may provide for specific procedures when working with applicants on the level of review and approval throughout the process (*i.e.,* scope of work, studies, etc.). Applicants are encouraged to coordinate with the appropriate FAA offices to ensure complete, timely, and efficient document preparation.

Throughout Order 1050.1F, there are references to the relationship between the FAA and applicants with respect to the preparation and content of NEPA documents. For instance, Paragraph 6–2.2.e of Order 1050.1F states ''[t]he EA must present a detailed analysis, to the satisfaction of the responsible FAA official, commensurate with the level of impact of the proposed action and alternatives, to determine whether any impacts will be significant.'' This denotes that the responsible FAA official must be satisfied with the analysis contained in the document and must accept responsibility for its contents.

Paragraph 6–2.2.g states ''If a draft EA is circulated, the responsible FAA official, or applicant as directed by the FAA, must circulate the draft EA to interested agencies and parties, including any who submitted comments on the proposed action.'' In this particular paragraph, the applicant is directed by the FAA when circulating a draft EA.

Although the FAA may not formally ''approve'' the EA until a Finding of No Significant Impact (FONSI) is prepared, the FAA is still working with the applicant and/or contractor throughout the process and taking responsibility for the document's contents.

Paragraph 2–2.1.b. Roles of Lines of Business/Staff Offices (LOB/SOs)

*One commenter suggested adding a reference to the Environmental Desk Reference for Airport Actions under Office of Airport's Roles and Responsibilities to reinforce use of FAA NEPA guidance documents.*

The FAA did not add a reference to the *Environmental Desk Reference for Airport Actions* to Paragraph 2–2.1.b(2)(g). This paragraph outlines the roles and responsibilities of the Office of Airports. The inclusion of FAA Order 5050.4 highlights the supplemental explanatory guidance issued by the Office of Airports, which is subject to FAA Order 1320.1, *FAA Directives Management,* and is adopted and revised by the agency through notice and comment procedures. The *Environmental Desk Reference for Airport Actions,* by contrast, is intended to be an aid or manual for practitioners in satisfying the requirements of the CEQ Regulations, FAA Order 1050.1E, FAA Order 5050.4B, and other environmental requirements. Furthermore, the *Environmental Desk Reference for Airport Actions* does not go through the notice and comment process as do FAA Orders, nor does it fall under FAA Order 1320.1, *FAA Directives Management.* For these reasons, it does not warrant being included in the roles and responsibilities of the Office of Airports as enumerated in the paragraph in question.

Paragraph 2–2.1.c. Actions Undertaken by the FAA

*One commenter asked what the ''feasibility analysis (go/no-go) stage'' is.*

The referenced text was contained in Order 1050.1E and is consistent with the CEQ Regulations (40 CFR 1502.5(a)). The definition of feasibility is ''capable of being done or carried out'' (*Merriam-Webster Online Dictionary* available at *http://www.merriam-webster.com/dictionary/feasible*).

The go/no-go stage is the point at which the agency determines: (1) Whether an action is available to address an identified need or problem, and (2) whether to seek resolution of the identified need or problem through discretionary Federal action.

Essentially, the referenced paragraph is stating that NEPA documentation must be done before a decision to proceed with a project is made.

Paragraph 2–2.1.d. FAA Approval of Applicant Actions

*One commenter questioned whether actions undertaken by an applicant should specify that applicants should comply with all provisions of this Order with regard to documentation required by the FAA.*

NEPA is a Federal obligation. Order 1050.1F contains the NEPA implementing procedures for FAA actions. It is the responsibility of the FAA, not an applicant, to ensure that the provisions of this Order have been complied with before accepting any NEPA documentation prepared by an applicant. Paragraph 2–2.1.d, FAA Approval of Applicant Actions, states that the FAA must advise and assist the applicant during preparation of the EA, and must independently evaluate and take responsibility for the EA to ensure that: (1) The applicant's potential conflict of interest does not impair the objectivity of the document; and (2) the EA meets the requirements of this Order.

Paragraph 2–2.2. Responsibilities of Applicants

*One commenter recommended that the FAA distinguish between signing CATEX documentation and approving CATEX documentation, since most CATEXs are signed by multiple parties,*

*and the signatures do not always constitute approval.*

The FAA has changed the language from ''sign'' to ''approve'' for clarification. It is important to note that the FAA must make the CATEX determination; any party other than the FAA, including contractors and applicants, cannot approve CATEX determinations.

*One commenter stated the Order indicates only the FAA may prepare the CATEX record, and questioned whether a consultant working for the FAA can support the FAA in preparing the written record.*

The commenter is correct that applicants and contractors may provide data and analysis to assist the FAA in determining whether a CATEX applies (including whether an extraordinary circumstance exists); however, applicants and contractors may not determine the applicability of CATEXs or approve CATEX documentation (as indicated in Paragraph 2–2.2).

Paragraph 2–2.3 Responsibilities of Contractors

*One commenter stated that there should be disclosure requirements for conflicts of interest. In addition, the FAA should provide specific examples of how a contractor's objectivity may be compromised by its involvement in other projects.*

The FAA's Procurement Toolbox Guidance, Section T3.1.7 *Organizational Conflict of Interest,* dated April 4, 2006, contains the FAA's requirements for conflicts of interest. This Order is referenced in Paragraph 2–2.1(f)(2). Specific examples are not being added to this Order to avoid any inconsistencies that would occur if T3.1.7 is updated or revised.

*Paragraph 2–3. Planning and Integration*

*One commenter asked for clarification that number of days means calendar days and not business days.*

The commenter is correct, when referencing number of days throughout Order 1050.1F, the FAA means calendar days and not business days. For instance, the public comment period is typically 30 (calendar) days. This should be interpreted to be approximately one month.

Paragraph 2–3.1 Early Planning

*One commenter asked for clarification on the sentence ''The FAA or applicant, as applicable, should prepare a list noting all obvious environmental resources.'' The commenter asked whether this list is the same as the Initial Environmental Review (IER) prepared by ATO/NextGen and whether ''environmental resources'' is the same as the environmental categories from Appendix A of Order 1050.1E.*

The FAA has modified the sentence in Paragraph 2–3.1, Early Planning, to state ''[t]he FAA or applicant, as applicable, should identify known environmental impact categories that the proposed action and the alternatives could affect, including specially protected resources,'' to make it clear that a list does not need to be provided. It was not the FAA's intent to refer to the IER prepared by ATO/NextGen. The term ''environmental resources'' was also changed to ''environmental impact categories'' throughout the order to clarify that the FAA is referring to the categories outlined in Paragraph 4–1 of this Order.

Paragraph 2–3.2 Initial Environmental Review

*One commenter questioned whether the Initial Environmental Review paragraph was the same as ATO's IER in Order 7400.2 and/or the same as Office of Airport's CATEX checklist. The commenter also indicated the FAA should consider adding more information regarding the requirements for completion of IERs, CATEX checklists, or special studies that support the applicant's conclusions about the impacts of the proposal.*

The process outlined in Paragraph 2–3.2 of this Order is not the same as the IER or the CATEX checklist as suggested by the commenter. This paragraph highlights the steps that the FAA responsible official should consider when initially looking at a proposed project to help identify the potential impacts and where these can be minimized in project design. This initial review helps identify what level of NEPA is appropriate, any permits that need to be obtained, and which agencies the FAA should coordinate with on the proposed action.

The ATO IER and Office of Airports CATEX checklist are specific to ATO actions and airport improvement actions respectively and can aid a NEPA practitioner in deciding what level of documentation to prepare. Since these are specific to the FAA LOB actions, information on these tools is appropriately discussed in their supplemental Orders.

*One commenter suggested that the FAA include a statement that an applicant or contractor working for an applicant should contact the responsible FAA official as soon as there is sufficient information about the project's design.*

The FAA has decided not to include the suggested text. Paragraph 2–3.2 is intended to direct the FAA, not an applicant, on the sequence of events when starting an evaluation of a proposed project. The appropriate timing of the sequence is dependent on the nature of the action and is determined on a case-by-case basis. Applicants are encouraged to work with the FAA at the earliest stages of project development.

*One commenter stated that paragraph 2–3.2 has caused confusion in the past for applicants. They suggested this paragraph be reworded to state applicants should consider if their proposal is likely to trigger adverse impacts relative to special purpose laws or extraordinary circumstances that could be avoided by changes in the proposal that would still achieve the proposal's goals and objectives. Additionally, they noted avoidance of these issues before starting the NEPA environmental review process can materially reduce the time needed to comply with NEPA.*

The FAA agrees that avoidance of certain environmental impacts through modifications to design in the early stages of a project can reduce the overall time needed to comply with NEPA. However, the FAA has not added the language provided by the commenter to this paragraph. First, this Order is designed for use by FAA NEPA practitioners and is not specific to applicants. Therefore, it is not appropriate to narrow the scope of the identified text in a way that appears to limit its applicability to project applicants. However, applicants are encouraged to familiarize themselves with the Order's contents as this will often aid the applicant in understanding the FAA's NEPA responsibilities and prepare the applicant to assist the FAA in the execution of its NEPA responsibilities. In addition, Paragraph 2–3.2 provides guidance to NEPA practitioners on what to consider initially for a proposed action. It is not limited to identification of adverse impacts relative to special purpose laws and extraordinary circumstances. Rather, this paragraph also instructs NEPA practitioners to determine whether an action is already covered by an existing programmatic document or is within the scope of a CATEX, and instructs NEPA practitioners to identify the level of controversy regarding the project's risks of causing environmental harm, which can play important roles in deciding the level of documentation.

To address the commenter's concern regarding incorporating mitigation into project design, the FAA has added more

clarifying language to Paragraph 2–3.6 of the Order to reflect that applicants should work with the FAA to incorporate mitigation into project design during early planning and ensure that mitigation is consistent with the project purpose and need.

*One commenter asked for guidance on how to determine if previous NEPA documents covering the proposed action exist.*

Paragraph 2–3.2 states the responsible FAA official should initially review whether the proposed action is covered under an existing NEPA document. Since this is an FAA responsibility, and has not caused any issues in the past, no additional guidance is being prepared. The FAA will coordinate with the applicant and other Federal agencies to determine the existence of relevant documents for the proposed action.

*One commenter suggested that Paragraph 2–3.2 should emphasize ''adequately addressed'' and ''approved NEPA document'' and remove the language on broad system, program, or regional assessment.*

FAA disagrees with the comment. The changes the commenter has recommended do not adequately capture what the phrase is meant to convey. The addition of ''adequately'' or ''approved'' would not be appropriate as a practitioner could build on a document that was incomplete or was never approved.

Programmatic NEPA documents remain a viable approach and may be well suited to certain types of projects. As such, the FAA has retained the language referencing programmatic documents in the Order (broad system, program, or regional assessment). However, a cross reference is provided to direct NEPA practitioners to Paragraph 3–2 that outlines what a programmatic document entails.

*One commenter questioned whether ''broad system, program, or regional assessments'' are additional terms of documentation to meet the FAA's NEPA compliance such as CATEX checklist, IER, EA or EIS.*

The terms ''*broad system, program,* and *regional assessment*'' refer to programmatic documents. The only terms of documentation to meet the FAA's NEPA compliance are CATEXs, EAs, and EISs. Other terms such as CATEX checklist, IER, and types of programmatic documents (including broad system, program, or regional assessments), are specific CATEX, EA, or EIS documentation choices.

Paragraph 2–3.2.b(2) Cumulative Actions

*One commenter stated that the FAA has traditionally applied cumulative impact philosophy to CATEXs, IERs, and EAs and therefore shouldn't the general term ''NEPA documentation'' be applied rather than limiting it to EISs.*

The commenter may be confusing cumulative impacts and cumulative actions. Cumulative impacts must be evaluated for CATEXs, EAs, and EISs to determine the potential for significance. However, in this text we are referring to cumulative actions, which by definition have significant impacts, and thus would be discussed only in an EIS.

*One commenter recommended the Order use the definition for cumulative actions from the CEQ Regulations at 40 CFR 1508.7.*

The regulations cited by the commenter define the term ''cumulative impact,'' which is different from the concept of cumulative actions. ''Cumulative impacts'' are impacts on the environment which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable actions (see CFR *1508.7).* Cumulative actions are discussed in regard to determining the scope of an EIS and are actions ''which when viewed with other proposed actions have cumulatively significant impacts,'' and should be addressed in a single EIS (see 40 CFR 1508.25(a)(2)). The Order discusses the scope of NEPA documents, and with respect to cumulative actions, mirrors the language in the CEQ Regulations at 40 CFR 1508.25(a)(2). Cumulative impacts are discussed in Paragraph 4–2.d(3) of Order 1050.1F. A cross reference for the discussion on cumulative impacts (Paragraph 4–2.d(3)) has been added to Paragraph 2–3.2.b(2) to help avoid any confusion.

*One commenter recommended that the FAA should clarify what kinds of proposed actions should be considered when determining cumulative actions.*

The referenced text is the same as the language used in 40 CFR 1508.25(a)(2) of the CEQ Regulations. Any proposed actions whose impacts affect similar resources should be considered to determine if the impacts, when considered cumulatively, are significant and therefore should be addressed in a single EIS. Further guidance on the consideration of cumulative impacts is provided in the 1050.1F Desk Reference.

Paragraph 2–3.2.b(3) Similar Actions

*One commenter requested that the FAA include additional guidance on the criteria used to identify similar geography and timing.*

The text in the Order regarding ''similar actions'' is based upon the language of Section 1508.25(a)(3) of the CEQ Regulations. The FAA does not have specific criteria to identify similar actions. Consistent with the CEQ Regulations, reasonable judgment should be applied to determine if actions have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.

Paragraph 2–3.3 Environmental Management System Approach

*One commenter stressed that, unlike EMS, NEPA does not require either ''continual improvement in environmental performance'' or selection of an alternative that makes progress towards that goal.*

The FAA acknowledges that NEPA is a procedural statute that does not mandate ''continual improvement in environmental performance.'' The FAA has revised Paragraph 2–3.3 of the Order to more appropriately describe the role that EMS can play in the NEPA process. The final Order removes emphasis from the EMS concepts of continual improvement in environmental performance and selection of an alternative that makes progress towards a specific environmental goal, and instead emphasizes how EMS can be integrated and utilized for environmental analysis and project decisions.

Paragraph 2–3.4. Reducing Paperwork

*One commenter suggested adding more detail to the reducing paperwork paragraph by adding information on FAA Order 1000.36, FAA's Writing Standards, CEQ's Handbook for Integrating NEPA and Section 106, and further guidance on joint document preparation.*

The referenced text is derived from 40 CFR 1500.4 of the CEQ Regulations and has been provided to remind individuals how they can reduce the length of NEPA documents and reduce paperwork generated when complying with NEPA. Generally speaking, the FAA has chosen not to elaborate on these principles in Order 1050.1F. However, Paragraph 2–6 of Order 1050.1F provides more information on plain language.

The FAA does not have specific guidance on the preparation of joint documents. However, guidance on joint document preparation can be found on CEQ's Web site.

*One commenter stated that measures to reduce paperwork should apply to all NEPA documents, not just EISs.*

The FAA agrees and has added a statement that the FAA applies paperwork reduction measures to all NEPA documents.

Paragraph 2–3.6 Mitigation

*One commenter stated that the Order should require, not just urge, the responsible FAA official to take mitigation into account in project design to avoid and mitigate environmental harm.*

The Order addresses mitigation as it applies both to incorporation into project design and to address unavoidable environmental impacts. The FAA recognizes, however, that the facts of each individual project will dictate the availability and appropriateness of mitigation for incorporation into project design. For that reason, the FAA has included language in the Order that encourages, but does not require, incorporation of mitigation into project design.

*One commenter recommended adding clarification that mitigation should be incorporated into project design only in so much as it does not diminish the purpose of and need for the project. The commenter also stated that Paragraph 2–3.6 of the draft Order 1050.1F ''can be construed by a lay reader to mean that 'environmental harm' is always a factor in meeting purpose and need. Is 'environmental harm' the same as 'environmental significant impact?' 'Harm' can be construed as any type of environmental change that may not necessarily be significant.''*

The FAA interprets the comment regarding whether environmental harm is a factor in meeting purpose and need to mean that the commenter is concerned that mitigation incorporated into project design could change the agency's approach to defining purpose and need. The FAA has not intended to suggest that a desire to mitigate environmental impacts should undermine the purpose and need of a proposed action. The FAA has modified Paragraph 2–3.6 of the final Order to emphasize that mitigation incorporated into project design should be consistent with the purpose and need of the project.

With respect to the commenter's question of whether environmental harm is the same as environmental significant impact, this paragraph was not intended to limit use of mitigation only in the case of a significant impact, as mitigation can be used to reduce any impacts whether or not they are significant. The FAA has edited Paragraph 2–3.6 to remove the term ''environmental harm'' to avoid any confusion between harm and impacts.

*One commenter suggested the FAA highlight that costs should be taken into account when decisions are being made to incorporate mitigation.*

Whether or not to include discussion of the costs of mitigation within the environmental documentation is determined on a case-by-case basis. Therefore, the requested text changes regarding discussion of mitigation costs have not been included in 1050.1F.

*One commenter suggested that the term mitigation should be reserved specifically for actions to address unavoidable environmental impacts and not for avoidance measures built into the project design.*

The concept of mitigation measures incorporated into project design is based on CEQ's guidance on *Appropriate use of Mitigation and Monitoring and Clarifying the Appropriate use of Mitigated Findings of No Significant Impact,* 76 **Federal Register** 3843 (January 21, 2011).

The guidance distinguishes mitigation incorporated into project design from other types of mitigation measures that can be, but may not be, adopted when the proposed project is implemented. Mitigation measures incorporated in project design, by their nature, are measures that will be implemented.

In addition, mitigation as defined under 40 CFR 1508.20 includes ''avoiding the impact altogether by not taking a certain action or part of an action.'' This further supports not limiting mitigation to unavoidable impacts.

*Once commenter suggested including mention of the applicant and contractor(s) when coordinating mitigation.*

In response to the comment, FAA has added ''[F]or projects involving an applicant, the FAA will coordinate proposed mitigation with the applicant.'' FAA did not mention the contractor since the contractor is not implementing the mitigation. However, the applicant and the FAA will work with contractors to ensure that mitigation measures are described adequately in a NEPA document.

*Paragraph 2–4. Coordination*

Paragraph 2–4.2 Lead and Cooperating Agencies

Paragraph 2–4.2.b Cooperating Agency Invitation

*One commenter stated that the FAA should require, not merely urge, the FAA NEPA lead to ask state and local agencies with special expertise or jurisdiction to be cooperating agencies.*

Cooperating Agency status is a specific status that establishes a formal relationship between entities to cooperate in the preparation of a NEPA document for a proposed action. The CEQ Regulations state that ''a state or local agency of similar qualifications or, when the effects are on a reservation, an Indian tribe, may by agreement with the lead agency become a cooperating agency.'' Paragraph 2–4.2.b is consistent with Sections 1501.6 and 1508.5 of the CEQ Regulations. While Cooperating Agency status for state and local agencies with special expertise or jurisdiction is not required in the Order, the FAA notes that Paragraph 2–4.3 requires the responsible FAA official, when appropriate, to consult affected Federal and state agencies, tribes, and local units of government early in the NEPA process.

Paragraph 2–4.2.c Role as a Cooperating Agency

*One commenter stated that the FAA should emphasize close involvement and coordination with the lead agency throughout the coordination process to ensure that the FAA's views as a cooperating agency are reflected and requirements are met, therefore reducing the delay of the project.*

The FAA has modified the text to in Paragraph 2–4.2.c to clarify that active communication with the lead agency early and often in the NEPA process can help to ensure that the FAA's views are adequately incorporated in the environmental document.

Paragraph 2–4.3 Intergovernmental and Interagency Coordination

*One commenter stated the Order should more clearly define the circumstances when consultation with Federal and state agencies, tribes, and local units of government is appropriate and identify any exceptions.*

The Order states that the FAA must consult with affected Federal and state agencies, tribes, and local units of government ''when appropriate.'' The basis for concluding that consultation is appropriate with another Federal or state agency, tribe, or local unit of government depends upon the specific facts of each project. The need and extent of consultation depend in part upon the existence of resources or impacts that implicate special purpose laws or other requirements. Due to the highly fact-specific nature of this inquiry, Order 1050.1F should not attempt to define specifically when it is or is not necessary and appropriate to undertake consultation. The decision as to when and with whom to consult is made on a case-by-case basis. Consultation and coordination with Federal and state agencies, local

governments, and Tribes is strongly encouraged throughout the Order and when required has been specified. The 1050.1F Desk Reference details more information on consultation and coordination with non-FAA entities under each environmental impact category.

*One commenter stated the Order should reference Federal guidance on concurrent agency consultation such as CEQ's NEPA and NHPA—A Handbook for Integrating NEPA and Section 106.*

The 1050.1F Desk Reference contains specific guidance on consultation processes. This guidance is provided in the 1050.1F Desk Reference, as opposed to Order 1050.1F, so it can be easily updated if other agencies modify procedures or processes.

*Paragraph 2–4.4 Tribal Consultation*

*One commenter questioned whether the need for government-to-government consultation applies to all tribes or just federally-recognized tribes?*

Government-to-government consultation applies to tribes as defined in Paragraph 11–5.b(14) of the Order, which specifies that tribes are those recognized under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

*Paragraph 2–5. Public Involvement*

*Two commenters stated that the Order does not provide clear descriptions of public notification and involvement requirements for each of the levels of environmental review, including the timing and extent of public involvement expected or required for CATEXs, EAs, and EISs.*

The Order discusses public involvement in various sections. The FAA has provided more discussion in these sections to help prevent any confusion on public involvement in NEPA processes. The following discussion is intended to further explain what requirements are applicable and where to find these in the Order.

The FAA encourages public involvement in various ways depending on the type of action and the potential for impacts. This Order makes the public involvement process as flexible as possible for case-by-case determination. Depending on the type of action and where it is located, it may be better to conduct early scoping meetings, solicit public comments on a draft document either through comment solicitation or through public meetings, or do a combination of these and other approaches.

It is important to distinguish between public notification and public comment to avoid confusion regarding these public involvement concepts and their associated requirements. Public notification makes a NEPA document available to the public, whereas public comment invites the public to not only review the document but also to provide comments.

The Order addresses the various public involvement topics as follows:

In Paragraph 2–5, the FAA provides a limited discussion of public involvement, including timing, to encourage planning of public involvement at the early stages of a project's consideration. This paragraph then refers the reader to the applicable public involvement paragraphs for EAs and EISs elsewhere in the Order.

Paragraph 5–4 of the Order makes it clear that public notification of a CATEX is not a requirement, but may be encouraged in certain circumstances. There is no prescribed form for notification in those instances where the FAA decides to undertake public notification of a CATEX.

Paragraph 6–2.2.b specifies that when preparing EAs, the FAA or applicant must involve the public, to the extent practicable. Paragraph 6–2.2.g refers to circulation of the draft EA for public comment. This Order leaves flexibility as to the type and extent of public involvement provided for EAs beyond the minimum requirement of public notification under 40 CFR 1506.6(b) of the CEQ Regulations. Strategic planning is needed to successfully integrate public involvement in the EA process.

Paragraph 6–3.d identifies specific circumstances where a 30-day public review period is required for EAs and FONSIs.

Paragraph 6–3.d states that the FAA or applicant must make the EA and FONSI available to the public. The title of this paragraph has been modified to remove the reference to ''and review'' so that it is not confused with public comment periods.

Paragraph 7–1.2.c states that scoping is required for EISs. The FAA's scoping process is dependent on the type of action and project complexity. Paragraph 7–1.2.d states the draft EIS must be made available for public review and comment and identifies that public meetings may be held to discuss comments on the draft document.

Paragraph 7–1.2.b states that the FAA must prepare a Notice of Intent which includes an overview of the proposed action, the alternatives being considered (including no action), and the name and address of the FAA official who can answer questions about the proposed action and EIS. Paragraph 7–1.2.i states that the final EIS, comments received, and supporting documents must be made available to the public. Paragraph 7–2.1.e states that there must be a notification of the availability of the ROD.

Paragraph 2–5.1. Timing and Extent of Public Involvement

*One commenter requested that the extent of early coordination should depend on not only project complexity, degree of Federal involvement, and anticipated environmental impacts of the proposed action, but also the requirements of applicable special purpose laws. In addition, the commenter suggested replacing the term ''sensitivity'' with the phrase ''the potential for a project to be highly controversial on environmental grounds.''*

Paragraph 2–5.1 deals with the timing and extent of public involvement. The existing text in this paragraph encompasses the requirements of applicable special purpose laws, which are discussed in more detail under Paragraph 2–5.2.a.

Replacing ''sensitivity'' with ''highly controversial on environmental grounds'' does not adequately capture the full range of situations in which early coordination with the public should be considered.

*One commenter is concerned that the wording of Paragraph 2–5.1 will not allow the public and resource agencies to provide meaningful input into the preparation of an EA. The commenter specifically requested that the following text be added, ''[F]or an EA, this [early coordination] would normally occur when the sponsor's early planning information is sufficient to describe the proposed action and a preliminary scope of the actions' expected environmental impacts. For an EIS, this [early coordination] would occur during the scoping process.''*

Paragraph 2–5.1 requires the FAA or applicant to provide pertinent information to the affected communities and agencies and to consider their opinions at the earliest appropriate time. This paragraph also indicates that the extent of early coordination depends on the complexity, sensitivity, degree of Federal involvement, and anticipated environmental impacts. This language is designed to be flexible so that public involvement can be tailored to the specific facts of each proposal, rather than creating a rigid approach that may not be reflective of the unique circumstances surrounding each proposed action. The FAA has taken this flexible approach to ensure meaningful, yet project-appropriate public and agency input early in the NEPA process. For this reason, the FAA

has declined to make the requested text changes in Paragraph 2–5.1. To avoid confusion regarding the timing and extent of public involvement for EAs versus EISs, the FAA has provided cross-references to the specific paragraphs where this information is contained in the Order. Additional information on public involvement for EAs is provided in Paragraph 6–2.2.b. Additional information on public involvement for EISs is provided in Paragraph 7–1.2.

Paragraph 2–5.2. Federal Aviation Administration Requirements for Public Involvement

Paragraph 2–5.2.b. Environmental Justice

*One commenter asked what form of notification is considered acceptable to notify potentially affected minority and/or low income populations and whether this requirement applies to actions initiated by airport sponsors.*

This requirement is based on Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 Federal Register 7629 (February 16, 1994),* and DOT Order 5610.2(a), *Environmental Justice,* 77 FR 27534 (May 10, 2012), which require the FAA to provide for meaningful public involvement by minority and low-income populations. The requirement to notify potentially affected minority and/or low income populations was provided in FAA Order 1050.1E at Paragraphs 209d and 16.1a. The FAA must ensure that its NEPA process provides public involvement opportunities for disproportionately affected low-income and minority populations to comply with Executive Order 12898 and DOT Order 5610.2(a).

If the action initiated by an airport sponsor or other applicant requires a Federal decision (permit, license, etc.), then the need to notify potentially affected minority and/or low-income populations applies. Any form of notification is acceptable as long as it is effective for the population and every effort was made to inform the affected community. Decisions regarding what form of notification to use will be based, in part, upon the level of community interest and the complexity of the concerns. It is important to involve the appropriate stakeholders to ensure effective notification. Such stakeholders may include, but are not limited to: community and neighborhood groups; community service organizations; environmental organizations; local industry and business; religious communities; not-for-profit and non-governmental organizations; and government agencies (Federal, state, county, local and tribal). Notification options include, but are not limited to: direct mailings of fact sheets or community updates (a mailing list should be developed); distribution of materials to and through community centers and local government offices and groups; local newspaper notices (preferably appearing on a regular news page, not in the legal/public notice section); and press releases or public service announcements issued to local media.

Paragraph 2–5.3 Public Meetings, Workshops, and Hearings

*Several commenters stated public involvement, including meetings, hearings, notice, and comment periods, should be required, not merely urged.*

The FAA's public involvement requirements are consistent with CEQ's requirements for public notice and comment. The level of public involvement required by the Order is commensurate with the level of potential significant impacts. The need to prepare public notices and convene meetings, workshops, and hearings is determined on a case-by-case basis depending on the type of action, the scope and degree of certainty of impacts, the complexity of issues, the potential for significant impacts, and other considerations. Paragraphs 5–4, 6–2.2, and 7–1.2 of the Order outline specific requirements for CATEXs, EAs, and EISs respectively. While the Order requires FAA NEPA practitioners to meet the requirements for public involvement as set forth in the CEQ Regulations, the Order also encourages a thoughtful public involvement approach that is tailored to the facts and circumstances of each individual project subject to NEPA review.

*One commenter questioned the following regarding public involvement: (1) How the FAA differentiates between a hearing and a public meeting; (2) how a public meeting differs from a workshop; and (3) if an open house is also an acceptable form of public involvement.*

A public hearing is an official proceeding required under various laws. It is a formal process that has a designated public hearing officer who presides over the meeting and a court reporter present to compile a transcript of all oral comments.

A public meeting is a less formal meeting than a public hearing. Public meetings can vary in their structure and approach to best facilitate public involvement. Public meetings can include workshops or open houses that allow the public to ask questions and get clarifications on the proposed action and NEPA process.

*One commenter asked for clarification regarding public hearings. The commenter questioned: (1) Whether a designated official must preside over a public hearing; (2) whether a formal court reporter and preparation of a transcript is required; (3) how meeting notices should be advertised; and (4) whether meeting materials need to be provided in advance.*

When holding a public hearing, a designated official must preside over a public hearing and a court reporter must be present to compile a transcript of the hearing. This language has been added to Paragraph 2–5.3.b to clarify the requirements of a public hearing.

Notice of a public meeting or hearing should be published at least 30 days prior to the event. Notice of actions having national implications must be published in the **Federal Register** and mailed to national organizations having an interest in the matter. Other methods of notifying the public about public meetings or hearings include: Newspaper ads, direct mailings, notices on the FAA Web site, and other notification methods reasonably accessible by the public. If the purpose of the public meeting is to obtain comments on draft NEPA documents, those documents should be made available for public review at least 30 days before the event. While other materials may be utilized during the public meeting or hearing to help explain the proposed action and/or the NEPA document, only the draft NEPA document must be made available for public review in advance of the public hearing or meeting. Paragraph 2–5.3.b of Order 1050.1F provides further details on public meetings, hearings, and public notification of such, including the information the public hearing/meeting notice.

*One commenter asked whether workshops or open houses are sufficient to meet the requirement for public involvement since they are not specifically referenced.*

Workshops and open houses are forms of public meetings and are therefore sufficient for public involvement for NEPA purposes, but in certain instances other applicable requirements regarding public outreach may exist. For example, 49 U.S.C. 47106(c)(1)(A)(i) requires an opportunity for a public hearing where a project involves the location of an airport, runway, or a major runway extension. If a hearing were requested, a NEPA workshop or open house alone would not satisfy the statute's

requirement that a hearing be provided when requested. Even where no other public involvement requirement is applicable, the type of public involvement appropriate in the NEPA context will vary depending on the nature of the action and the potential for impacts. Strategic planning is needed to successfully integrate public participation in the NEPA process.

*Paragraph 2–7. Limitations on Actions Involving Real Property Prior to Completing National Environmental Policy Act Review*

*One commenter asked the FAA to clarify whether discussion with property owners would be considered formal contact.*

The purpose of this paragraph is to prevent formal action to acquire property, including any offer to purchase property, before NEPA is completed. The text in this discussion has been modified to replace the phrase ''formal contact with the property owner'' with the phrase ''formal action to acquire the property.'' Therefore, discussion alone would not be considered ''formal action to acquire the property.''

*One commenter requested the exception for further engineering study be expanded for other environmental investigations.*

The prohibition in Paragraph 2–7.b on formal action to acquire property for the purpose of conducting other environmental investigations is already provided by the circumstance provided in Paragraph 2–7.b(2) that states that ''obtaining rights-of-way for such purposes as preparation for site testing, obtaining data, property surveys, etc.'' is permissible. Site testing and obtaining data would include environmental investigations.

**Chapter 3: Levels of National Environmental Policy Act Review**

*Paragraph 3–1. Three Levels of National Environmental Policy Act Review*

Paragraph 3–1.2 Actions Normally Requiring an Environmental Assessment

*One commenter suggested the language in the introduction to Paragraph 3–1.2 be expanded to indicate that ''human environment'' also includes natural resources.*

As stated in Paragraph 11–5.b(7) of the Order, the definition for human environment includes natural resources. Because this term is already defined and includes natural resources, the FAA has not added language to the introduction of Paragraph 3–1.2 as requested by the commenter.

*One commenter questioned whether it was accurate that acquisition of property greater than three acres that requires construction of new office buildings and essentially similar FAA facilities requires an EA [Paragraph 3–1.2.b(1)]. The commenter also asked whether an EA is required if the land was undeveloped or if the size of the building would matter.*

This example of actions normally requiring an EA was included in Paragraph 401a of Order 1050.1E and has not been modified in this update. The acquisition of land of more than three acres for construction of a building would require an EA under Order 1050.1F. This is irrespective of whether it is developed or undeveloped land and the size of the building.

However, not all acquisition of land over three acres requires an EA. Paragraph 5–6.4.b allows for acquisition of land and relocation associated with a categorically excluded action. Paragraph 5–6.4.bb allows for acquisition of land for an RPZ or other aeronautical purposes provided there is no land disturbance and it does not require extensive business or residential relocations.

Actions that normally require an EA are actions that do not fall within the scope of a CATEX and normally do not require an EIS. In order for an agency to create a CATEX, the agency must make a determination that these types of actions do not individually or cumulatively, absent extraordinary circumstances, have significant impacts. The limitations within a CATEX are based on FAA experience and can only be modified if the FAA provides justification for the modifications.

*One commenter asked the FAA to clarify what type of NEPA documentation is required for fuel storage and distribution systems. The commenter specifically asked, for example, whether 400 Hz power at gates would require an EA, and whether creation of hydrant fueling in aprons requires an EA.*

Paragraph 3–1.2.b(5) states establishment of FAA housing, sanitation systems, fuel storage and distribution systems, and power source and distribution systems normally require an EA. Actions that are not within the scope of a CATEX will require the preparation of an EA. With respect to documentation required for fuel storage and distribution systems, the FAA has established CATEX 5–6.4.u for the installation, repair, or replacement of fuel storage tanks. The CATEX specifically states it does not include the establishment of bulk fuel storage and the associated distribution systems.

If a tank within a fuel storage distribution system is being replaced or repaired, the action would still be within the scope of the CATEX. However, if a distribution system is being established, the potential for significant impacts increases and an EA must be prepared. For determination of whether a particular project is within the scope of the CATEX 5–6.4.u, please see the CATEX Justification Package available on the FAA's Web site at: *http://www.faa.gov/about/office_org/headquarters_offices/apl/environ_policy_guidance/policy/draft_faa_order/media/C-CATEX_Justification_Package.pdf*.

With respect to the specific situations provided by the commenter, to the extent that these actions are within the scope of existing CATEXs and do not involve extraordinary circumstances, these actions would not require an EA. The FAA has not removed any CATEXs with this update to FAA Order 1050.1E. However, more information would be needed to determine if these types of actions are within the scope of existing CATEXs.

*One commenter asked for clarification on how FAA determines ''significantly increased air emissions'' in Paragraph 3–1.2.b(11). The commenter stated that the FAA's threshold of significant impact is an exceedance of the NAAQS, which is different from an increase in air emissions.*

FAA has revised the language in this paragraph to state ''actions that may cause significant impacts to noise, air quality, or other environmental impact categories.'' Chapter 4 of the Order provides the information necessary to determine whether an action may cause significant impacts to noise, air quality, or other environmental impact categories.

*One commenter stated that commercial space actions [Paragraph 3–1.2.b(15)] should be categorized as actions typically requiring an EIS because both the frequency and duration of commercial space launches could have significant impacts to adjacent wildlife resources.*

Based upon the agency's experience, there is no evidence that the types of commercial space actions described in Paragraph 3–1.2.b(15) ''typically'' have significant impacts to wildlife that require review in an EIS. As is always the case, each proposed project is examined to determine the appropriate level of NEPA review based upon the proposed action's specific facts. With respect to the type of commercial space

actions described in Paragraph 3–1.2.b(15) of the Order, the FAA examines the frequency of the launches as well as the duration of these launches, among other considerations, to determine if there would be significant impacts. If significant impacts are reasonably foreseeable, an EIS would be required.

Paragraph 3–1.3. Actions Normally Requiring an Environmental Impact Statement

*Two commenters asked for clarification on the definition of a major runway extension and why a major runway extension requires an EIS when runway extensions and runway strengthening only require an EA per the Airport and Airway Improvement Act (AAIA).*

The AAIA does not contain any provisions identifying the type of NEPA documentation required for specific types of airport development actions.

There is a distinction between a runway extension and a major runway extension. Major runway extension has been defined by the FAA's Office of Airports as a runway extension that causes a significant adverse environmental impact to any affected environmental resource (*e.g.,* wetland, floodplain, historic property, etc.). This includes, but is not limited to, causing noise sensitive areas in the Day-Night Average Sound Level (DNL) 65 decibel (dB) contour to experience at least a DNL 1.5 dB noise increase when compared to the no action alternative for the same time frame (see Paragraph 9.1l(1) of 5050.4B).

To the extent that a runway extension causes a significant impact, that runway extension would be considered a major runway extension and an EIS would be required.

*One commenter questioned why the list of actions under Paragraph 3–1.3, Actions Normally Requiring an Environmental Impact Statement, does not have any associated air traffic operation actions.*

The list of actions that is described in the Order as normally requiring an EIS has been compiled by the FAA based on the FAA's extensive experience with these actions over time. Where the FAA's experience has indicated that a category of actions normally results in one or more significant impacts, the FAA has included that category of actions in the list of actions normally requiring an EIS. At this time, determinations to prepare an EIS for air traffic actions are decided on a case-by-case basis because the FAA has not identified any air traffic actions that typically involve significant impacts. For this reason, there are no air traffic actions to include in the list that is the subject of this comment. Notwithstanding the absence of air traffic actions on the list of actions normally requiring an EIS, the FAA may decide that an EIS is appropriate for a particular air traffic action.

*Paragraph 3–2. Programmatic National Environmental Policy Act Documents and Tiering*

*One commenter stated that FAA commercial space launch site operator licenses should be examined under a national programmatic NEPA document to identify the need, purpose, and alternatives that reflect the national scope of the project under consideration (i.e., alternatives should be considered nationwide and not limited to any given region).*

The FAA does not agree that there is a national scope for FAA commercial space launch site operator licenses; rather, the geographic extent of the applicant governs the geographic scope of the NEPA review. The FAA does not fund commercial space launch sites or designate where a launch site should be developed within the United States. Instead, the FAA reviews the proposed actions of applicants that want to establish a new commercial space launch site at a specific location. As such, the purpose and need and range of alternatives for any individual commercial space launch site application are dictated by the proposal the FAA receives from the applicant.

**Chapter 4. Impact Categories, Significance, and Mitigation**

*Paragraph 4–1. Environmental Impact Categories*

*One commenter requested clarification that the discussion of resources in a NEPA document must follow the alphabetical order indicated in Paragraph 4–1.*

The discussion of resources in a NEPA document does not need to address environmental impact categories in alphabetical order. This discussion can vary depending on the type of action and the potential impacts. The FAA has added a statement to the Order to specify that the categories are alphabetized in the Order for ease of reference but are not intended to impose an obligation to present analysis in alphabetical order in the FAA's NEPA documents.

*One commenter requested that the FAA consider adding references to migratory bird conservation, the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection Act throughout the Order.*

The FAA has added migratory birds to Paragraph 2–3.2 and has added migratory bird impacts and bald and golden eagle impacts to the factors to consider column for the Biological Resources environmental impact category in Exhibit 4–1. The 1050.1F Desk Reference contains additional information on migratory birds, the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection.

*One commenter suggested changing the environmental impact category for Biological Resources to include federally and state-protected species since there is no separate category to do so.*

The environmental impact category, Biological Resources, includes federally and state-protected species without making the change to the title of the category. The significance threshold and factors to consider specifically mention federally and state-protected species. The Biological Resources environmental impact category chapter of the 1050.1F Desk Reference contains more information on how to analyze Biological impacts.

*One commenter asked for clarification that Section 4(f) refers to Section 4(f) of the DOT Act.*

The commenter is correct that references to Section 4(f) pertain to 49 U.S.C. 303, formerly Section 4(f), of the DOT Act of 1966. Due to the ubiquitous use of the term ''Section 4(f)'' in Federal jurisprudence, as well as practitioner familiarity with this terminology for the requirements codified at 49 U.S.C. 303, the FAA continues to refer to the statutory requirements as ''Section 4(f)'' requirements. Please see the footnote in Paragraph 2–3.2 of the Order.

*Paragraph 4–2. Consideration of Impacts*

Paragraph 4–2.b. FAA-Approved Models

*One commenter asked the FAA to clarify if AEE must approve all input files used for analysis. Clarifying this issue would be helpful in developing NEPA document preparation schedules.*

AEE does not need to approve standard input files when the FAA-approved models are used. However, AEE approval is required for non-standard input files, models, and methodologies. All input files, regardless of the model used, should be provided to the responsible FAA official for informational purposes. Appendix B of the Order provides more detailed instructions. The text in Paragraph 4–2.b regarding the FAA-approved models

has been modified to provide better clarity.

*One commenter asked for additional information on the use of non-FAA approved models. For example, not all FAA tools will evaluate various impacts at airports from an air quality perspective. Thus, there are specific circumstances where projects in any state/location must use a non-FAA model.*

The 1050.1F Desk Reference provides information on when an FAA-approved model must be used and the situations in which approval for use of other models would be required for both noise and air quality.

*One commenter stated that without being able to review the Desk Reference, they are unclear if the FAA is improving the guidance about acceptable tools for various efforts. Since all technical environmental category detail is deferred to the 1050.1F Desk Reference, this material should also be deferred, as it is without context.*

The FAA recognizes the public's interest in reviewing the 1050.1F Desk Reference with Order 1050.1F. However, the purpose of this section is to outline the requirement that an FAA-approved model must be used for both air quality and noise analysis. We have retained the information for the FAA-approved models within the Desk Reference to allow for updates as new versions of the models are available.

Although the FAA is not providing a formal comment period on the 1050.1F Desk Reference, the users of this desk reference can submit comments on it through the FAA Web site at *http://www.faa.gov/about/office_org/headquarters_offices/apl/environ_policy_guidance/policy/draft_faa_order/*. These comments will be reviewed and incorporated into the 1050.1F Desk Reference on an ongoing basis, as needed.

Paragraph 4–2.c. Environmental Impact Category Not Affected

*Two commenters asked for clarity on what should be documented when an environmental impact category is not affected.*

When an environmental impact category is not relevant to the proposed action, the reason why it is not relevant should be specified and no additional analysis is required. This could be a simple statement that the environmental impact category is not present or an explanation why a proposed project would not impact a specific resource. The Order has been revised to clarify that ''the reason why the impact category is not relevant'' should be briefly noted.

Paragraph 4–2.d. Types of Impacts

*One commenter requested a definition for ''reasonably foreseeable action'' such as provided in FAA Order 5050.4B Paragraph 9.q.*

The definition of ''reasonably foreseeable action'' provided in FAA Order 5050.4B is specifically tailored to airport improvement projects and the type of considerations that are unique to those actions. Application of the definition of ''reasonably foreseeable action'' from FAA Order 5050.4B to actions that do not resemble airport improvement actions and the unique nature of such actions would therefore not be appropriate in Order 1050.1F.

The FAA has decided not to create a separate, broadly applicable definition of ''reasonably foreseeable action'' in Order 1050.1F. Because Order 1050.1F is applicable agency-wide, its terms and requirements must be sufficiently broad to appropriately address the wide variety of actions taken by LOB/SOs within the agency. The definition of a reasonably foreseeable action may vary based on the nature of the action being undertaken, and the FAA has determined that reasonably foreseeable actions are best identified within the context of the individual projects being examined by the relevant office.

To assist NEPA practitioners in determining on a case-by-case basis what actions are reasonably foreseeable, the FAA has provided guidance in the 1050.1F Desk Reference under the cumulative impacts section regarding reasonably foreseeable actions. Finally, as stated earlier, Order 5050.4B will continue to apply to Office of Airports actions and will be updated to include any changes needed to conform to Order 1050.1F.

Paragraph 4–2.f. Special Purpose Laws and Requirements

*One commenter asked whether applicants have to summarize/note what permits are required or whether they must provide the materials to support the permit/license (i.e., complete a permit application/license).*

An EA or EIS should include information required to demonstrate compliance with other applicable requirements and should identify any permits, licenses, other approvals, or reviews that apply to the proposed action and indicate any known problems with obtaining them. The EA or EIS must report on any special consultation required. The EA or EIS does not have to contain a complete permit application or license application. Paragraph 4–2.f has been modified to clarify the requirements.

Paragraph 4–3.2 Context and Intensity

*One commenter asked for clarification on whether highly controversial in the seventh bullet under context and intensity means highly controversial for any reason or highly controversial on environmental grounds.*

The referenced bullet in Paragraph 4–3.2 describes the contents of Section 1508.27(b)(4) of the CEQ Regulations, which lists ''[t]he degree to which the effects on the quality of the human environment are likely to be highly controversial'' as a factor that should be considered in evaluating the intensity of environmental impacts. Judicial interpretations of this regulatory provision are consistent with the definition of ''highly controversial on environmental grounds'' in Paragraph 5–2.b(10), which was edited for clarity in the final Order. The FAA has not added ''on environmental grounds'' after ''highly controversial'' in Paragraph 4–3.2 because that phrase does not appear in Section 1508.27(b)(4) of the CEQ Regulations.

*Exhibit 4–1. Significance Determination for FAA Actions*

*One commenter wanted confirmation that the significance thresholds and factors to consider have not changed, except for the two instances indicated.*

The FAA has made three substantive changes to the significance thresholds and factors to consider from Order 1050.1E, Appendix A. Two were identified in Paragraph 1–10 of the draft Order 1050.1F. In addition, the FAA has clarified that the Air Quality significance threshold includes instances where the action would increase the frequency or severity of an existing air quality standard violation.

The significance thresholds and factors to consider may, in some cases, look different in Order 1050.1F due to the new approach taken, which includes a new table with two categories of information to be considered when examining significance: ''thresholds of significance'' and ''factors to consider.'' See Exhibit 4–1 of the Order. The 1050.1F Desk Reference contains more information on determining significance for the environmental impact categories.

*One commenter stated that the terms ''extensive'' and ''substantial'' are confusing and should be removed from Exhibit 4–1. Removal of these terms would achieve the same objective without creating confusion as to what rises to being ''extensive'' or ''substantial.''*

The terms ''extensive'' and ''substantial'' are useful because they

qualify the factors to consider and indicate the need for more than a minor or insubstantial degree of impact from the proposed action. Although ''extensive'' and ''substantial'' are not specifically defined in the Order, these terms have ordinary definitions. ''Extensive'' is defined as ''having wide or considerable extent'' and ''substantial'' is defined as ''large in amount, size, or number'' (Merriam-Webster Online Dictionary available at *http://www.merriam-webster.com/*) These definitions are adequate for purposes of this Order. In addition, in many cases, use of these terms in Exhibit 4–1 is reflective of language within applicable special purpose laws.

*One commenter suggested that the FAA include the results of consultation with resource agencies as factors to be considered in assessing impacts for specific resources.*

The FAA has identified factors to consider for potential significant impacts in addition to significance thresholds, where such a threshold exists. The information and data considered during the consultation process should be examined in light of the identified factors to consider. Although the determination by the resource agency (*e.g.,* concurrence with FAA's adverse effect under the National Historic Preservation Act (NHPA) or a ''not likely to adversely affect'' finding under the Endangered Species Act (ESA)) is considered in FAA's decision, the resource agency's determination is not dispositive and therefore it is not appropriate to include the resource agencies' decision as a factor to consider for significance.

*Two commenters asked that the FAA add information to Exhibit 4–1 stating that if an action is presumed to conform, the action is eligible for a CATEX, or if an air quality inventory conducted for a proposed action or a reasonable alternative shows no de minimis level would be exceeded for any criteria pollutant, it can be assumed the project would not cause significant air quality impacts for NEPA purposes and dispersion analysis is not needed in these instances. One commenter went further to state that for projects in attainment areas, the de minimis levels for maintenance areas should be used.*

Exhibit 4–1 identifies the significance thresholds and factors to consider when determining whether a proposed action will have significant impacts. Introduction of other concepts into the exhibit, such as circumstances in which significant impacts do not occur, the applicability of CATEXs to specific actions, and actions that are presumed to conform under the General Conformity Rule, could cause confusion. However, the 1050.1F Desk Reference provides more information on how to determine significance for each environmental impact category, including whether or not a dispersion analysis is needed.

*One commenter requested that the FAA provide guidance on the determination of significance for species that are not federally- or state-protected. For instance, large projects, such as a new airport or runway and their supporting components, may disturb many acres which may cause species that commonly occur to move to other areas. The commenter questioned if these impacts need to be assessed for significance.*

Exhibit 4–1 includes factors to consider for Biological Resources, including non-listed species. Among the factors to consider for such species are: Substantial loss, reduction, degradation, disturbance, or fragmentation of native species' habitats or their populations. This is not limited to just federally- or state-protected species. All relevant impacts to species should be discussed and disclosed in the environmental documentation. The 1050.1F Desk Reference provides more guidance on how to consider Biological Resources.

*One commenter suggested that the use of ''extirpation'' be changed to ''completely removing species from affected area'' as a better way to explain the concept.*

The FAA retains the term ''extirpation'' which is defined as local extinction (the condition of a species which ceases to exist in the chosen geographic area of study, though it still exists elsewhere). The definition of extirpation is well understood and should not lead to any confusion because it is a term used in analysis for threatened and endangered species and the meaning remains the same regardless of whether it is applied to listed or non-listed species.

*One commenter requested clarification as to whether all projects should complete Form AD–1006 for Farmlands. The commenter went further to recommend that if zoning of the site denotes farmland then the form should be completed. In addition, the commenter requested that a sentence be included to indicate that impact severity increases as the AD–1006 score approaches 260 points.*

Exhibit 4–1 has a limited purpose to identify the significance thresholds and factors to consider when examining potential significance. The 1050.1F Desk Reference contains guidance on when to complete Form AD–1006. Not all projects require completion Form AD–1006. The form only needs to be completed if the FAA or applicant submits a request to the local Natural Resources Conservation Service (NRCS) field office for determination of whether the site is farmland subject to the Farmlands Protection Policy Act. The 1050.1F Desk Reference contains information explaining that the impact severity increases as the AD–1006 score approaches 260.

*One commenter asked whether the evaluation of Hazardous Materials, Solid Waste, and Pollution Prevention is to screen alternatives to minimize hazardous waste remediation. The commenter stated that bullets three and four seem to add new criteria relative to significance that have not been considered before.*

Exhibit 4–1 has a limited purpose to identify the significance thresholds and factors to consider when examining potential significance. This exhibit is not intended as a tool for screening alternatives to avoid or promote particular environmental outcomes. The criteria listed in Exhibit 4–1 for this environmental impact category are contained in Paragraph 10.2c of Order 1050.1E and thus are not new criteria. There are no requirements to select an alternative that minimizes hazardous waste remediation efforts.

*One commenter recommended adding language from Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (see Section 2–203), in the factors to consider for Children's Environmental Health and Safety Risks explaining what specific areas are to be evaluated. Without this clarification, the text in this table may be interpreted more broadly than intended.*

The FAA has decided not to include language from Executive Order 13045 in Exhibit 4–1. Exhibit 4–1 identifies factors to consider when evaluating significance. The 1050.1F Desk Reference chapter, Socioeconomics, Environmental Justice, and Children's Environmental Health and Safety, includes discussion of evaluating health and safety risks to children. This chapter relies upon the Executive Order to identify the considerations that would determine whether a project would lead to a disproportionate health or safety risk for children. As a result, it is unlikely that the text in Exhibit 4–1 will be interpreted more broadly than intended.

*One commenter stated that the 2nd bullet in factors to consider for Environmental Justice could be interpreted to mean that individual environmental justice populations can*

*identify their own significance threshold.*

The second bullet of the factors to consider in Exhibit 4–1 for Environmental Justice has been modified to state, ''[i]mpacts on the physical or natural environment that affect an environmental justice population in a way that the FAA determines is unique to the environmental justice population and significant to that population.'' The FAA has clarified the text to avoid any potential ambiguity or confusion. The purpose of this bullet is to recognize that in some circumstances, a significant impact may not occur under another environmental impact category's criteria, but that impact would be experienced by an environmental justice population in a way that is significant to the population due to unique circumstances of the population. In these situations, the factors to consider for Environmental Justice will ensure that the potential for significance under environmental justice considerations is examined and not disregarded.

*One commenter stated that the wording ''exceeds water quality standards'' is unclear and could be interpreted to mean meeting the standards or performing better than the standard.*

The FAA will retain the language ''exceeds water quality standards'' as this term is widely used when applying water quality standards. Due to the context of the statement referring to a significance factor for Surface Waters and Ground Waters, it is unlikely it would be misinterpreted to mean ''performing better than the standard.'' The language was contained in 1050.1E and the FAA is not aware of any instances where this language caused confusion or was misapplied.

*One commenter stated that the FAA should define what a significant encroachment is and identify the factors that would be used to determine significance under NEPA, since not all the factors involve environmental resources addressed under NEPA (*i.e., *flooding impacts on human safety and on a transportation facility).*

In the final Order, the FAA has removed the factor to consider for Floodplains that referenced significant encroachment. The 1050.1F Desk Reference provides more information on what to consider in determining if there is a significant impact under NEPA for floodplain impacts. A determination of a significant encroachment does not necessarily mean a significant impact under NEPA.

*One commenter suggested adding tribal agencies, as appropriate, in the list of agencies setting water quality standards, because some tribes have assumed the authority to set those standards.*

The FAA has added tribal agencies to the list of agencies that set water quality standards for both ground and surface waters.

*Paragraph 4–4. Mitigation*

Paragraph 4–4.c Mitigation Made as a Condition of FAA Approval

*One commenter asked how the FAA plans to monitor compliance with mitigation commitments.*

The FAA plans to monitor the FAA compliance with mitigation commitments on a case-by-case basis, depending on the commitments made and the most reasonable way to monitor them. For example, in cases where environmental commitments can be monitored through an already existing EMS, the compliance of mitigations could be monitored through EMS audits.

Paragraph 4–4.d. Monitoring

*One commenter recommended that the FAA include a statement that the FAA will consult with the appropriate resource or expertise agency in applying professional judgment to develop a monitoring program.*

The FAA uses standards of professional judgment and the rule of reason to determine when and how to monitor mitigation implementation and effectiveness (see Paragraph 4–4.d). When identifying mitigation measures for specific environmental impact categories, the FAA will coordinate with subject matter experts that have expert knowledge, training, and experience related to the resource(s) potentially impacted by the proposed action (see Paragraph 2–3.6.b). If the FAA does not have the relevant expertise to monitor mitigation, professional judgment and rule of reason would dictate the FAA reach out to an appropriate subject matter expert to help develop the monitoring program.

**Chapter 5. Categorical Exclusions**

*Paragraph 5–1. General*

*Several commenters expressed concern over who gets to decide when an action is within the scope of a CATEX and when proposed actions have extraordinary circumstances. The commenters stated this is highly subjective and susceptible to uneven interpretation.*

The FAA is ultimately responsible for complying with NEPA. Part of that responsibility is determining which actions are covered within the scope of an existing CATEX and which actions should be analyzed in an EA or EIS. Order 1050.1F provides the FAA's internal procedures to NEPA practitioners on how to make these types of determinations in compliance with NEPA and the CEQ Regulations.

Although determination of whether an action is within the scope of a CATEX and whether there are extraordinary circumstances seems subjective, the FAA uses professional judgment and rule of reason to determine if an action has the potential for significant impacts. The FAA also relies on guidance provided in the 1050.1F Desk Reference to provide more information on what to analyze in determining significance for each environmental impact category.

*Paragraph 5–2. Extraordinary Circumstances*

*One commenter questioned whether Paragraph 5–2.a(1) should be ''or'' rather than ''and'' so that extraordinary circumstances occur when a circumstance exists ''or'' when there are significant impacts. The commenter suggested that as written, a significant impact to a resource not protected by a special purpose law (community noise, for example) would not be considered an extraordinary circumstance.*

The statement is correct as written in Order 1050.1F. Extraordinary circumstances exist if one of the circumstances identified in the Paragraph 5–2.b is present and there may be a significant impact. The list of circumstances provides situations where a NEPA practitioner would have to evaluate whether there is potential for a significant impact. If one or more of the identified circumstances exists, the NEPA practitioner would determine if there may be a significant impact.

In reference to the example the commenter provides, Paragraph 5–2.b(7) provides the circumstance ''an impact on noise levels of noise sensitive areas,'' which would include community noise. Also note that the circumstance in Paragraph 5–2.b(12) states the likelihood to directly, indirectly, or cumulatively create a significant impact on the human environment. The presence of this circumstance applies to any potential for significant impacts and addresses the commenter's concern that a resource not protected by a special purpose law would not be considered an ''extraordinary circumstance even if it had significant impacts.''

*Several commenters asked whether the presence of a circumstance in Paragraph 5–2.b would prevent the application of a CATEX.*

As the introduction to Paragraph 5–2.b states, ''An extraordinary circumstance exists if a proposed action involves any of the following circumstances and has the potential for a significant impact.'' The list of circumstances provides situations where a NEPA practitioner would have to evaluate whether there is a potential for a significant impact. If one or more circumstances exist, the NEPA practitioner would determine if there may be a significant impact, thus creating an extraordinary circumstance and preventing the use of a CATEX. Therefore, the mere presence of a circumstance listed in Paragraph 5–2.b would not prevent the application of a CATEX. Determination of whether a circumstance may have a significant impact can take into consideration mitigation measures and permit requirements.

*One commenter stated that the FAA should reconsider the way in which it applies extraordinary circumstances reviews to projects potentially subject to a CATEX because the current practice results in EAs being prepared in too many circumstances where a CATEX would have been sufficient. The commenter stated that changes to the FAA's application of extraordinary circumstances should be based on the results of NEPA documents completed in the last decade.*

The FAA has reviewed the list of extraordinary circumstances and made changes where warranted. It is important to note that an EA is not automatically triggered by the mere existence of one or more of the circumstances identified in Paragraph 5–2.b. Preparation of an EA for a project that would otherwise be subject to a CATEX is required under Order 1050.1F only when one or more of the listed circumstances exist and the proposed action has the potential to cause a significant impact. Where appropriate, previous EAs resulting in FONSIs can be used as evidence that the proposed action does not have the potential to have significant impacts and therefore does not have extraordinary circumstances. However, the project-specific information would still need to be considered to determine if there are project-specific circumstances that have the potential to cause significant impacts. Whether an EA should be prepared for a proposed action is a matter of professional judgment and must be addressed on a case-by-case basis.

*One commenter stated the draft Order 1050.1F is in conflict with the well-established, clearly written NEPA regulations that require consideration of cumulative impacts because the FAA is ignoring cumulative impacts in their CATEXs.*

FAA Order 1050.1F is consistent with the CEQ Regulations and does consider cumulative impacts when deciding what actions can be categorically excluded. In fact, the definition of a CATEX is a ''category of actions which do not individually or cumulatively have a significant effect on the human environment . . .'' (see 40 CFR 1508.4). The FAA's CATEXs have undergone review by DOT, CEQ, and the public prior to being established. Furthermore, the potential for a significant cumulative impact is a factor to be considered when examining the possibility of extraordinary circumstances associated with use of a CATEX.

*One commenter stated that disputes about the presence of extraordinary circumstances should be resolved by a neutral third party and not simply at the discretion of the administering agency.*

Decisions regarding the appropriate level of NEPA review, including decisions about the applicability of CATEXs and the presence of extraordinary circumstances, are the very type of decisions that NEPA has entrusted to the discretion of the agencies that must implement the statute. The Order's statement that NEPA practitioners should consult AEE or AGC when in doubt about the existence of extraordinary circumstances is, therefore, appropriate. This portion of the Order was not intended to suggest a conflict arising between the FAA and a third party regarding whether an extraordinary circumstance exists. Rather, this is meant to provide clarity to FAA NEPA practitioners that if they are unsure about whether there are extraordinary circumstances, AEE and AGC have NEPA expertise and can aid the agency's NEPA practitioners in resolving such concerns.

*One commenter questioned who is responsible for determining the nature of the opposition (whether an action is highly controversial on environmental grounds) as identified in Paragraph 5–2.b(10) and what measurement will be used to make this determination.*

The FAA is ultimately responsible for the determination of whether an action is highly controversial on environmental grounds. FAA Order 1050.1F provides internal guidance to the FAA's practitioners on how to comply with NEPA. Decisions regarding whether impacts from an FAA action are likely to be highly controversial on environmental grounds are the very type of decisions that NEPA has entrusted to the discretion of the agencies that must implement the statute. Under Paragraph 5–2.b(10), the term ''highly controversial on environmental grounds'' means there is a substantial dispute involving reasonable disagreement over degree, extent, or nature of a proposed action's environmental impacts or over the action's risks of causing environmental harm. This would be determined on a case-by-case basis using professional judgment and would depend on the characteristics of the community to be impacted (*i.e.,* minority, low income, children, etc.) and the basis for the community's opposition. If the FAA expects that an action is likely to be highly controversial on environmental grounds, this factor would lend some persuasive weight to the option of preparing an EA for the project.

*Paragraph 5–3. Categorical Exclusion Documentation*

Paragraph 5–3.b. Additional Documentation

*One commenter stated that Paragraph 5–3.b(1) should be modified to ''actions that would affect a sensitive resource and, consequently, trigger compliance with a special purpose law protecting that resource.''*

The referenced text currently states ''actions that are likely to affect sensitive resources sufficient to heighten concerns regarding the potential for extraordinary circumstances.'' The suggested text changes add the condition that the resource is protected by a special purpose law. This new language is too narrow. Not all sensitive resources that should be considered when determining whether to prepare additional CATEX documentation are protected by special purpose laws.

*One commenter stated that Paragraph 5–3.b(4) be qualified with ''on environmental grounds.''*

The intent of Paragraph 5–3.b is to describe situations where the FAA may prepare CATEX documentation in the project record to document the decision that the proposed action is within the scope of a CATEX and no extraordinary circumstances exist. This is in contrast to a determination regarding existence of extraordinary circumstances due to impacts of a project being highly controversial on environmental grounds under 5–2.b(10). Proposed actions that have a high level of public opposition have an increased risk of litigation. The FAA can use this documentation in the event of litigation to demonstrate the basis for the decision the FAA has made. Thus, the language in Paragraph

5–3.b(4) should not be qualified with ''on environmental grounds.''

Paragraph 5–3.d. Documentation

*One commenter stated that since there is no prescribed format for a CATEX, the LOB/SOs get to 'cherry pick' the documentation and information.*

Although there is not a prescribed format, the Order does state that documentation prepared for a CATEX determination should be concise and the extent of documentation should be tailored to the type of action involved and the potential for extraordinary circumstances. Paragraph 5–3.d of the Order also sets forth the information that should be presented if documentation is prepared, including the CATEX(s) used, a description of how the proposed action fits within the category of actions described in the CATEX, and an explanation that there are no extraordinary circumstances that would preclude the proposed action from being categorically excluded.

*One commenter requested that the FAA provide additional explanation as to what constitutes a documented CATEX.*

Paragraph 5–3.d specifies that when additional documentation is warranted, such documentation should be concise and show that a specific CATEX was determined to apply to a proposed action. The documentation should be tailored to the type of action involved and the potential for extraordinary circumstances. The documentation should cite the CATEX(s) used, describe how the proposed action fits within the category of actions described in the CATEX, and explain that there are no extraordinary circumstances that would preclude the proposed action from being categorically excluded. FAA is not prescribing a specific format for a CATEX in order to allow flexibility for LOBs to develop their own standards for what constitutes a documented CATEX.

*One commenter requested more information on how to prepare an administrative record for a CATEX as CEQ recommends.*

Order 1050.1F specifies the CATEX documentation should cite the CATEX(s) used, describe how the proposed action fits within the category of actions described in the CATEX, and explain that there are no extraordinary circumstances that would preclude the proposed action from being categorically excluded. The Order has added the following language: ''[t]he documentation of compliance with special purpose laws and requirements may either be included in a documented CATEX or may be documented separately from a CATEX.'' The FAA has decided not to provide specific information on establishing an administrative record.

This is consistent with CEQ's CATEX Guidance, which states that ''documentation may be appropriate to demonstrate that the proposed action comports with any limitations identified in prior NEPA analysis and that there are no potentially significant impacts expected as a result of extraordinary circumstances. In such cases, the documentation should address proposal-specific factors and show consideration of extraordinary circumstances with regard to the potential for localized impacts. It is up to agencies to decide whether to prepare separate NEPA documentation in such cases or to include this documentation in other project-specific documents that the agency is preparing.''

CEQ's CATEX Guidance does make a reference to an administrative record when preparing a record for a new CATEX. ''The administrative record for a proposed CATEX should document the experts' credentials (*e.g.,* education, training, certifications, years of related experience) and describe how the experts arrived at their conclusions.'' If this is what the commenter is referring to, the CATEX Justification Package prepared for the FAA's new and revised CATEXs would serve as this documentation. Since creation of new CATEXs is not done very often outside of an Order update, the process for proposing a new CATEX has not been added to Order 1050.1F. For more information regarding proposing and preparing a justification package for a new CATEX, please consult with AEE.

*One commenter questioned whether deficient documentation of CATEXs is encouraged by the statement ''a determination that a proposed action qualifies for a CATEX is not considered deficient due to lack of documentation provided that extraordinary circumstances have been considered.''*

Neither NEPA nor CEQ's NEPA implementing regulations require documentation for application of a CATEX to a particular proposed action. As noted above, CEQ has issued guidance regarding the establishment and use of CATEXs. This guidance, in keeping with the CEQ Regulations, does not require documentation for each proposed action an agency may implement under a CATEX. The guidance states, ''[w]hen applying a categorical exclusion to a proposed action, Federal agencies face two key decisions: (1) Whether to prepare documentation supporting their determination to use a categorical exclusion for a proposed action and (2) whether public engagement and disclosure may be useful to inform determination about using categorical exclusions.'' See CEQ's CATEX Guidance. Thus, the CEQ Regulations and the guidance on this subject have entrusted the decision whether to document application of a CATEX to the discretion of the agencies subject to the requirements of NEPA. The decision to document a CATEX is made on a case-by-case basis. For some Federal actions there is no reasonable expectation that the proposed action could cause any environmental impacts. These actions would not require CATEX documentation. Paragraph 5–3.b identifies situations where CATEX documentation is recommended. The portion of the Order identified in this comment specifies that the FAA may choose to apply a CATEX to a particular proposed action with or without documentation if that action is within the scope of the identified CATEX and the potential for extraordinary circumstances was considered. This is appropriate under the statute, regulations, and CEQ guidance.

*Several commenters stated that by indiscriminately applying CATEXs, the agency proposes to preclude consideration of actions that have unquestionably created notable negative impacts on public health and the environment, and thus should not be categorically excluded.*

The FAA does not indiscriminately apply CATEXs. Before a CATEX can be applied, a proposed action must undergo review to determine if it is within the scope of an existing CATEX and whether there are any extraordinary circumstances that would preclude the use of the CATEX in that instance. In determining whether there are extraordinary circumstances, the FAA will use professional judgment and rule of reason, which includes examining the action based on the FAA's experience with similar actions.

*Paragraph 5–4. Public Notification*

*Several commenters stated the public should be engaged or notified before a CATEX is applied and the proposed action is in effect. Additionally, they stated that the use of a CATEX effectively shuts out public involvement.*

The FAA's public involvement requirements are consistent with CEQ's requirements for public notice and comment. The level of public involvement is commensurate with the level of potential significant impacts. Actions that are categorically excluded do not have the potential for individual or cumulative significant impacts, except when there are extraordinary

circumstances, and therefore merit minimal public involvement. Where no extraordinary circumstances are present, public involvement is generally not required. However, the FAA has acknowledged that there may be circumstances where public involvement would be appropriate on a case-by-case basis (See Paragraph 5–4).

To establish a CATEX, the FAA needs to prepare a CATEX justification package that does undergo public review. The FAA must demonstrate that the categorically excluded actions have no potential for significant impacts individually or cumulatively. This justification package needs to be reviewed and approved by DOT and CEQ, and have a public notice and comment period.

*One commenter specified that any noise or land use impacts should involve the citizens who would be affected, even when the action would qualify for a CATEX. This involvement should include a reasonable comment period and a method to challenge the findings.*

The FAA public notification and involvement requirements are consistent with CEQ Regulations and guidance. Public notification and involvement are commensurate with the potential for significant impacts. Noise and land use impacts are handled in the same manner as other environmental impact categories.

*One commenter specified that although there is no formal public involvement process required for the application of CATEXs, the FAA should notify and consult with relevant airport sponsors before applying them. The commenter specifically mentioned coordination on the implementation of the two legislative CATEXs.*

The FAA notes the concern that airport sponsors may not be notified when a CATEX is applied. Paragraph 2–4.3, Intergovernmental and Interagency Coordination, was amended to indicate that coordination should include airport sponsors when actions would affect operations at an airport. This would cover any action taken following application of a CATEX that affect operations at an airport, including actions that are covered under the two legislative CATEXs.

*One commenter stated that the CATEX public notification paragraph should specify that some special purpose laws require notification even in cases when an action has been categorically excluded.*

A statement was added to Paragraph 5–5, Other Environmental Requirements, that there may be public notification requirements under special purpose laws for actions subject to a CATEX. Information on other environmental requirements that may apply to proposed actions is provided in the 1050.1F Desk Reference.

*Paragraph 5–5. Other Environmental Requirements*

*One commenter suggested the FAA include information that compliance with special purpose laws would lessen the proposed action's impacts and possibly avoid a significant impact.*

The FAA has decided not to insert additional language stating that compliance with special purpose laws would lessen the proposed action's impacts and possibly avoid significant impacts. Compliance with special purpose laws does not necessarily lessen an action's impacts. Compliance with special purpose laws and requirements may, in some cases, generate mitigation measures that reduce the overall impact of a proposed action. Determining whether this is true with respect to any particular proposed action is necessarily fact-specific. Where warranted, mitigation measures that result from consultation with agencies on special purpose laws can help provide documentation to validate the use of a CATEX.

*One commenter stated the FAA should emphasize that public review periods for NEPA documentation can run concurrently with any review period for special purpose laws.*

In addition to the language in Paragraph 2–5.2.a on special purpose laws and requirements, the FAA has ensured that references to public notification and comment periods on special purpose laws in Chapters 5–7 also contain language indicating that these comment periods can run concurrently with NEPA review periods.

*Paragraph 5–6. The Federal Aviation Administration's Categorical Exclusions*

*One commenter stated the FAA should not have any CATEXs.*

40 CFR 1507.3(b)(2)(ii) specifically authorizes agencies to identify actions that ''normally do not require either an environmental impact statement or environmental assessment.'' The CATEXs provided in Order 1050.1F have been determined to not have the potential for significant impacts either individually or cumulatively. The FAA's CATEXs have undergone review by the DOT, CEQ, and the public prior to being established.

*Several commenters specified the FAA should not have CATEXs for flight patterns, runway extensions, or ALPs.*

The FAA must go through an approval process to establish a CATEX. In order to establish a CATEX, the FAA must prepare a CATEX justification package that shows the agency's determination that these types of actions, absent extraordinary circumstances, do not have the potential for individual or cumulative significant impacts. This determination is based on the FAA's experience with historic implementation of these types of actions. This package must be approved by DOT and CEQ, and provided to the public.

*Several commenters indicated a belief that the FAA should not make CATEXs available for a variety of the specific actions addressed in Chapter 5 of Order 1050.1F.*

The FAA must go through an approval process to establish a CATEX. In order to establish a CATEX, the FAA must prepare a CATEX justification package that shows the agency's determination that these types of actions, absent extraordinary circumstances, do not have the potential for individual or cumulative significant impacts. This determination is based on the FAA's experience with historic implementation of these types of actions. This package must be approved by DOT and CEQ, and provided to the public.

Many of the CATEXs in Order 1050.1F remain unchanged and have been in effect for a number of years. Even if the action is the type of action that would normally be categorically excluded, the FAA must determine if there are extraordinary circumstances that would preclude the use of a CATEX.

The only two CATEXs that have not undergone review by the DOT, CEQ, and the public prior to being established were the legislative CATEXs authorized under Section 213(c) of the FAA Reauthorization of 2012. It is not uncommon for Congress to provide for specific CATEXs or state in the legislation that certain actions should be presumed to have no significant impacts and therefore should be categorically excluded, as was the case for the two legislative CATEXs provided for in Section 213 (c) of the FAA Reauthorization of 2012. These types of CATEXs are provided for by law rather than being created at the discretion of the agency. Because these legislative CATEXs are not the product of administrative discretion, the FAA need not prepare a CATEX justification package for submission to CEQ. See footnote 1 of the CEQ's CATEX Guidance.

*One commenter expressed confusion and concern with regards to the three-acre limit in some of the CATEXs.*

The three-acre limit is the FAA's limit for acquiring land for the construction of a building under CATEX 5–6.4.r (purchase, lease, or acquisition of three acres or less of land with associated easements and rights-of-way for new facilities) Limiting acres of land decreases the potential for impacts. There is potential for significant impacts with developed and undeveloped land. When land is already developed, there are potential impacts from displacement or prior site contamination. When land is undeveloped, potential impacts include but are not limited to impacts to habitat, soils, and historical artifacts. When this CATEX was established, the FAA limited these actions to three acres or less to limit the potential for significant impacts, although the potential for significant impacts under extraordinary circumstances must be examined before application of any CATEX.

The new CATEX involving solar and wind projects, CATEX 5–6.3.i, was limited based on acreage because of potential impacts with the construction and operation of these structures. The larger the acreage for solar and wind projects, as with any project, the greater potential for environmental impacts. In particular, larger solar and wind projects raise the concern of impacts to bird and bat populations. For additional information on the reasons for the acreage limitations applied to the new and modified CATEXs, please see the CATEX Justification Package available at (*http://www.faa.gov/about/office_org/headquarters_offices/apl/environ_policy_guidance/policy/draft_faa_order/*).

Some CATEXs do not specify acreage because the type of projects that fall within that CATEX do not need limitations on the acreage. For example see CATEX 5–6.4.b, which covers acquisition of land and relocation associated with a categorically excluded action. In this case, the acquisition of land covered by that CATEX is limited by the nature of the acquisition and can only be applied if the purpose of acquisition is within the scope of another CATEX.

Two other CATEXs have been limited to one acre or less: CATEX 5–6.4.ee and CATEX 5–6.4.ff, which involve hazardous wastes or hazardous substances. These were limited based on the FAA's experience that the nature of these activities is normally within one acre or less. Prior FAA actions used to justify these CATEXs were less than one acre each. No further research was conducted or prepared for similar actions that would be greater than one acre to increase this acreage amount. By nature of the CATEX, the FAA is not determining that these types of actions greater than one acre would be significant, but rather, we did not invest resources to justify actions greater than one acre because the FAA does not have a need for this CATEX to be greater than one acre. For additional information on the concerns of potential impacts and the reasons for the limitations for the new and modified CATEXs, please see the CATEX Justification Package available at (*http://www.faa.gov/about/office_org/headquarters_offices/apl/environ_policy_guidance/policy/draft_faa_order/*).

For actions that are not within the scope of a CATEX or that involve extraordinary circumstances, an EA or EIS must be prepared.

Paragraph 5–6.1. Categorical Exclusions for Administrative/General Actions

*One commenter recommended adding air-space sectorization and Air Traffic Standard Operating Procedures and Letters of Authorization to the list of CATEXs for administrative and general actions.*

The FAA is not adding additional CATEXs to Order 1050.1F at this time. The FAA has established several new CATEXs in this update to Order 1050.1 which have already undergone review by DOT, CEQ, and the public.

In order to qualify for a CATEX, the FAA needs to prepare a CATEX justification package that demonstrates there is no potential for significant impacts individually or cumulatively. This justification package needs to be reviewed and approved by DOT and CEQ, and have a public notice and comment period.

Depending on what actions the commenter is referring to, these actions may already be within the scope of existing CATEXs. The commenter is encouraged to work with their FAA LOB/SOs contacts to determine if these actions are already within the scope of an existing CATEX. If these actions are not within the scope of an existing CATEX, the commenter can work with their FAA LOBs to help prepare a justification package for inclusion in a future update of the Order.

*5–6.1.u. One commenter stated concern over CATEX 5–6.1.u [Approval under 14 CFR part 161, Notice and Approval of Airport Noise and Access Restrictions, of a restriction on the operations of Stage 3 aircraft that does not have the potential to significantly increase noise at the airport submitting the restriction proposal or at other airports to which restricted aircraft may divert. (ARP)]. The commenter indicates a belief that application of a CATEX to these actions does not take into account the needs of the local community and environment.*

Based on the comment, it seems the commenter may be confused with regards to a Notice and Approval of Airport Noise and Access Restrictions, since these actions tend to reduce airport noise by placing restrictions on the operation of Stage 3 aircraft rather than approve actions that would increase the use of Stage 3 aircraft. There are no changes to this CATEX in Order 1050.1F.

Paragraph 5–6.3. Categorical Exclusions for Equipment and Instrumentation

*CATEX 5–6.3.g. One commenter wanted verification whether the replacement/upgrade of power and control cables for existing facilities and equipment [CATEX 5–6.3.g] must occur in the same location or along the same right-of-way as an existing cable.*

The FAA will apply professional judgment and rule of reason on a case-by-case basis on whether the CATEX would apply for cable that is replaced or upgraded. The more the replacement/upgrade occurs in the same location as the original cables, the less likely there would be extraordinary circumstances precluding the use of the CATEX.

*CATEX 5–6.3.i. One commenter was concerned with the potential impacts to both bird and bat populations from solar and wind operations.*

The FAA has added specific language into the CATEX that these actions may not cause significant impacts to bird or bat populations to highlight this extraordinary circumstance. This language is the same language used for Department of Energy's CATEX for wind turbines that was used as a benchmark when creating this CATEX.

Paragraph 5–6.4. Categorical Exclusions for Facility Siting, Construction, and Maintenance

*One commenter was concerned over the application of CATEXs for Facility Siting, Construction, and Maintenance [actions involving acquisition, repair, replacement, maintenance, or upgrading of grounds, infrastructure, buildings, structures, or facilities that generally are minor in nature] because ''minor in nature'' allows for interpretation.*

The commenter references the introductory text for Paragraph 5–6.4, the general category for Facility Siting, Construction, and Maintenance CATEXs. This category of actions has 32 individual CATEXs which outline the

types of actions that the FAA has determined to not have individual or cumulative impacts. Therefore, the language ''minor in nature'' in the introduction to this category of actions is not lacking more definitive boundaries or open to boundless interpretation. To apply these CATEXs, the FAA must determine the project is within the scope of one of the specific actions listed in the CATEXs and there are no extraordinary circumstances, as outlined in Paragraph 5–2.

*CATEX 5–6.4.a. One commenter was concerned with who gets to determine acceptable service reduction levels in the absence of community input.*

Level of service is a grading system that describes the amount of surface congestion on local roads, highways, interchanges, and interstates. It was developed by the Federal Highway Administration using the letter A to represent the least congestion and F for the most congested roads. The classification accounts for the speed of the vehicles and the number of vehicles per lane and is based on peak hour traffic conditions. The FAA would evaluate the project on these criteria to determine whether an action would change the level of service.

*CATEX 5–6.4.b. One commenter expressed the belief that acquisition of land and relocation associated with a categorically excluded action should come under public review because these actions are often arbitrary and whimsical.*

The FAA's policy toward public notification of the use of CATEXs is discussed in Paragraph 5–4 and is consistent with CEQ guidance. The FAA public notification requirements are consistent with CEQ Regulations and guidance. Public notification and involvement are commensurate with the potential for significant impacts. Public notification for CATEXs is not required. The decision of whether to notify the public is made on a case-by-case basis.

*CATEX 5–6.4.c. One commenter questioned what ''significantly change the impact on the environment'' means for CATEX 5–6.4c [Installation, modification, or repair of radars at existing facilities that conform to the current American National Standards Institute/Institute of Electrical and Electronics Engineers (ANSI/IEEE) guidelines for maximum permissible exposures to electromagnetic fields and do not significantly change the impact on the environment of the facility. (All)]*

The text ''significantly change the impact on the environment'' refers to a determination of significance that is made by considering the instruction provided in Paragraph 4–3.3 of this Order. Additional guidance on making a determination of significance for each environmental impact category is provided in the 1050.1F Desk Reference, which is publically available. This CATEX was not modified from Order 1050.1E and the FAA is unaware of any evidence arising through its use and application that would undermine its continued validity.

*CATEX 5–6.4.e. Two commenters wanted clarification for CATEX 5–6.4.e with regards to what ''significant erosion or sedimentation'', ''would not result in significant noise increase,'' and ''significant impacts on air quality'' mean.*

When modifying the CATEXs, the FAA decided that it was important to identify the potential impacts of concern that were most likely to be associated with the particular CATEX under discussion thus highlighting potential extraordinary circumstances that may require further analysis in an EA or EIS. For this reason, CATEX 5–6.4.e includes reference to the most likely environmental impacts of concern associated with a runway extension, including erosion or sedimentation, noise, and air quality. The FAA will still evaluate all the other circumstances listed in Paragraph 5–2.b to determine if there are circumstances that would have the potential to cause significant impacts (*i.e.,* extraordinary circumstances would exist that would preclude the use of a CATEX).

In determining whether there is significant erosion or sedimentation, the FAA will rely on an analysis of context and intensity in accordance with CEQ's definition of significance. The FAA will also consider the significance thresholds and factors to consider for the environmental impact categories in Exhibit 4–1 to determine other potential significant impacts. For more information on this CATEX, please see the FAA's CATEX Justification Package available at: (*http://www.faa.gov/about/office_org/headquarters_offices/apl/environ_policy_guidance/policy/draft_faa_order/*).

*CATEX 5–6.4.h. One commenter asked for additional clarification of what ''substantial expansion'' means in CATEX 5–6.4.h. The commenter also indicated that the reference to the presumed to conform list in this CATEX may inadvertently limit application of this CATEX to those projects specifically mentioned in the presumed to conform list, which does not seem appropriate.*

The CATEX was modified to add reference to the presumed to conform list to help NEPA practitioners determine what the concerns were regarding ''substantial modification.'' It was not added to limit the activities to those identified in the presumed to conform notice.

In addition to the typical potential impacts from construction, the concern with substantial modification to existing facilities is the potential to cause indirect air quality impacts due to change in operations, passengers, etc. The FAA considered explicitly listing the criteria that were used to create the presumed to conform list within the CATEX; however, during internal review of the CATEX, the criteria caused more confusion than benefit to the FAA's NEPA practitioners. The presumed to conform criteria include expansion of existing buildings with a construction footprint less than 185,891 square feet. In addition, the action must not increase any of the following:

- The number of passengers boarding any scheduled flight;
- the number of aircraft operations the airport or launch facility serves;
- the tonnage of cargo the airport or launch facility handles;
- the cargo payload placed on a scheduled flight; or
- the size of the aircraft that the airport or launch facility can serve.

In addition, the expansion cannot change the airport or launch facility's runway use.

*CATEX 5–6.4.i. One commenter asked why ''provided no hazardous substances or contaminated equipment are present on the site of the existing facility'' was added to CATEX 5–6.4.i. In considering extraordinary circumstances for a CATEX, if a remediation plan has been developed and approved by any requisite agencies, it is unclear why an EA would be warranted for demolition of such facilities.*

The language identified in the comment does not represent a substantive change to the CATEX as compared to its presentation in 1050.1E. The original CATEX [Paragraph 310i in Order 1050.1E] had similar language: ''provided no hazardous substances contamination is present on the site or contaminated equipment is present on the site.'' The FAA did not propose removing this limitation in Order 1050.1F. In order to do so, FAA would have to prepare a detailed CATEX justification package substantiating that even in instances where hazardous substances or contaminated equipment is present on the site there would not be a potential for significant impacts.

*CATEX 5–6.4.z. One commenter asked for clarification that CATEX 5–6.4.z can apply to trees occurring off airport.*

The commenter is correct that CATEX 5–6.4.z can apply to trees located off

airport property. Actions taken under CATEX 5–6.4.z can be distinguished from actions taken under CATEX 5–6.4.l since CATEX 5–6.4.z only involves topping or trimming of trees to prevent obstacles to air navigation and does not involve ground disturbance or removal of existing structures. In contrast, CATEX 5–6.4.l is restricted to actions occurring on airport property, commercial space launch site property, or property owned or leased by the FAA because it permits ground disturbance and removal of existing structures.

*CATEX 5–6.4.bb. One commenter sought clarification as to what constitutes ''extensive business or residential relocation'' as specified in CATEX 5–6.4.bb.*

CATEX 5–6.4.bb allows for land acquisition to establish an RPZ or for other aeronautical purposes and does not limit the amount of land that can be acquired. One of the impacts of concern with the use of this CATEX is the potential for significant impacts as the number of businesses or residents that are required to relocate increases within the area. The FAA did not define a number of residents or businesses that would need to be affected and will evaluate each proposed action on a case-by-case basis as to whether an action has the potential to involve ''extensive'' business or residential relocation. However, the more residents or businesses that could be affected, the more likely the CATEX would not apply.

*CATEX 5–6.4.ff. One commenter stated it is unclear why the FAA limited this CATEX to one acre or less, if the work plan is subject to an approved remediation plan.*

This is a new CATEX. The activities included in the CATEX are required for conducting in-situ environmental remediation, with limited removal actions of hazardous substances, hazardous wastes, or other regulated substances. These actions must be done in accordance with industry best management practices and a remedial action plan or remedial design document approved by the appropriate or relevant governmental agencies. The FAA used the following sources of information in deciding what activities could be covered under the CATEX: (1) NEPA analyses contained in EAs prepared for previously-conducted FAA actions that included similar activities and which received FONSIs; (2) professional judgment and expert opinion regarding the environmental impacts of activities normally conducted during environmental remediation for the FAA and other organizations; and (3) comparison with CATEXs established by other agencies.

The total overall area impacted in these types of FAA actions is typically less than one acre, even at FAA facilities located on larger developed properties. The FAA is limiting the proposed CATEX to areas less than one acre in size to avoid potential impacts to environmental resources outside the area. For more information, please see the justification prepared for this CATEX, which is available at: (*http://www.faa.gov/about/office_org/headquarters_offices/apl/environ_policy_guidance/policy/draft_faa_order/*).

Paragraph 5–6.5. Categorical Exclusions for Procedural Actions

*CATEX 5–6.5.g. One commenter stated that the reference to RNAV/RNP systems is ambiguous and should be clarified in CATEX 5–6.5.g. The commenter stated that in the past, this paragraph has been cited in the establishment of new PBN procedures which is wrong because the system referred to is the electronic equipment used by aircraft to navigate, not the mapping of a flight path.*

CATEX 5–6.5.g. states, ''[E]stablishment of Global Positioning System (GPS), Flight Management System (FMS), Area Navigation/Required Navigation Performance (RNAV/RNP), or essentially similar systems that use overlay of existing flight tracks. For these types of actions, the Noise Integrated Routing System (NIRS) Noise Screening Tool (NST) or other FAA-approved environmental screening methodology should be applied. (ATO, AVS)''

This CATEX is categorized under section 5–6.5 Categorical Exclusions for Procedural Actions and applies to airspace and air traffic procedures. It allows for the establishment of overlay procedures that use GPS, FMS, RNAV/RNP, or other similar systems. This is not for the establishment of electronic equipment, as the commenter has stated. This CATEX is limited to the establishment of new PBN procedures that create a flight track that overlays an existing flight track. This CATEX could not be applied to new PBN procedures that create new flight tracks that do not overlay existing flight tracks.

*CATEX 5–6.5.i. Two commenters asked for clarification on how to evaluate new procedures or modification of procedures conducted below 3,000 feet that do not cause traffic to be routinely routed over noise sensitive areas.*

For actions below 3,000 feet, ATO may use the Noise Screening Tool or the Air Traffic Guidance Document, as described in the Order 1050.1F Desk Reference. The Air Traffic Guidance Document is designed to step the user through a series of pre-screening tests to determine whether there is no potential noise impact or if additional screening or noise analysis will be needed. For more information on how to evaluate noise impacts for FAA actions, please see Chapter 11 of the 1050.1F Desk Reference, Noise and Noise-Compatible Land Use.

**Chapter 6. Environmental Assessments and Findings of No Significant Impact**

*Paragraph 6–1. General*

*One commenter suggested including references to the applicant in Paragraph 6–1.a and Paragraph 6–1.b since applicants, such as airport sponsors, also prepare EAs.*

Although some LOBs/SOs have applicants prepare EAs, the NEPA responsibility rests with the FAA. Paragraph 6–1.a has been modified to remove emphasis of the LOB/SO. However, the FAA has retained the reference to LOB/SOs in Paragraph 6–1.b since the responsible FAA official has the responsibility to determine whether the proposed action is covered under an existing NEPA document (see Paragraph 2–3.2.a(2)). Therefore it is more appropriate to encourage LOB/SOs to build upon prior EAs or EISs to the extent data in those documents remains valid.

*One commenter recommended combining the subparagraphs of Paragraph 6–1 to explain that the responsible FAA official recommends a FONSI, while the approving official makes the final determination that a FONSI is appropriate.*

The FAA has revised Paragraph 6–1 to clarify the responsibilities of the responsible FAA official. Reference to the FAA approving official has been removed to avoid any confusion.

*One commenter stated that it is unclear whether the FAA is encouraging the preparation of joint NEPA and state-NEPA equivalent documents.*

Paragraph 6–1.a(3), referenced by the commenter, is intended to encourage the integration of NEPA with special purpose laws, not the preparation of joint NEPA and state NEPA-equivalent documents. This language has been modified to make the intent clearer.

With reference to joint NEPA and state NEPA-equivalent documents, the FAA encourages the preparation of joint NEPA and state NEPA-equivalent documents where it would reduce delay and make the process more efficient. The FAA also recognizes that preparing

joint documents can be challenging due to the differences between NEPA and some state-level environmental review requirements. When joint documents are prepared, the FAA must ensure that all of the requirements under Order 1050.1F are adhered to (see Paragraphs 2–3.4.j and 2–3.5.f of the Order).

*One commenter suggested adding wording about interdisciplinary analysis in Paragraph 6–1.a(3) to be consistent with the requirements of 40 CFR 1501.2(a).*

The referenced paragraph refers to integrating applicable special purpose law review, consultation, and public involvement requirements within NEPA planning and documentation. It does not make sense to refer to an interdisciplinary approach in this context. However, an interdisciplinary approach is discussed in Paragraph 1–7.

Paragraph 6–2.1. Environmental Assessment Format

*One commenter asked for additional information on how Paragraphs 405d and 405e of Order 1050.1E differ from Paragraph 6–2 of the draft Order 1050.1F.*

Paragraphs 405d and 405e of Order 1050.1E contained very detailed information on the Alternatives and Affected Environment sections of an EA, and the corresponding EIS paragraphs had cross-references back to the EA discussion. In Paragraph 6–2 of Order 1050.1F, the descriptions of the Alternatives and Affected Environment sections of an EA have been streamlined to reflect that EAs are generally not as detailed as EISs. There are cross-references to the corresponding EIS paragraphs of the Order for EAs that may need to be more substantial. The detailed information that was removed from the EA section has been included in the discussion in Chapter 7, Environmental Impact Statements.

*One commenter was concerned that too much of the technical guidance that was present in Order 1050.1E has been removed with this update, particularly in reference to EAs, leaving users without sufficient consistent guidance.*

Although some of the text regarding EAs in Chapter 4 of Order 1050.1E has been removed, that information is included in Chapter 7 of Order 1050.1F, and cross-references have been included in Chapter 6 to provide more in-depth information that may be useful for particular EAs. The FAA took care to ensure that the information in Paragraphs 405d and 405e of Order 1050.1E was retained.

Paragraph 6–2.1.b. Proposed Action

*One commenter recommended that additional language be added to Paragraph 6–2.1.b to state that this paragraph is the FAA's or the applicant's proposed solution to the problem it is attempting to solve to help clarify the distinction between the purpose and the need for the action and the action itself.*

The FAA retains the original language proposed in Paragraph 6–2.1.b of the draft Order 1050.1F. However, the FAA has revised Paragraph 6–2.1.c to clarify that the description of purpose and need presents the problem being addressed and describes what the FAA is trying to achieve with the proposed action.

Paragraph 6–2.1.c. Purpose and Need

*One commenter requested that the purpose and need discussion further clarify the distinctions between need, purpose, and the proposed action.*

Neither NEPA nor the CEQ Regulations separately define or distinguish purpose and need. Paragraph 6–2.1.c of Order 1050.1F, which has been revised for clarity, explains that the purpose and need section of an EA presents the problem being addressed and describes what the FAA is trying to achieve with the proposed action.

Paragraph 6–2.1.d. Alternatives

*One commenter stated that additional guidance is needed concerning issues the FAA considers in its screening of alternatives as to what is considered practicable, prudent, and feasible. The commenter appreciates that some of the special purpose laws have specific requirements regarding alternatives, but believes that the FAA should identify in the Order issues important to the agency achieving its missions. In the past, guidance has been helpful in noting that the FAA often considers ''safety, meeting transportation objectives, design, engineering, environment, economics, and any other applicable factors'' when weighing various alternatives. This language has always been important to discussions with other agencies when preparing EAs and EISs.*

In addition to their common meanings, the terms ''practicable,'' ''prudent,'' and ''feasible'' have specific meanings as applied to alternatives in the context of particular special purpose laws and requirements (*e.g.,* those pertaining to Section 4(f) and wetlands). These meanings, and related guidance, have been incorporated as appropriate in Order 1050.1F and the 1050.1F Desk Reference. Consistent with the CEQ regulations, the FAA considers all relevant factors, including, as appropriate, ''economic and technical considerations,'' ''agency statutory missions,'' and ''any essential considerations of national policy'' (see 40 CFR 1505.2(b)), in screening and selecting alternatives.

*One commenter requested that the FAA define the term ''unresolved conflict'' because it is an important term that limits the range of alternatives in some EAs.*

Under Section 102(2)(E) of NEPA, Federal agencies must ''study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.'' However, the term ''unresolved conflict'' is not defined in NEPA or the CEQ Regulations (see 40 CFR 1501.2(c) and 1507.2(d)). FAA Order 5050.4B provides specific examples for airport development projects. However, other examples and interpretations of the term may also be appropriate, depending on the circumstances. Therefore, the FAA has not included a definition of the term in Order 1050.1F.

*One commenter wanted the FAA to clarify that a draft EA should indicate the FAA's preferred alternative, if it has been identified at that stage, and emphasize that a final EA must identify the FAA's preferred alternative.*

The FAA does not require that the preferred alternative be identified in a draft or final EA, nor is this required by NEPA or the CEQ regulations. The language in Paragraph 6–2.1(d) states that ''[t]he preferred alternative, if one has been identified, should be indicated.'' This is contrasted with the requirement in 40 CFR 1502.14 of the CEQ Regulations that the preferred alternative must be identified in a final EIS, which is also stated in Paragraph 7–1.2.g.

Paragraph 6–2.1.e. Affected Environment

*One commenter asked why the contents from Paragraph 405e of 1050.1E were moved to Paragraph 7–1.1.f in Order 1050.1F, dealing with the affected environment section for EISs.*

In Paragraph 6–2 of Order 1050.1F, the descriptions of the alternatives and affected environment sections of an EA have been streamlined to reflect that EAs are generally not as detailed as EISs. There are cross-references to the corresponding EIS sections for EAs that may need to be more substantial.

*One commenter asked for clarity that the affected environment section of an EA does not need to contain all the*

*environmental impact categories listed in Paragraph 4–1.*

Paragraph 6–2.1.e states that the affected environment section ''succinctly'' describes the existing environmental conditions of the potentially affected area and should be ''no longer than is necessary to understand the impacts of the alternatives.'' There is no requirement to include a detailed discussion for each environmental impact category. In addition, the affected environment section of an EA is not required to mirror the environmental impact categories listed in Paragraph 4–1, although this may make sense in some circumstances. When an environmental impact category is not relevant to the proposed action or any of the alternatives carried forward for environmental analysis (*i.e.,* the resources included in the category are not present or the category is not otherwise applicable to the proposed action and alternatives), the reason why should be briefly noted and no further analysis is required (see Paragraph 4–2.c). The criteria in Paragraph 6–2.1.e should guide NEPA practitioners in preparing EAs for FAA actions.

*One commenter recommended that Paragraph 6–2.1.e note that the CEQ regulations do not require affected environment sections in EAs. The commenter also recommended that the Affected Environment section be described as optional for EAs.*

Although not expressly required by the CEQ Regulations, the FAA routinely includes an affected environment section in EAs. A statement has been added to the Order to clarify that the affected environment discussion may be combined with the environmental consequences section in an EA.

Paragraph 6–2.1.f. Environmental Consequences

*One commenter stated that the draft Order appears to use the terms ''adverse effects,'' ''environmental consequences,'' and ''impacts'' interchangeably. Definitions of these terms as they are used in the FAA NEPA process would be helpful.*

As noted in 40 CFR 1508.8 of the CEQ Regulations, ''effects'' and ''impacts'' as used in the Regulations are synonymous. In light of this fact, we have updated our NEPA procedures to reference ''impacts'' rather than ''effects'' to avoid any confusion. The only time that ''effects'' has been retained in Order 1050.1F is when it is a direct quote or title. The Order has also been revised to only use the term ''environmental consequences'' when referring to the environmental consequences section in an EA or EIS.

*One commenter requested that the FAA provide guidance on the criteria used in NEPA documentation to consider impacts for existing and future years.*

The determination of appropriate timeframes for consideration of impacts for existing and future years in NEPA documentation is dependent on the proposed action and its potential impacts and is determined on a case-by-case basis.

*One commenter stated that the phrase ''Upon review of the final EA . . . the responsible FAA official determines whether any environmental impacts analyzed in the EA are significant'' raises concerns. Typically, draft and final EAs declare if the effects are significant. Does this sentence mean that draft and final EAs should not declare effects to be significant and reserve this determination for FAA's FONSI or FONSI/ROD?*

Draft and final EAs disclose the level of effects from the proposed action and typically state whether there are significant impacts for each potential impact. However, the FAA documents its final determination that the proposed action does not have significant impacts in a FONSI or FONSI/ROD.

*One commenter recommended that the FAA clarify that cumulative analysis is based on the proposed action, as opposed to other reasonable alternatives. The Order should provide instructions on what one should do regarding a cumulative analysis for a final EA that identifies a preferred alternative that differs from the proposed action.*

The commenter is incorrect that the cumulative analysis should only be based on the preferred alternative. Cumulative impacts should be examined for the proposed action and any other alternative considered in detail in the EA. The Order has been revised to remove language that could have inferred that consideration of cumulative impacts is only required for the proposed action.

Paragraph 6–2.2. Environmental Assessment Process

Paragraph 6–2.2.g. Public Comments on a Draft EA

*One commenter noted language in the Order that circulation of a draft EA and public meetings are not required for an EA and expressed concern that this language eliminates the need for public consideration and involvement in EAs. In addition, the commenter expressed concern about the application of these provisions to ongoing actions.*

The language the commenter is referring to has been removed from Order 1050.1F. Consistent with the CEQ Regulations (see 40 CFR 1501.4(b)), Paragraph 6–2.2.b of the Order states that the FAA or applicant must ''involve the public, to the extent practicable, in preparing EAs.'' What is practicable depends on the circumstances of a particular EA and is determined on a case-by-case basis.

This Order does not reduce the level of public involvement required for EAs. The public involvement requirements in Order 1050.1E have been retained in Order 1050.1F. Thus, publication of this Order will not affect public involvement for ongoing actions.

*One commenter stated that it would be helpful to provide examples under which public circulation of a draft EA should be considered. The commenter suggested that an EA prepared for a project that is highly controversial on environmental grounds should undergo public review, as failing to provide this review can lead to unnecessary delay in NEPA processing and FAA decision making.*

The FAA has added the following language in Paragraph 6–2.2.g of Order 1050.1F: ''Examples of situations where this [circulation of a draft EA for public comment] may be appropriate include draft EAs prepared for projects involving special purpose laws and requirements that necessitate public input (*e.g.,* Section 106 of the National Historic Preservation Act; Executive Order 11988, Floodplain Management; Executive Order 11990, Protection of Wetlands, etc.) or projects that are highly controversial on environmental grounds.''

Paragraph 6–2.2.i. Use of Errata Sheets

*One commenter encouraged the FAA to include use of errata sheets for EAs similar to the provision in the EIS Chapter.*

The FAA has added a similar provision for the use of errata sheets in the EA process (see Paragraph 6–2.2.i).

**Chapter 7. Environmental Impact Statements and Records of Decision**

*Paragraph 7–1. Preparation of Environmental Impact Statements*

*One commenter suggested that the introduction to Chapter 7 inform readers that only the FAA, or a contractor it selects, may prepare EISs for FAA actions per the CEQ Regulations.*

Chapter 7 of the Order guides the responsible FAA official through the EIS process. The FAA agrees that the Order should make the point suggested by the

commenter, but believes a better location to do so is Paragraph 2–2, which explains the roles and responsibilities of the FAA, applicants, and contractors. Language has been added to Paragraph 2–2.1.d that states when an EIS needs to be prepared, the FAA or a contractor it selects must prepare the EIS. In addition, Paragraph 2–2.2 notes that applicants may prepare EAs but not EISs, and Paragraph 2–2.3 details the responsibilities of contractors in preparing EISs.

Paragraph 7–1.1. Environmental Impact Statement Format

Paragraph 7–1.1.b. Executive Summary

*One commenter suggested adding clarifying language regarding identifying in the executive summary of an EIS the FAA's preferred alternative and noting whether that alternative differs from the applicant's proposed action.*

Paragraph 7–1.1.b of the Order states that the executive summary identifies the FAA's preferred alternative. The FAA has added language to Paragraph 7–1.1.b stating that the executive summary also identifies the sponsor's preferred alternative if it differs from the FAA's preferred alternative.

Paragraph 7–1.1.d. Purpose and Need

*One commenter stated that the definition of ''purpose and need'' should be the same in Chapters 6 and 7.*

The FAA agrees and has amended the descriptions for purpose and need in both the EA and EIS chapters to ensure they are consistent with one another.

Paragraph 7–1.1.h. Mitigation

*One commenter expressed concern that Paragraph 7–1.1.h(1) of the proposed Order, which required discussion of mitigation in an EIS for the proposed action only, would mean that all reasonable alternatives would not be given equal consideration. If mitigation is used to reduce the adverse impacts of the proposed action or preferred alternative, it is possible that mitigation could have been applied to other reasonable alternatives, thus reducing the adverse impacts of those alternatives. Treating all reasonable alternatives in a similar manner would allow the decision maker and public to consider each alternative's effects, with and without mitigation, on an equal footing.*

The FAA has revised Paragraph 7–1.1.h(1) to clarify that an EIS must discuss mitigation measures for the proposed action as well as any reasonable alternatives. In addition, FAA has clarified throughout the order that mitigation should be considered for the proposed action and any reasonable alternative.

Paragraph 7–1.2. Environmental Impact Statement Process

Paragraph 7–1.2.d(3) Review of Draft EIS

*One commenter suggested that Paragraph 7–1.2.d(3) include a reference to FAA Order 1210.20 because it describes the specific government-to-government procedures for the FAA.*

In Paragraph 7–1.2.d(3)(c) of the Order, the FAA has added a cross-reference to Paragraph 2–4.4, which outlines the requirements, including FAA Order 1210.20, for government-to-government coordination with tribes.

Paragraph 7–2.2. Record of Decision Content

*One commenter requested clarification regarding identification in the ROD of the preferred alternative identified in the final EIS. Providing this information would allow the public to know if modifications have been made to the preferred alternative disclosed in the final EIS.*

Paragraph 7–2.2.b states that the ROD must identify all alternatives considered by the FAA. This includes the alternative identified as the preferred alternative in the final EIS. Additionally, Paragraph 7–2.2.a requires that the ROD present the FAA's decision on the proposed action and discuss all factors the agency balanced in making its decision. Thus, the ROD should provide sufficient information to allow the public to know how, if at all, the selected alternative differs from the preferred alternative identified in the final EIS. As a result, no further clarification is necessary.

**Chapter 8. Federal Aviation Administration Actions Subject to Special Procedures**

*Paragraph 8–2. Adoption of Other Federal Agencies' National Environmental Policy Act Documents*

*One commenter encouraged the FAA to be clear if adoption only applies to Federal agencies' documents or whether an agency can adopt a state NEPA document.*

Adoption only applies to Federal agencies' NEPA documents. The word ''Federal'' has been added to Paragraph 8–2 for clarity.

*Paragraph 8–5. Actions Within the United States With Potential Transboundary Impacts*

*One commenter stated the text in Paragraph 8–5 should clarify that it is not intended to add requirements with respect to identification and/or analysis of climate impacts and refer the reader to FAA Order 1050.1E Guidance Memo #3, ''Considering Greenhouse Gases and Climate Under the National Environmental Policy Act (NEPA): Interim Guidance.''*

Paragraph 8–5 does not add any new requirements regarding climate impacts or any other aspect of NEPA compliance. It merely reiterates longstanding CEQ guidance that NEPA reviews should include analysis of reasonably foreseeable transboundary effects of proposed actions. The FAA's policies and procedures for analyzing climate impacts are described in Exhibit 4–1 of the Order and in the 1050.1F Desk Reference, which supersede FAA Order 1050.1E Guidance Memo #3, *Considering Greenhouse Gases and Climate Under the National Environmental Policy Act (NEPA): Interim Guidance.*

**Chapter 9. Time Limits, Written Re-Evaluations, and Supplemental National Environmental Policy Act Documents**

*Paragraph 9–1. Time Limits*

*One commenter asked whether a written re-evaluation of an EA or EIS is needed for a multi-stage project that the FAA has already approved. The commenter suggested specific language for Paragraph 9–1.d(2) stating that a written re-evaluation is required if a later stage of an already-approved project would begin more than three years after the FAA approved the final EIS for the project.*

FAA has changed the language in Paragraph 9–1.b(2) and 9–1.d(2)to make clear that if an action is implemented in stages by the FAA or an action implemented by an applicant requires successive FAA approvals, a written re-evaluation is needed at each major stage or approval point that occurs more than three years after the FONSI or final EIS. If the FAA has already approved the action and there are no additional federal approvals, a written re-evaluation does not need to be prepared for an action implemented by an applicant.

**Chapter 11. Administrative Information**

*Paragraph 11–5. Definitions*

*One commenter recommended providing a definition for the term ''largely undisturbed ground.''*

The FAA changed references to ''largely undisturbed ground'' to ''undeveloped land'' to help improve clarity.

*One commenter recommended providing a definition for the term ''substantial.''*

The general definition of substantial is large in amount, size, or number. The term as used in Order 1050.1F is no different than the common use of the term and therefore the FAA has not added it to the list of definitions. The FAA does understand that the use of the word substantial is subjective and does require an amount of interpretation and should be evaluated on a case-by-case basis using professional judgment.

*One commenter recommended providing a definition for the term ''reasonably foreseeable.''*

The term ''reasonably foreseeable'' is a term used in the CEQ Regulations and is used in the same manner in Order 1050.1F. This term is not defined in the CEQ Regulations and is interpreted on a case-by-case basis based on the facts and circumstances surrounding the proposed action and the geographic and temporal boundaries established for a project's cumulative impacts analysis. For airport actions, FAA Order 5050.4B provides additional guidance to aid airport sponsors and NEPA practitioners in determining what future actions should be considered reasonably foreseeable.

*One commenter recommended providing a definition for the term ''highly controversial.'' While the commenter acknowledged this term is defined in Paragraph 5–2.b(10), the commenter believed that this is often a highly searched for term and would benefit from being located in Chapter 11 as well.*

The term ''highly controversial'' has not been added to the list of definitions since highly controversial is used in a variety of ways throughout the Order. For instance, highly controversial EISs require extra steps to coordinate through DOT. However, where the term specifically means highly controversial on environmental grounds, ''on environmental grounds'' has been added for clarity.

*One commenter recommended providing a definition for the term ''NEPA-like State law''*

The term ''NEPA-like State law'' is not used anywhere in Order 1050.1F and as such does not need to be defined in the Order.

*One commenter recommended providing a definition for the term ''major runway extension'' as used in Paragraph 3–1.3.b(c).*

The FAA has not added a new term to the definitions for ''major runway extension'' in this Order. This term is a specific term used by the Office of Airports and is more appropriately defined in Order 5050.4. Paragraph 9.1l of 5050.4B defines major runway extension as ''a runway extension that causes a significant adverse environmental impact to any affected environmental resource (*e.g.,* wetland, floodplain, historic property, etc.). This includes, but is not limited to, causing noise sensitive areas in the Day-Night Average Sound Level (DNL) 65 decibel (dB) contour to experience at least a DNL 1.5 dB noise increase when compared to the no action alternative for the same time frame.''

*One commenter recommended providing a definition for the term ''significance threshold'' or ''significant impact threshold.''*

The use of the term significance threshold is limited to Chapter 4, Impact Categories, Significance, and Mitigation and is discussed in detail within this chapter. Because the discussion within Chapter 4 is adequate to define the term significance threshold, the FAA has decided not to add it to the list of definitions. Any reference to significant impact threshold has been changed to significance threshold to avoid any confusion.

*One commenter recommended providing a definition for the term ''DNL.''*

A footnote has been provided in Exhibit 4–1 for the definition for DNL. Since DNL is a term used to denote the level of noise impacts, it seemed more appropriate to define the term with the level of significance rather than add the term to the definitions for the overall Order.

*One commenter stated that the definition of ''environmental studies'' should include reference to ''special studies,'' a term used by many airports for efforts designed to address special project-specific issues and may not be limited to a specific environmental category, but provide greater understanding of a facet of the proposed action/project and include studies noted in Paragraph 2–7.b(3).*

''Environmental studies'' is only used in Paragraph 8–5 *Effects of Major Federal Aviation Administration Actions Abroad* and Paragraph 7–1.1.i the list of preparers in an EIS. As defined in Order 1050.1F, environmental studies are the investigation of potential environmental impacts. This definition is appropriate to convey the meaning that was intended within the context of this Order. Thus expanding this definition as written to include reference to ''special studies'' as suggested by the commenter is not needed. Studies referenced in Paragraph 2–7.b(3) are not limited to environmental studies as defined in this Order.

*One commenter suggested the definition of noise sensitive area should inform the reader that noise attenuation is needed for the residential structures on agricultural land.*

The current definition of noise sensitive area states ''[i]ndividual, isolated, residential structures may be considered compatible within the DNL 65 dB noise contour where the primary use of the land is agricultural and adequate noise attenuation is provided.'' Thus, individual, isolated, residential structures would not be compatible unless adequate noise attenuation is provided to those structures. The FAA did not revise the definition of noise sensitive area because the current definition already requires residential structures to be noise-attenuated in order to be considered compatible.

*One commenter recommended the addition of waterfowl refuges in the list of areas that may be sensitive to noise as those areas also meet the definition of the DOT Act's Section 4(f) lands.*

The FAA has added waterfowl refuges throughout the Order when there is reference to Section 4(f) lands.

**Appendix B. Federal Aviation Administration Requirements for Assessing Impacts Related to Noise and Noise-Compatible Land Use and Section 4(F) of the Department of Transportation Act (49 U.S.C. 303).**

*Two commenters asked why the FAA included Appendix B. Either the appendix should be inserted into the 1050.1F Desk Reference or the 1050.1F Desk Reference should be inserted into Order 1050.1F and a revised draft Order should be re-issued. One of the commenters stated that Appendix B does not include all FAA-specific requirements and there is a potential for conflict between Appendix B and the 1050.1F Desk Reference.*

As explained previously, the FAA updated the material in Appendix A of Order 1050.1E and moved the updated material to the 1050.1F Desk Reference. The 1050.1F Desk Reference includes a combination of FAA-specific requirements, requirements under non-FAA authorities, and FAA guidance. Having a separate 1050.1F Desk Reference will allow the FAA to easily make any necessary updates to the FAA guidance and the descriptions of non-FAA requirements without having to go through the relatively lengthy and resource-intensive effort of revising Order 1050.1F.

Some of the FAA-specific requirements described in the 1050.1F Desk Reference are stated in the body of

Order 1050.1F. The purpose of Appendix B of the Order is to state in the Order the remaining FAA-specific requirements that are described in the 1050.1F Desk Reference. Appendix B also describes related requirements to provide appropriate context.

The FAA carefully reviewed the material presented in the 1050.1F Desk Reference to ensure that all FAA-specific environmental review requirements are included in Appendix B.

The FAA will not make changes to the 1050.1F Desk Reference that conflict with Appendix B of Order 1050.1F. Any new FAA-specific environmental review requirements would be added to both Appendix B and the 1050.1F Desk Reference.

*Paragraph B–1. Noise and Noise-Compatible Land Use*

*Two commenters questioned whether Appendix B addresses all noise and noise-compatible land use impacts for Section 106 resources.*

Appendix B focuses on the FAA-specific requirements for noise and Section 4(f) analysis. In addition to describing those requirements, the 1050.1F Desk Reference also includes extensive information and guidance for NEPA practitioners, contractors, and applicants regarding special purpose laws, including Section 106 of the NHPA. Chapter 11 of the 1050.1F Desk Reference provides guidance on noise evaluation for historical, architectural, archeological, and cultural resources.

*Several commenters questioned the FAA's use of DNL as the noise measurement metric, where the Clean Air Act rules use a peak month impact instead of an annual average number.*

DNL is the standard Federal metric for determining cumulative exposure of individuals to noise. In 1981, the FAA formally adopted DNL as its primary metric to evaluate cumulative noise effects on people due to aviation activities. Research by the Federal Interagency Committee on Noise (FICON) verified that the DNL metric provides an excellent correlation between the noise level an aircraft generates and the level of community annoyance resulting from that noise level.

*One commenter questioned whether DNL is appropriate for RNAV/RNP procedures given their effect of focusing noise on the ground.*

The FAA applies the same significance criteria to all FAA actions and it is appropriate to use the same criteria for RNAV/RNP procedures. The NEPA documentation for RNAV/RNP procedures should disclose how the noise impacts of the proposed action have changed from the no action alternative, including changes in the concentration of noise.

*Two commenters recommended reporting to a tenth of a dB* when reporting DNL. The Aviation Environmental Design Tool (AEDT), like its predecessors Integrated Noise Model (INM) and Noise Integrated Routing System (NIRS), computes the calculation of DNL values to several decimal places and uses these unrounded values when calculating changes in DNL values between two scenarios (*e.g.,* an action alternative and the no-action alternative in an EA or EIS). The FAA does not have a specific policy regarding rounding of DNL values. INM and NIRS both report DNL values to the tenth of a decimal, which has been reflected in FAA NEPA documents. The current model, AEDT 2b, has the ability to display noise values beyond the tenth of decimal and the FAA is reviewing whether to provide additional guidance and/or criteria, as appropriate, to guide DNL reporting in the future.

*One commenter asked for clarification on whether Community Noise Equivalent Level (CNEL) is to be used in the FAA's NEPA documents in lieu of DNL or as a supplemental metric, and how. For example, will the FAA use CNEL to determine significant impacts?*

The FAA has revised Paragraph B–1 to clarify that CNEL may be used in lieu of DNL for noise analysis of FAA actions in California. DNL is required to be used in all other locations.

Paragraph B–1.3. Affected Environment

*One commenter recommended that Paragraph B–1.3 of Appendix B of the Order, describing the affected environment for the Noise and Noise-Compatible Land Use impact category, should have separate sections for airport actions and air traffic procedure actions.*

The FAA does not agree with the commenter's recommendation. The existing language in Paragraph B–1.3 of Appendix B adequately addresses both airport and air traffic procedure actions at a level of detail appropriate for the Order. The language also refers to the 1050.1F Desk Reference for more information regarding differences in noise analysis for airport and air traffic procedure actions.

*One commenter stated that in light of the requirement to analyze noise changes between the 60 and 65 DNL contours when there is a 1.5 dB DNL increase within the 65 DNL contour, the study area should include an area that captures areas exposed to DNL 60 dB and higher.*

The FAA disagrees with the commenter that a specific DNL level should be used to define the study area for all actions. Paragraph B–1.4 of Order 1050.1F states the study area must include the area within the DNL 65 dB contour and may be larger. The study area must be at least as large as the DNL 65 dB contour to be able to determine the potential for significant impacts with respect to noise, but may be larger depending on the action and the potential impacts.

*Referring to text in Paragraph B–1.3 of Appendix B of the Order, one commenter recommended that the FAA specify the difference between analysis conducted to meet the requirements of Section 4(f) and analysis conducted pursuant to the FAA policy directive regarding evaluation of noise effects on national parks and wildlife refuges in areas where aircraft operate between the 10,000 feet above ground level (AGL) and 18,000 feet AGL. The commenter stated that while the kind of resources and effects evaluated are the same, they do not believe that these analyses are based on the same directives. The commenter stated that the text should clarify that the primary ATO action study area is up to 10,000 feet AGL for departures, and 7,000 feet AGL for arrivals. Finally, the commenter recommended that noise analyses conducted for areas between 10,000 feet AGL and 18,000 feet AGL be described as supplemental.*

The text referenced by the commenter states that the study area for the noise analysis of a proposed change in air traffic procedures or airspace redesign may extend vertically from the ground up to 10,000 feet AGL, or up to 18,000 feet AGL if the proposed action or alternative(s) is over a national park or wildlife refuge where other noise is very low and a quiet setting is a generally recognized purpose and attribute.

Because national parks and wildlife refuges are Section 4(f) properties, they are subject to the policies and procedures in Exhibit 4–1 and Appendix B of Order 1050.1F (carried forward from Order 1050.1E) relating to analysis of noise impacts on such properties. Under those policies and procedures, the FAA may rely on the land use compatibility guidelines in 14 CFR part 150 to determine whether there is a constructive use where the land uses specified in the guidelines are relevant to the value, significance, and enjoyment of the Section 4(f) lands in question. Special consideration needs to be given to noise sensitive areas within Section 4(f) properties (including, but

not limited to, noise sensitive areas within national parks, national wildlife and waterfowl refuges and historic sites, including traditional cultural properties) where the land use compatibility guidelines in 14 CFR part 150 are not relevant to the value, significance, and enjoyment of the area in question. For example, the part 150 land use categories are not sufficient to determine the noise compatibility of areas within a national park or wildlife refuge where other noise is very low and a quiet setting is a generally recognized purpose and attribute. Although the text in Paragraph B–1.3 regarding extending the study area up to 18,000 feet AGL over national parks and wildlife refuges is based on a different FAA order (Order JO 7400.2K), it is consistent with the policies and procedures for Section 4(f) properties carried forward from FAA Order 1050.1E.

The FAA does not adopt the commenter's suggestion to distinguish between 7,000 feet AGL for arrivals and 10,000 feet AGL for departures in describing the study area for noise analysis of proposed changes in air traffic procedures or airspace redesign. Such a distinction is unnecessary because both altitudes are already encompassed in the text of Paragraph B–1.3, which explains that the study area may extend up to 10,000 feet AGL.

Nor does the FAA adopt the commenter's recommendation to describe noise analyses conducted for areas between 10,000 feet AGL and 18,000 feet AGL as supplemental. The use of supplemental noise analysis is adequately explained in Paragraph B–1.6, including for noise sensitive areas within national parks and wildlife refuges where a quiet setting is a generally recognized purpose and attribute.

*One commenter recommended changing the term ''airspace redesign'' to ''air traffic procedure redesign'' throughout Order 1050.1F because airspace is comprised of sectors, and changes to sectors are considered administrative.*

Order 1050.1F only uses the term ''airspace redesign'' in Paragraph B–1.3 when discussing the study area for noise impacts. It is the proper term in this context as it is describing the possible extent of air traffic changes (*i.e.,* from a single procedure to a redesign of multiple procedures in the airspace). Therefore, the FAA has not made the recommended change.

*One commenter expressed concern that the requirement in Paragraph B–1.3 to disclose local noise and land use compatibility standards that differ from the FAA's land use compatibility guidelines in 14 CFR part 150 would be very lengthy and costly when the proposed action is a large-scale air traffic action that could include hundreds of different local jurisdictions. The commenter recommended adding ''to the extent practicable'' as a qualifier to the requirement.*

The commenter's recommended qualifier is inconsistent with the disclosure requirements in sections 1502.16(c) and 1506.2(d) of the CEQ regulations, which do not contain any ''practicability'' exception. Section 1502.16(c) requires that the environmental consequence section of EISs include discussion of ''[p]ossible conflicts between the proposed action and the objectives of federal, regional, state, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned.'' Section 1506.2(d) requires that EISs discuss any ''inconsistency of a proposed action with any approved state or local plan and laws (whether or not federally sanctioned).'' The requirement cited by the commenter was carried over from Section 4.2a in Appendix A of FAA Order 1050.1E.

The FAA has clarified the requirement in Paragraph B–1.3 in Appendix B of Order 1050.1F to require disclosure of local noise and land use compatibility standards to the extent required under the above-cited provisions of the CEQ regulations. To minimize time and expense, the existence of any relevant local standards can be determined by specifically soliciting this information during scoping.

*One commenter stated that the requirement in the first bullet of Paragraph B–1.3 of Appendix B to include DNL contours or noise grid points showing existing aircraft noise levels in the description of current noise conditions should also indicate the use of population centroids from U.S. Census Blocks.*

The text in this bullet has been revised to clarify that the population centroids are from U.S. Census Blocks.

*One commenter expressed concern about the requirement in Paragraph B–1.3 to include in the description of current noise conditions the location and number of noise sensitive uses in addition to residences (e.g., schools, hospitals, parks, recreation areas) within the area to be analyzed for noise. The commenter stated that for large-scale FAA air traffic procedure actions compliance with this requirement would be of limited practical utility and would be lengthy, costly, and result in significantly longer documents.*

The FAA has made changes to the Order to clarify that the description of current noise conditions includes location and number of noise sensitive uses in addition to residences (*e.g.,* schools, hospitals, parks, recreation areas) that could be significantly impacted by noise, rather than all such uses within the area to be analyzed for noise (see Paragraph B–1.5 for significance determination criteria).

It is important to note that this is not a change from Order 1050.1E since the location and number of noise sensitive uses (*e.g.,* schools, churches, hospitals, parks, recreation areas) exposed to DNL 65 dB or greater should be disclosed in the EIS for each modeling scenario (see paragraph 14.4i(2) of Order 1050.1E).

*One commenter was concerned with the statement in the fourth bullet in Paragraph B–1.3 of Appendix B that ''the addition of flight tracks is helpful.'' The commenter recommended adding the qualifier ''but not required'' or ''if appropriate.''*

In response to the comment, the FAA has reworded the statement to clarify that the addition of flight tracks ''may be helpful.'' It is up to the FAA's discretion whether flight tracks should be included.

*Two commenters recommended that a statement be added to Paragraph B–1.3 of Appendix B that, if appropriate, the U.S. Census data may be supplemented and sub-divided into additional, smaller grid points (based on local land use data, aerial photography, etc.) to provide a more reasonable geographic representation of the location of residences.*

Guidance on supplementation of U.S. Census data is provided in the 1050.1F Desk Reference.

Paragraph B–1.4. Environmental Consequences

*Two commenters questioned what the term ''same future timeframe'' means since it is not defined in Appendix B. The commenters recommended adding the following language from Order 1050.1E: ''[t]imeframes usually selected are the year of anticipated project implementation and 5 to 10 years after implementation. Additional timeframes may be desirable for particular projects.''*

The timeframe selected by the FAA for reporting future noise impacts is dependent on the type of action being studied and the potential impacts. The requirement in Order 1050.1F simply requires that the same timeframe must be used for the no-action alternative, the proposed action, and other analyzed alternatives. The commenter's

recommended language is included in the 1050.1F Desk Reference.

*Two commenters asked the FAA to clarify the terminology ''within the DNL 60–65 dB contours'' as used in the third bullet in Paragraph B–1.4. According to the commenters, this terminology is vague if a point analysis is being done and is not as clear as similar language in Paragraph B–1.3. The commenters suggest the following language: ''The identification of noise sensitive areas where noise is projected to increase by DNL 3.0 dB or more at or above DNL 60.0 to less than 65.0 dB.''*

For increased clarity, the FAA has revised the referenced bullet to read: ''The identification of noise sensitive areas within the DNL 60 dB contour that are exposed to aircraft noise at or above DNL 60 dB but below DNL 65 dB and are projected to experience a noise increase of DNL 3 dB or more.''

*Two commenters questioned the rationale of making the analysis of increases of DNL 3 dB or more within the DNL 60–65 dB contours conditional upon DNL 1.5 dB increases within the DNL 65 dB contour.*

The rationale for requiring analysis of noise increases of DNL 3 dB or more within the DNL 60–65 dB contours only when DNL 1.5 dB increases are documented within the DNL 65 dB contour comes from the August 1992 report of the Federal Interagency Committee on Noise titled *Federal Agency Review of Selected Airport Noise Analysis Issues.* Although this is current FAA policy, it does not preclude additional analysis outside the DNL 65 dB contour.

*One commenter recommended the Order define ''receptor sets.''*

The FAA has added an explanatory footnote to Appendix B that states: ''Receptors are locations where noise is modeled. A collection of receptors is known as a receptor set. Grid points are an example of a receptor set.''

*One commenter recommended removing the statement in Paragraph B–1.4 of Appendix B that noise contours ''may be created'' for air traffic actions because this would be a change in FAA policy.*

Creating contours for air traffic actions has always been an option. The referenced text states that noise contours may be created; however, noise contours are not required and are not normally used in the analysis of larger scale air traffic airspace and procedure actions. The FAA has added ''at the FAA's discretion'' to specify that whether or not noise contours are mapped would be decided by the FAA.

*One commenter recommended that the FAA explain the meaning of each of the three levels of noise change listed for air traffic airspace and procedure actions.*

The FAA has added a footnote in Paragraph B–1.4 explaining that the criteria listed for changes in noise exposure levels below DNL 65 dB are not defined as significant (see Exhibit 4–1 of the Order), but are referred to by the FAA as ''reportable'' noise changes.

*One commenter expressed concern about the requirement in Paragraph B–1.4 that for air traffic airspace and procedure actions the analysis must include ''change-of-exposure tables and maps at population centers and noise sensitive areas (e.g., residences, schools, churches, hospitals, parks and recreation areas)'' to identify noise sensitive areas where noise will change by ±1.5 dB for DNL 65 dB and higher, ±3 dB for DNL 60 dB to <65 dB, and ±5 dB for DNL 45 dB to <60 dB. Specifically, the commenter recommended deleting the ''e.g.'' statement. The commenter stated that noise sensitive areas are defined based on DNL 65 dB or higher, and for air traffic procedure redesign EAs data would have to be collected on all properties within very large study areas and very large grids analyzed to determine which properties are noise sensitive. The commenter expressed concern that this would represent an extensive noise analysis for an air traffic procedure redesign EA. For air traffic studies, population centroids are used to represent ''residences.'' The current typical approach has been to rely on the centroid results. If the results indicated a DNL 1.5 or higher increase, further analysis in the area to identify noise sensitive uses would be conducted.*

The language in B–1.4 for air traffic airspace and procedure actions has been modified to state that change-of-exposure tables and maps at population centers are provided to identify where noise will change by the designated amounts. The modification from Appendix A of Order 1050.1E was unintentional. The requirement to disclose the location and number of noise sensitive uses exposed to DNL 65 dB or greater is retained.

Paragraph B–1.5. Significance Determination

*One commenter stated that Paragraph 14.4b of Order 1050.1E incorporates the regulations in 14 CFR part 150, but Order 1050.1F fails to include this necessary incorporation.*

The FAA has added the appropriate text to Paragraph B–1.5 of Order 1050.1F.

*Two commenters noted that Paragraph B–1.5 of Appendix B references ''Exhibit 11–3'' but that exhibit was not provided for review.*

The reference to Exhibit 11–3 was made in error and has been replaced with the correct reference, which is Table 1 of Appendix A of 14 CFR part 150.

*One commenter stated that the FAA should lower the significance threshold for noise since current research on the health impact of noise does not support DNL 65 dB. Another commenter requested that the significance threshold be lowered to 55 dB since health impacts are generated at 55 dB and higher.*

The designation of DNL 65 dB as a significant level of noise is based on statistical surveys of community annoyance. Annoyance is a summary measure of the general adverse reaction of people to transportation noise that causes interference with speech, sleep, the desire for a tranquil environment, and the ability to use the telephone, radio, or television satisfactorily.

The FAA is conducting a new nationwide survey to update the scientific evidence on the relationship between aircraft noise exposure and its annoyance effects on communities around airports. Research to date on the health impacts of noise does not justify revision of the FAA's significance threshold. The FAA is conducting further research on aviation noise and health impacts. The FAA will issue future policy updates if warranted by research results. There is currently an insufficient scientific foundation for changing the significance threshold for noise.

*One commenter urged the FAA to reconsider and verify whether the longstanding significance threshold for noise and noise-compatible land use remains valid for the new concentrated and frequent flight patterns association with PBN.*

As a part of its ongoing effort to understand the impact of aviation noise on airport communities, the FAA is conducting a new nationwide survey to update the scientific evidence on the relationship between aircraft noise exposure and its annoyance effects on communities around airports.

The FAA applies the same significance criteria to all FAA actions and it is appropriate to use the same criteria for RNAV/RNP procedures. The NEPA documentation for RNAV/RNP procedures should disclose how the noise impacts of the proposed action have changed from the no action alternative, including changes in the concentration of noise.

*One commenter stated that the FAA must reconsider whether the current use*

*of INM and AEDT in determining significant noise impacts has scientific integrity as required for NEPA documentation. According to the commenter, with the high level of uncertainty and lack of established scientific integrity in the methodology it appears that the level of significance in the draft Order for noise increases of 1.5 dB (Exhibit 4–1) is not able to be accurately provided.*

The Integrated Noise Model (INM) and the Aviation Environmental Design Tool (AEDT) are the best available models for civil aviation noise. They are well validated and use internationally recognized methodologies. Some uncertainty is inherent in noise modeling, but INM and AEDT provide a sufficient level of accuracy for the FAA to make significance determinations with respect to noise impacts. The FAA expends considerable effort and resources to improve and verify the accuracy of its noise models. See, for example, the FAA's uncertainty quantification report for AEDT Version 2a, which can be found at *https://aedt.faa.gov/Documents/AEDT%202a%20Uncertainty%20Quantification%20Report.pdf.*

*One commenter was concerned with the following sentence relating to analysis of noise impacts to wildlife: ''[W]hen instances arise in which aircraft noise is a concern with respect to wildlife impacts, available studies dealing with specific species should be reviewed and used in the analysis.'' The commenter stated that noise impacts to a species can be predicted even if they have not been studied for that species. This is the essence of biological inference. Accordingly, the guidance should be revised to indicate that established scientific practices should be used to obtain the best estimate of potential effects and an assessment of the estimate's uncertainty.*

FAA has revised the referenced sentence in the Order to read ''When instances arise in which aircraft noise is a concern with respect to wildlife impacts, established scientific practices, including review of available studies dealing with specific species of concern, should be used in the analysis. In addition, the Biological Resources chapter of the 1050.1F Desk Reference has additional information on how to evaluate impacts to wildlife.

*Two commenters stated that the FAA should explicitly describe how the agency makes a significance determination for properties that have already received or been offered and refused noise mitigation through prior efforts. The Order should specify if and how previously mitigated versus not previously mitigated properties should be documented. The Order should also indicate if previously mitigated properties that meet the threshold for significance will be eligible for further mitigation.*

It is important to distinguish between land use compatibility and the determination of significance for noise impacts. The FAA defines a significant noise impact as an increase of DNL 1.5 dB or more for a noise sensitive area that is exposed to noise at or above the DNL 65 dB noise exposure level, or that will be exposed at or above the DNL 65 dB level due to a DNL 1.5 dB or greater increase, when compared to the no-action alternative for the same timeframe (see Exhibit 4–1 of the Order). This significance threshold applies irrespective of whether exposed properties have previously been sound insulated.

The environmental consequences section should disclose the numbers of homes that are significantly impacted by noise from the proposed action and distinguish which homes have been previously sound insulated and which have not.

The issue of how prior noise mitigation activities affect significance determinations is separate from the issue of whether previously insulated homes that are significantly impacted are eligible for funding for further mitigation by airport sponsors. FAA's criteria of project eligibility for noise mitigation grants are set forth in the Airport Improvement Handbook, Order 5100.38. Homes that were previously mitigated may be eligible for further mitigation if they are now within the DNL 70 dB contour where land acquisition would be a viable option.

*One commenter requested clarification as to whether the FAA has a significance threshold for noise impacts in a quiet setting. The commenter stated that Exhibit 4–1 of Order 1050.1F seems to leave open for each project that involves quiet setting situations the development of its own threshold of significance.*

In describing factors to consider in determining significance of noise impacts, Exhibit 4–1 of the Order states: ''Special consideration needs to be given to the evaluation of the significance of noise impacts on noise sensitive areas within Section 4(f) properties (including, but not limited to, noise sensitive areas within national parks; national wildlife and waterfowl refuges; and historic sites, including traditional cultural properties) where the land use compatibility guidelines in 14 CFR part 150 are not relevant to the value, significance, and enjoyment of the area in question. For example, the DNL 65 dB threshold does not adequately address the impacts of noise on visitors to areas within a national park or national wildlife and waterfowl refuge where other noise is very low and a quiet setting is a generally recognized purpose and attribute.''

The FAA has not established a specific significance threshold for noise in these settings. Therefore, the agency makes the determination of significance on a case-by-case basis considering context and intensity (see 40 CFR 1508.27).

*One commenter recommended that the FAA clarify whether the significance threshold stated in Paragraph B–1.5 applies to compatible land use as well. The commenter stated that the compatible land use is now part of the noise section, but there is no connection between the DNL 1.5 dB increase and land use exposed to DNL 65 dB or higher. The commenter also noted that the paragraph does not mention significance when populations are newly exposed to DNL 65 dB but the increase is less than DNL 1.5 dB.*

The significance threshold in Paragraph B–1.5 applies to the entire impact category of Noise and Noise-Compatible Land Use. Thus, for example, an increase of DNL 1.0 dB in a residential setting is not a significant impact even if it newly exposes a residence to a noise exposure level of DNL 65 dB or higher. The FAA has revised Paragraph B–1.4 of the Order to clarify that newly non-compatible land uses must be disclosed regardless of whether there is a significant noise impact.

*One commenter suggested adding a statement that the FAA uses its significance threshold, not local standards, to determine if a project would cause a significant noise effect.*

The FAA has added language to Paragraph B–1.3 of Appendix B stating that the FAA does not use local standards to determine the significance of noise impacts.

*One commenter questioned whether ''national parks'' in Paragraph B–1.5 of Appendix B of the Order pertains only to properties designated as ''national parks'' or to all National Park Service (NPS) properties (there are currently 20 different property designations in use by the NPS, including national parks.) The commenter questioned that if it pertains to all designations, would it also include properties with the same designations managed by other agencies (e.g., the Bureau of Land Management (BLM) manages national monuments, as does the Forest Service).*

Similar to language in Appendix A of Order 1050.1E, Paragraph B–1.5 of Appendix B of Order 1050.1F explains that special consideration needs to be given to the evaluation of the significance of noise impacts on certain noise sensitive areas. That language has been modified to clarify that such consideration applies to noise sensitive areas within Section 4(f) properties where the land use compatibility guidelines in 14 CFR part 150 are not relevant to the value, significance, and enjoyment of the area in question (*e.g.,* including, but not limited to noise sensitive areas within national parks; national wildlife and waterfowl refuges; and historic sites, including traditional cultural properties). These areas are not limited by the entity (*e.g.,* the NPS, BLM, the Forest Service, or another agency) who has jurisdiction over the area in question.

Paragraph B–1.7. Noise From Sources Other Than Aircraft Departures and Arrivals

*One commenter stated that Paragraph B–1.7, Noise from Sources Other than Aircraft Departures and Arrivals, and Paragraph B–1.11, Facilities and Equipment Noise Emissions, should either be combined as ''Noise from Sources Other than Aircraft Departures and Arrivals'' or Paragraph B–1.7 should be renamed to something like ''Noise from Other Transportation Sources.''*

Since the noise analysis is different for facility and equipment noise and other noise sources, the FAA has decided to keep these sections separate. No changes were made to the titles of these sections. However, the FAA has added a reference within Paragraph B–1.7 to indicate that Paragraph B–1.11 contains information on facility and equipment noise emissions.

*Two commenters suggested that the FAA add references to methodologies of the Federal Transit Administration and the Federal Railroad Administration when referencing analysis of surface transportation noise impacts.*

The FAA has revised language in Paragraph B–1.7 to clarify that analysis of surface transportation impacts should be conducted using acceptable methodologies from the appropriate modal administration. To the extent that the Federal Transit Administration, the Federal Railroad Administration, or another DOT modal administration has developed methodologies for determining noise impacts, these accepted methodologies may be used. We have retained the example of the Federal Highway Administration for highway noise.

*Two commenters stated that the Order should clarify how multiple noise sources should be combined and reported, and what criteria should be used in determining significant impacts and compatible land use.*

If appropriate, an analysis of surface transportation impacts, including construction noise, should be conducted using accepted methodologies from the appropriate modal administration, such as the Federal Highway Administration for highway noise. As there is no currently approved methodology and model for combining aviation and non-aviation noise sources, AEE will have to provide prior written approval to use a methodology and computer model equivalent to DNL and the Aviation Environmental Design Tool for that purpose. The FAA's established criteria for determining significant noise impacts and compatible land use remain applicable. A significant noise impact would occur if analysis shows that the proposed action or alternative would increase noise by DNL 1.5 dB or more for a noise sensitive area that is exposed to noise at or above the DNL 65 dB noise exposure level, or that would be exposed at or above that level due to a DNL 1.5 dB or greater increase, when compared to the no action alternative for the same timeframe. 14 CFR part 150, Appendix A, Table 1 provides Federal land use compatibility guidelines as a function of DNL values. Land use compatibility is determined by comparing the predicted or measured DNL value at a site to the values listed in Table 1.

*Two commenters asked whether Paragraphs B–1.7 and B–1.11 should be subsections under B–1.4 and B–1.5, as these paragraphs encompass noise sources that can change as a result of the proposed action.*

Paragraphs B–1.6 through B–1.12 identify unique situations that include supplemental noise analysis, noise from other sources, and noise considerations specific to lines of business with the FAA, that do not apply to all situations. Therefore, the FAA has decided not to incorporate Paragraphs B–1.7 and B–1.11 into the general paragraphs regarding environmental consequences and significance determination for noise.

*Paragraph B–2. Section 4(f), 49 U.S.C. 303*

*One commenter recommended clarification of the language in the draft Order referring to when the Secretary of Transportation may approve a program or project that requires the use of a Section 4(f) property.*

The FAA has changed the language in Paragraph B–2 to track the language of Section 4(f), 49 U.S.C. 303. Thus, that paragraph now states that the Secretary of Transportation *may approve* a program or project that requires the use of a Section 4(f) property *only if* there is no feasible and prudent alternative and the project includes planning to minimize harm resulting from the use.

Paragraph B–2.1. Affected Environment

*Two commenters stated that the Order should indicate how the inventory of Section 4(f) properties considered should be documented in an EA or EIS. The commenters suggested adding a sentence such as: ''The inventory of Section 4(f) properties considered should be documented by the location and the Federal, state, or local official having jurisdiction over the property.''*

As stated in Paragraph B–2.1 of Appendix B, ''[t]he FAA should identify as early as practicable in the planning process Section 4(f) properties that implementation of the proposed action and alternative(s) could affect.'' The appropriate level of detail for identifying such potentially affected Section 4(f) properties is up to the responsible FAA official to determine. Paragraph B–2.2 states that where use of a Section 4(f) property is involved, the description of the affected Section 4(f) property should include the location, size, activities, patronage, access, unique or irreplaceable qualities, relationship to similarly used lands in the vicinity, jurisdictional entity, and other factors necessary to understand and convey the extent of the impacts on the resource.

*One commenter recommended noting the criteria used by the National Register of Historic Places for traditional cultural properties to avoid any suggestion that generic or otherwise obtuse definitions apply.*

The FAA has added a definition of ''traditional cultural properties'' to Paragraph 11–5(14) of the Order.

Paragraph B–2.2. Environmental Consequences

*Two commenters asked for clarification that the requirement to describe the ''location, size, activities, patronage, access, unique or irreplaceable qualities, relationship to similarly used lands in the vicinity, jurisdictional entity, and other factors necessary to understand and convey the extent of the effects on the resource'' applies only to those Section 4(f) resources impacted by the proposed action (i.e., physical use or constructive use is involved).*

The FAA has modified the text in Paragraph B–2.2 to provide the requested clarification.

Paragraph B–2.2.2. Constructive Use of Section 4(f) Property

*One commenter stated that the text ''[f]indings of adverse effects do not automatically trigger Section 4(f) unless the effects would substantially impair the affected resource's historical integrity'' is inconsistent with 23 CFR 774.15(f)(1).*

The FAA does not agree with the commenter that the referenced text regarding findings of adverse effect under Section 106 of the NHPA is inconsistent with 23 CFR 774.15(f)(1). That regulation states that there is no constructive use when there is no historic property affected or no adverse effect to an historic property. It does not necessarily follow that a constructive use occurs whenever there is an adverse effect to an historic property. As stated in 23 CFR 774.15(a), the test for whether a constructive use exists is whether a ''the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify the property for protection under Section 4(f) are substantially impaired.'' This test was reflected in Order 1050.1E and is carried forward in Order 1050.1F. An adverse effect under Section 106 of the NHPA does not necessarily result in substantial impairment for Section 4(f) purposes.

Paragraph B–2.5. Section 6(f) Requirements

*One commenter stated it is unclear, given the title of Appendix B, why it includes discussion of Section 6(f).*

Section 6(f) of the Land and Water Conservation Fund Act is often discussed within guidance for Section 4(f) since it may be an integral part of a Section 4(f) analysis when recreational properties are involved. Section 6.2j in Appendix A of Order 1050.1E also discussed replacement of recreational lands funded by the Land and Water Conservation Fund (required under Section 6(f)) within the Section 4(f) discussion.

**Appendix C. Web Addresses for Cited Publications**

*One commenter noted that the FAA should reconsider providing links to Federal Web sites because they quickly become outdated.*

The FAA has removed the appendix that provides links to the Federal Web sites. Important links will be contained within the 1050.1F Desk Reference and on the FAA NEPA Web site which can be updated as needed.

**II. Helicopters**

*Several commenters stated their opposition to exempting helicopter routes from environmental review, and several commenters stated that the CATEX for helicopter routes in Paragraph 5–6.5.h of the Order should be deleted or greatly modified based on concerns about helicopter noise.*

The FAA's establishment and modification of helicopter routes are subject to environmental review under NEPA. A CATEX is not an exemption from environmental review, but rather one type of environmental review under NEPA (the others are EAs and EISs)(see CEQ's CATEX Guidance). CATEXs are limited to actions that do not, individually or cumulatively, cause significant environmental impacts (40 CFR 1508.4). Even if an action is included within the scope of a CATEX, the FAA must still consider whether one or more extraordinary circumstances exists in which the action could have a significant impact. If such a circumstance exists, the FAA may not apply the CATEX and the action would require further environmental review in an EA or EIS.

The CATEX for establishment of helicopter routes over major thoroughfares has been included in previous versions of FAA Order 1050.1, including in Paragraph 311h of Order 1050.1E. In Paragraph 5–6.5.h of proposed Order 1050.1F, the FAA proposed to modify the CATEX slightly by clarifying that ''establishment'' includes modification of existing helicopter routes. In additional to making that clarification, the final Order also adds language to Paragraph 5–6.5.h limiting the applicability of the CATEX to the establishment or modification of helicopter routes that do not have the potential to significantly increase noise over noise sensitive areas (*e.g.,* residential areas). Thus, if the establishment or modification of a helicopter route over a major thoroughfare would result in a significant noise increase in a residential or other noise sensitive area, the CATEX could not be used for that action.

*Three commenters asked the FAA to undertake environmental studies of helicopter routes.*

NEPA and this Order apply to actions directly undertaken by the FAA and to actions undertaken by a non-Federal entity where the FAA has authority to condition a permit, license or approval. Existing helicopter routes and helicopter activity in general would not be subject to an environmental review under NEPA unless there was a triggering FAA action, such as the modification of an existing route or the establishment of a new route.

*In support of deleting CATEX 5–6.5.h, two commenters stated that noise footprints from helicopter routes extend beyond the width of major thoroughfares and affect adjacent residential and other noise sensitive areas. Another commenter stated that people live and work along major thoroughfares and will therefore be adversely affected. Wherever there is a major thoroughfare there are people. Therefore, this condition actually ensures that significant impacts would affect a great number of people as a result of actions in this category. CEQ guidance on establishing, applying, and revising CATEXs states that ''the status and sensitivity of environmental resources vary across the nation; consequently, it may be appropriate to categorically exclude a category of actions in one area or region rather than across the nation as a whole.'' Therefore, the FAA should either restrict this category to areas that are not sensitive to helicopter activity, or delete this category entirely.*

As explained previously, CATEXs are limited to actions that do not significantly affect the environment, and they cannot be applied if there are extraordinary circumstances in which a significant environmental effect may occur (40 CFR 1508.4). Moreover, the FAA has added language in the final Order that limits the applicability of CATEX 5–6.5.h to the establishment or modification of helicopter routes that do not have the potential to significantly increase noise over noise sensitive areas. Thus, if the establishment or modification of a helicopter route over a major thoroughfare would result in a significant noise increase in an adjacent residential or other noise sensitive area, the CATEX could not be used for that action. Regarding the CEQ guidance cited by one of the commenters, the FAA is not aware of any factor that would warrant limiting application of CATEX 5–6.6.h to only certain areas of the country.

*In support of deleting CATEX 5–6.5.h, one commenter stated that noise along major thoroughfares does not mask helicopter noise. Helicopter noise can be much more annoying than local thoroughfare noise and evidence shows that actions in this category have a high likelihood of causing potentially significant effects.*

Helicopter routes are often established along highways or rivers because these provide a visual reference point for pilots operating under VFR. These routes may provide a degree of noise

abatement by channeling helicopters over non-residential areas; for NEPA purposes, however, the FAA does not rely on ambient noise to mask or reduce the noise impact of the action under review. As stated previously, the CATEX as revised in the final Order applies only to the establishment or modification of helicopter routes that do not have the potential to significantly increase noise over noise sensitive areas.

*One commenter stated that helicopters do not follow precise routes, and therefore impact broad areas. Since ''over major thoroughfares'' is not a location that can guarantee avoidance of significant effects, the FAA should delete this CATEX.*

Generally, helicopter routes established and charted by the FAA are voluntary, and are designed to be flown under VFR. Major thoroughfares are frequently used as visual reference points for pilots operating under VFR. As revised in the final Order, the CATEX only applies to the establishment or modification of helicopter routes that do not have the potential to significantly increase noise over noise sensitive areas; therefore, if the establishment or modification of a helicopter route over a major thoroughfare would result in a significant noise increase in an adjacent residential or other noise sensitive area, the CATEX could not be used for that action.

*In support of deleting CATEX 5–6.5.h, one commenter stated that a single new helicopter flyover could be considered a significant impact.*

As revised in the final Order, the CATEX only applies to the establishment or modification of helicopter routes that do not have the potential to significantly increase noise over noise sensitive areas. As explained in Exhibit 4–1 the Order, the FAA uses the cumulative DNL metric, rather than a single event metric, to determine the significance of aircraft noise impacts.

*One commenter stated that flying over sensitive areas en route to the ''major thoroughfares'' would obviously be a potentially significant effect, since CATEX 5–6.5.h implies that actions involving changes in routes outside ''major thoroughfares'' would not qualify for a CATEX. Since the whole of the action must be included in an environmental review, these effects must also be considered, adding to the reasons why the FAA should delete this CATEX.*

The impacts associated with helicopters using entry and exit points that are part of the establishment or modification of a helicopter route would be considered in determining whether the action could significantly increase noise over noise sensitive areas. If such an increase could occur, the CATEX would not apply.

*One commenter stated that the number of helicopter flights allowed is not restricted under the CATEX. Helicopter use is increasing, and this trend is likely to continue. An action in this category that previously may have only affected a few flights per day could now result in new impacts from helicopter flyovers several times per hour, clearly resulting in potentially significant effects. The FAA should either indicate the maximum number of flights to which the CATEX applies or delete the CATEX.*

Establishment or modification of helicopter routes does not involve authorization for or limitations on the number of helicopters that may operate along helicopter routes. The FAA has determined that the actions covered by the CATEX normally do not individually or cumulatively have significant impacts. Before applying a CATEX to an action, the FAA is required to determine whether the action involves extraordinary circumstances in which a significant impact could result. Where such extraordinary circumstance exists, the CATEX could not be used.

*In support of deleting CATEX 5–6.5.h, one commenter stated that because of increased helicopter use by organizations not under the jurisdiction of the FAA, cumulative impacts are increasingly likely from actions covered by the CATEX.*

Paragraph 5–2 of the Order 1050.1F requires that in determining whether to apply a CATEX to an action, the FAA must consider extraordinary circumstances, including whether there is a likelihood that the action would directly, indirectly, or cumulatively create a significant impact on the human environment.

*One commenter stated that impacts from helicopter activity over major thoroughfares vary with normal variations in climatic conditions. Since such variations are not ''extraordinary circumstances,'' CATEX 5–6.5.h should either exclude actions in areas with climatic conditions that at any time during the course of a year could cause significant effects, or the CATEX should be deleted.*

The FAA uses DNL, which captures variations in weather over the course of the year, to assess the significance of an action's noise impacts. If the action could result in a significant noise impact, this CATEX would not apply.

*In support of deleting the CATEX, one commenter noted that CEQ states that when substantiating a new CATEX, a Federal agency should ''make findings to explain how the agency determined the proposed category of actions does not result in individual or cumulatively significant environmental effects.'' The commenter stated that the FAA has not presented evidence that these effects would not occur.*

As explained previously, CATEX 5–6.5.h of the Order is not new. The only changes from Order 1050.1E are: (1) Clarification that ''establishment'' of a helicopter route includes modification; and (2) explicitly limiting the CATEX to the establishment or modification of helicopter routes that do not have the potential to significantly increase noise over noise sensitive areas. Neither of these changes falls under the CEQ language quoted by the commenter. Moreover, under the latter change each proposal to establish or modify a helicopter route would have to undergo an initial analysis to determine if the action could have significant noise impacts.

*One commenter noted that CEQ states that ''[M]onitoring and evaluating implemented actions internally or collaboratively with other agencies and groups can provide additional, useful information for substantiating a CATEX.'' The commenter questioned where the FAA has conducted monitoring to verify that the action defined in CATEX 5–6.5.h would not have significant effects. The commenter questioned what mechanism the FAA has in place to monitor, track, or enforce the proposed routing along ''major thoroughfares.'' Since no such methods exist to verify or enforce compliance, the FAA should expect non-compliance, and therefore the FAA should delete this CATEX.*

As explained previously, CATEX 5–6.5.h of the Order is not new. Neither of the changes to the CATEX from Order 1050.1E falls under the CEQ language quoted by the commenter. In any event, the CATEX as revised in the final Order is limited to establishment or modification of helicopter routes that do not have the potential to significantly increase noise over noise sensitive areas. This would have to be determined before the CATEX could be applied.

## III. Legislative CATEXs

*Several commenters stated that the legislative CATEXs are too broad with some stating that the FAA Reauthorization of 2012 did not create any CATEXs but provided only a legal presumption and others stating that it*

*was contrary to the intent of the FAA Reauthorization of 2012.*

The FAA disagrees that it has incorrectly interpreted the intent of the FAA Reauthorization of 2012. The title of Section 213 of the FAA Reauthorization of 2012 is ''Acceleration of NextGen technologies'' and the title of Section 213(c) is ''Coordinated and expedited review.'' In both instances, Congress has identified its intent to ''accelerat[e]'' and ''expedite[]'' the implementation of NextGen technologies. A reading of Section 213 at large, and section 213(c) specifically, bears out the intent of these sections as identified in their titles. Section 213(c) of the FAA Reauthorization of 2012 includes two subsections, Section 213(c)(1) and Section 213(c)(2), both of which are reasonably interpreted as providing the FAA with tools to expedite implementation of NextGen technologies. Since Congress established these CATEXs in the FAA Reauthorization of 2012, they cannot be considered to be inconsistent with the intent of the act. The FAA has added these two legislatively created CATEXs to Order 1050.1F consistent with Section 213(c) of the FAA Reauthorization of 2012. Under Section 213(c)(1) of the FAA Reauthorization of 2012, navigation performance and area navigation procedures developed, certified, published, or implemented under that section shall be presumed to be covered by a CATEX under Chapter 3 of FAA Order 1050.1E (currently CATEX 5–6.5.q of Order 1050.1F) unless extraordinary circumstances exist. Under Section 213(c)(2) of the same Act, Congress identified navigation performance or PBN procedures that, if certain conditions are met, are presumed to have no significant impacts on the human environment and for which the FAA ''shall issue and file a CATEX'' (currently 5–6.5.r of Order 1050.1F).

One commenter stated that these provisions create ''legal presumptions,'' not CATEXs. According to Black's Law Dictionary 1186 (6th Ed. 1990), ''a presumption of law is one which, once the basic fact is proved and no evidence to the contrary has been introduced, compels a finding of the existence of the presumed fact.'' In the context of Section 213(c)(1) of the FAA Reauthorization of 2012, the Act's language had the effect of creating a legislative CATEX, not merely a legal presumption.

Prior to the legislative CATEX, proposed procedures below 3000 feet above ground level were normally assessed in an EA under Order 1050.1E. This was explained in guidance that the FAA put out in 2012 (see below). Congress, in revising the statute, intended that the procedures be evaluated for NEPA purposes under a CATEX, not an EA, as was done previously.

Furthermore, absent the statutory language, the FAA's ordinary practice with respect to implementation of a CATEX would be to review the navigation procedures now identified in Section 213(c)(1) to determine: First, *if* an existing CATEX might apply, and, second, if any extraordinary circumstances precluded application of the CATEX. Thus, the FAA's ordinary CATEX process would create two ''off ramps''—the decision of whether an applicable CATEX exists and whether the navigation procedure in question creates extraordinary circumstances. The language of Section 213(c)(1) changes this ordinary procedure, however. Under Section 213(c)(1), Congress has identified specific navigation procedures for which a CATEX *does* apply, and creates only one ''off ramp''—the presence of extraordinary circumstances. This is a notable change in some circumstances, because certain of the procedures that now fall under CATEX 1 (CATEX 5–6.5.q) previously were considered actions normally requiring an EA. If the commenter's view were correct, Congress would have created a provision with no more legal import than to duplicate current FAA processes under NEPA, which is not the case.

Similarly, with respect to the second legislative CATEX, Congress did not merely create a legal presumption of CATEX applicability. With respect to this CATEX, Congress indicated that for any navigation performance or other PBN procedure that ''. . . in the determination of the Administrator, would result in measurable reductions in fuel consumption, carbon dioxide emissions, and noise on a per flight basis, as compared to aircraft operations that follow existing instrument flight rules procedures in the same airspace, shall be presumed to have no significant affect [sic] on the quality of the human environment and the Administrator shall issue and file a CATEX for the new procedure.'' Procedures meeting the conditions of the legislative CATEX are not subject to extraordinary circumstances review. The requirement that FAA ''shall issue and file'' a CATEX for procedures meeting the environmental conditions set out in Section 213(c)(2), clearly creates a new CATEX.

Under standard statutory interpretation principles, every provision of law is to be given meaning and effect. Section 213(c) of the FAA Reauthorization of 2012 can only be given meaning and effect if the provisions have some practical application. The purpose of Congress in this legislation was to provide the FAA with additional tools for NEPA compliance to accelerate NextGen technologies. Therefore, Section 213(c) cannot be interpreted as merely espousing a legal presumption that would be duplicative of existing applications of the law.

The commenter also indicates a belief that the statutory CATEXs are ''too broad.'' Because these CATEXs were established by an act of Congress, they have the force and effect of law and the FAA does not have the discretion to determine that the CATEXs at issue are ''too broad.'' The FAA must apply the statutory language consistent with the most reasonable interpretation of that language using the legal principles of statutory construction. Order 1050.1F is updated to reflect the CATEXs as written in the FAA Reauthorization of 2012 and interpreted using well settled principles of statutory construction.

*Two commenters stated that the FAA cannot rely on the legislation to create these two CATEXs and therefore a CATEX justification package should be developed to show how these actions do not individually or cumulatively have the potential for significant impacts in the absence of extraordinary circumstances.*

It is not uncommon for Congress to provide for specific CATEXs or state in the legislation that certain actions should be presumed to have no significant impacts and therefore should be categorically excluded, as was the case for the two legislative CATEXs provided for in Section 213 (c) of the FAA Reauthorization of 2012. These types of CATEXs are provided for by law rather than being created at the discretion of the agency. Because these legislative CATEXs are not the product of administrative discretion, the FAA need not prepare a CATEX justification package for submission to CEQ. See footnote 1 of the CEQ's CATEX Guidance.

*Several commenters stated that the FAA has misinterpreted the FAA Reauthorization of 2012 language and the intent of Congress was to only create one CATEX.*

Congress set forth two separate provisions in the FAA Reauthorization of 2012 dealing with CATEXs, Section 213(c)(1) and Section 213(c)(2). These provisions are under separate subparagraphs, and contain different criteria and limitations for application

of the CATEXs, as described in a previous comment response above. Given the differences in the statutory language and the structure of these statutory provisions, it is evident that Congress did not create a single CATEX in these provisions.

*Several commenters expressed concerns that the legislated CATEXs do not adequately address potential environmental impacts. In this regard, commenters specifically cited noise including potential noise focusing effects of PBN procedures and noise on residents living near freeways, health effects, air quality, greenhouse gas emissions and climate change, economic impacts including diminished property values, fuel consumption and fuel dumping, environmental justice, and cumulative impacts. One commenter stated that Order 1050.1F contains no provision to verify with ongoing monitoring that a CATEX determination about noise reduction with a PBN procedure was correct.*

A CATEX by definition in CEQ regulations means a category of actions which do not individually or cumulatively have a significant effect on the human environment. The first legislative CATEX, 5–6.5.q can only be used when it is determined that no extraordinary circumstances exist that could cause a potential significant impact. This includes a determination that the proposed action does not have the potential to have significant impacts with respect to a variety of environmental categories. In addition, environmental laws and requirements other than NEPA (*e.g.,* the Clean Air Act, E.O. 12989, Environmental Justice), continue to apply. The FAA has issued guidance on how to apply CATEX 1 (CATEX 5–6.5.q) available at: *http://www.faa.gov/about/office_org/headquarters_offices/apl/environ_policy_guidance/guidance/.*

The second legislated CATEX is unique in that it prohibits the FAA from applying extraordinary circumstances that would consider a variety of environmental impacts if the Administrator has determined that the procedures would result in measurable reductions in fuel consumption, carbon dioxide emissions, and noise on a per flight basis, as described in a previous comment response above. However, as with CATEX 1 (CATEX 5–6.5.q), environmental laws and requirements other than NEPA continue to apply.

With respect to the comment about the accuracy of the FAA's noise determination when applying a CATEX, the FAA expends consideration effort and resources to improve and verify the accuracy of its noise models. Short-term noise monitoring is not as accurate as FAA's computer modeling at calculating an annual Day Night Average Sound Level (DNL), which is FAA's primary noise metric.

*Several commenters were concerned about safety from implementation of the procedures covered by the legislative CATEXs.*

The actions covered by the legislative CATEXs are intended to cover PBN procedures. Each procedure is evaluated for safety prior to implementation, as is true with any new procedure regardless of whether it is subject to the new legislative CATEXs or not.

*Several commenters stated that extraordinary circumstances should be applied to the legislative CATEXs.*

The statutory language establishing the CATEX now located at CATEX 5–6.5.q of the Order, known as CATEX 1, specifically indicates that actions taken in accordance with this CATEX are subject to extraordinary circumstances review. However, the language in the FAA Reauthorization of 2012 establishing CATEX 5–6.5.r of the Order, known as CATEX 2, provides that the procedure is subject to a review to determine whether it results ''in measurable reductions in fuel consumption, carbon dioxide emissions, and noise, on a per flight basis, as compared to aircraft operations that follow existing instrument flight rules procedures in the same airspace. . .'' If these conditions are met, the statute states that the procedure ''shall be presumed to have no significant affect [sic] on the quality of the human environment and the Administrator shall issue and file a categorical exclusion for the new procedure.'' The language of the legislation both creates a legal presumption that there are no significant effects on the quality of the human environment if the identified conditions are met, and directs the FAA to apply the CATEX (regardless of extraordinary circumstances).

*Several commenters questioned the FAA's claim that the legislative CATEXs have no minimum altitude thus giving the FAA an exemption from all noise impact evaluations for these actions.*

The legislative CATEXs were provided for in the FAA Reauthorization of 2012 and did not limit application to any specific altitude. CATEX 5–6.5.q [CATEX 1] still applies extraordinary circumstances which would not allow its application to procedures which have the potential to create significant noise impacts in noise sensitive areas. Although CATEX 5–6.5.r [CATEX 2] does not apply significance criteria, it does state that there must be measureable reductions in fuel consumption, carbon dioxide emissions, and noise on a per flight basis.

*One commenter noted that the FAA had prepared an EA for PBN procedures proposed as part of the Optimization of the Airspace and Procedures in the Metroplex (OAPM) and that this precedent precludes consideration of a CATEX for RNAV/RNP in a terminal airspace.*

The FAA disagrees that an EA for certain projects precludes the appropriate use of a CATEX for other similar projects. An agency may make a determination on a case-by-case basis to elevate the NEPA review to an EA for a particular action even though a CATEX may be available. Nothing in the CEQ Regulations or this Order precludes the future use of a CATEX when an EA is prepared for a particular action.

*Several commenters stated that environmental impact review and noise testing should be required when there are changes in flight procedures and patterns.*

FAA actions must adhere to NEPA. In the case of the two legislative CATEXs, Congress has established the conditions in CATEXs 5–6.5.q and 5–6.5.r through legislation. CATEX 5–6.5.q [CATEX 1] applies extraordinary circumstances. One of the extraordinary circumstances is the potential for significant noise impacts to noise sensitive areas. The FAA employs noise screening to consider whether there are extraordinary circumstances related to noise. Although CATEX 5–6.5.r [CATEX 2] does not allow the consideration of extraordinary circumstances, it does state that there must be measureable reductions in fuel consumption, carbon dioxide emissions, and noise on a per flight basis.

*Several commenters stated that there should be public involvement when applying the legislative CATEXs.*

The FAA's public involvement and notification requirements are consistent with the CEQ's requirements for public notice and comment. The legislative CATEXs would be implemented in the same manner as other CATEXs. The FAA has acknowledged that there may be circumstances where public notification of a CATEX would be appropriate; however, these decisions are made on a case-by-case basis (see Paragraph 5–4).

*Two commenters suggested that the Order reference where the list of ''core airports'' can be found and include the definitions of medium and small hub airports. One commenter stated the FAA Reauthorization of 2012 specifically mentioned OEP airports (35 airports)*

*and not the core airports as written in Order 1050.1F.*

Detailed guidance on how to apply 5–6.5.q (CATEX 1) is available in the 1050.1F Desk Reference which includes an appendix providing the list of airports the CATEX applies to.

The Core Airports are the 29 large hub airports and Memphis International Airport. The definitions of medium and small hub airports are defined within the National Plan of Integrated Airport Systems (NPIAS) Report. Large hubs are those airports that each account for at least one percent of total U.S. passenger enplanements; medium hubs for between 0.25 percent and one percent, small hubs for between 0.05 percent and 0.25 percent.

The FAA replaced OEP with an initiative to incorporate NextGen technology into the National Airspace System based on the Core Airports. In December 2012, the FAA interpreted the phrase ''35 OEP airports'' in Section 213 to refer to the 30 Core Airports.

*One commenter stated that the legislative CATEXs should only be applied to airports that have a current ALP, have a current Noise Exposure Map on file, have engaged in a Part 150 Study and have eliminated all incompatible land use in the airport vicinity with reference to compatibility guidelines included in Appendix A of Part 150.*

Because the CATEXs at issue were established by law (the FAA Reauthorization of 2012, Public Law 112–95), the FAA does not have the discretion to add additional limitations to their applicability beyond the terms provided in the statute.

*Several commenters stated the legislative CATEXs violate NEPA.*

A CATEX is a type of NEPA review and is recognized by CEQ. The purpose of Congress in the FAA Reauthorization of 2012 was to provide the FAA with additional tools for NEPA compliance to accelerate NextGen technologies. It is not uncommon for Congress to provide for specific CATEXs or state in the legislation that certain actions should be presumed to have no significant impacts and therefore should be categorically excluded, as was the case for the two legislative CATEXs provided for in Section 213(c) of the FAA Reauthorization of 2012.

*One commenter recommended that the FAA align its environmental procedures more closely with the clear statutory mandate in Section 208 of the FAA Reauthorization of 2012 and with NEPA; and that, in doing so, the FAA would fulfill the directive in Section 208 of the 2012 Act to set specific quantitative goals for environmental impacts and measure ''actual operational experience against those goals, taking into account noise pollution concerns of affected communities to the extent practicable in establishing the environmental goals. . . .''*

The FAA's environmental procedures are aligned with NEPA. Order 1050.1F has been reviewed by the CEQ for adherence to NEPA. Section 208 of the FAA Reauthorization of 2012 is a separate provision involving in part the establishment of specific quantitative goals for the safety, capacity, efficiency, performance, and environmental impacts of each phase of NextGen planning and development activities and the measurement of actual operational performance against those goals. Section 208 does not address the environmental impacts of proposed site-specific NextGen procedures and does not guide or govern NEPA reviews.

*One commenter stated the FAA has not solved the problem of how to assess the noise on a per-flight basis, but seems poised to adopt the recommendation of the CATEX2 Task Group to employ a net noise reduction method.*

The CATEX in Order 1050.1F simply reflects the legislative wording. The FAA is considering how to assess noise on a per-flight basis and has asked for public comments on the CATEX2 task group recommendation.

In addition to the foregoing comments, many comments were received identifying typographical errors, missing or incorrect paragraph identifiers, incorrect internal references, and other minor grammatical inconsistencies. All such corrections are adopted unless stated otherwise in this preamble.

Issued in Washington, DC, on July 16, 2015.

**Lourdes Q. Maurice,**

*Executive Director, Office of Environment and Energy.*

[FR Doc. 2015–18084 Filed 7–23–15; 8:45 am]

**BILLING CODE 4910–13–P**

# FEDERAL REGISTER

Vol. 80 Friday,

No. 142 July 24, 2015


Part III

## The President

Proclamation 9301—Honoring the Victims of the Tragedy in Chattanooga, Tennessee

Federal Register
Vol. 80, No. 142
Friday, July 24, 2015

# Presidential Documents

**Title 3—**

**The President**

**Proclamation 9301 of July 21, 2015**

## Honoring the Victims of the Tragedy in Chattanooga, Tennessee

**By the President of the United States of America**

**A Proclamation**

Our thoughts and prayers as a Nation are with the service members killed last week in Chattanooga. We honor their service. We offer our gratitude to the police officers and first responders who stopped the rampage and saved lives. We draw strength from yet another American community that has come together with an unmistakable message to those who would try and do us harm: We do not give in to fear. You cannot divide us. And you will not change our way of life.

We ask God to watch over the fallen, the families, and their communities. As a mark of respect for the victims of the senseless acts of violence perpetrated on July 16, 2015, in Chattanooga, Tennessee, by the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, I hereby order that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, July 25, 2015. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of July, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2015–18422
Filed 7–23–15; 11:15 am]
Billing code 3295–F5

# Reader Aids

**Federal Register**

Vol. 80, No. 142

Friday, July 24, 2015

## CUSTOMER SERVICE AND INFORMATION

**Federal Register/Code of Federal Regulations**

| | |
|---|---|
| General Information, indexes and other finding aids | **202–741–6000** |
| **Laws** | **741–6000** |

**Presidential Documents**

| | |
|---|---|
| Executive orders and proclamations | **741–6000** |
| **The United States Government Manual** | **741–6000** |

**Other Services**

| | |
|---|---|
| Electronic and on-line services (voice) | **741–6020** |
| Privacy Act Compilation | **741–6064** |
| Public Laws Update Service (numbers, dates, etc.) | **741–6043** |

## ELECTRONIC RESEARCH

### World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

### E-mail

**FEDREGTOC-L** (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

**FEDREGTOC-L** and **PENS** are mailing lists only. We cannot respond to specific inquiries.

**Reference questions.** Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

## FEDERAL REGISTER PAGES AND DATE, JULY

37529–37920 ..... 1
37921–38390 ..... 2
38391–38612 ..... 6
38613–38912 ..... 7
38913–39376 ..... 8
39377–39668 ..... 9
39669–39940 ..... 10
39941–40894 ..... 13
40895–41408 ..... 14
41409–41986 ..... 15
41987–42372 ..... 16
42373–42706 ..... 17
42707–43006 ..... 20
43007–43298 ..... 21
43299–43612 ..... 22
43613–43908 ..... 23
43909–44250 ..... 24

## CFR PARTS AFFECTED DURING JULY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**2 CFR**

180 ..... 43301
200 ..... 43301

**3 CFR**

**Proclamations:**
9297 ..... 41969
9298 ..... 41975
9299 ..... 41983
9300 ..... 43299
9301 ..... 44249
**Executive Orders:**
13699 ..... 37529
13700 ..... 43003
13701 ..... 43903
**Administrative Orders:**
Memorandums:
Memorandum of June 19, 2015 ..... 42999
Memorandum of June 25, 2015 ..... 43001
Memorandum of June 29, 2015 ..... 37921
Memorandum of July 17, 2015 ..... 43909
Presidential Determinations:
No. 2015-09 of July 10, 2015 ..... 43613
Notices:
Notice of July 17, 2015 ..... 43297
Notice of July 21, 2015 ..... 43907

**5 CFR**

532 ..... 40895
**Proposed Rules:**
1600 ..... 39974
1601 ..... 39974
1651 ..... 39974
1653 ..... 39975
Ch. XXII ..... 38019

**7 CFR**

301 ..... 43007
319 ..... 43009, 43615
718 ..... 41987
929 ..... 37531
932 ..... 37533
1410 ..... 41987
1412 ..... 43615
4279 ..... 39377
4287 ..... 39377
**Proposed Rules:**
271 ..... 41442
274 ..... 41442
278 ..... 41442
905 ..... 43040
986 ..... 38021
1211 ..... 37555

**8 CFR**

**Proposed Rules:**
103 ..... 43338
212 ..... 43338

**9 CFR**

94 ..... 37923, 37935
112 ..... 39669
**Proposed Rules:**
3 ..... 43969

**10 CFR**

430 ..... 37953, 37954
431 ..... 42614, 43162
**Proposed Rules:**
50 ..... 42067
Ch. II ..... 38019
Ch. III ..... 38019
429 ..... 39486, 39644, 42434
430 ..... 39644, 40938
431 ..... 38032, 39486
Ch. IX ..... 38019
1703 ..... 39389

**12 CFR**

3 ..... 41409
22 ..... 43216
172 ..... 43216
208 ..... 43216
217 ..... 41409
324 ..... 41409
339 ..... 43216
600 ..... 40896
614 ..... 43216
760 ..... 43216
1024 ..... 43911
1026 ..... 43911
**Proposed Rules:**
Ch. I ..... 39390
Ch. II ..... 39390
225 ..... 43637
252 ..... 43637
Ch. III ..... 39390
327 ..... 40838
701 ..... 37898
723 ..... 37898
741 ..... 37898

**14 CFR**

33 ..... 38913
39 ..... 38391, 38613, 38615, 38617, 39941, 39943, 40897, 40899, 42005, 42007, 42010, 42012, 42014, 42018, 42373, 42707, 43011, 43615, 43921, 43925, 43928, 43931, 43936, 43938, 43940
71 ..... 42020, 42708, 43311, 43312
73 ..... 43617
91 ..... 42021, 43012
95 ..... 43617

97 .....42022, 42023, 42025, 42026
119.....43012
1245.....42028
1262.....42028
1263.....42028
1264.....42028
1266.....42028
**Proposed Rules:**
Ch. 1 .....41447
21 .....43969
25 .....42753
39 .....38033, 38036, 38038, 38406, 38408, 38656, 38990, 38992, 39392, 39394, 40942, 40947, 40949, 42756, 43642, 43645, 43648, 43970, 43972, 43974
71 .....42068, 42434, 42436, 42760
73.....42761

**15 CFR**

702.....41426
734.....43314
736.....39950, 43314
740.....39950, 43314
742.....43314
744.....39950
746.....43314
748.....39950, 43314
750.....43314
758.....43314
772.....43314
774.....39950, 43314

**16 CFR**

700.....42710
701.....42710
703.....42710
1251.....42376
**Proposed Rules:**
313.....38410
1112.....38041
1233.....38041
1251.....42438

**17 CFR**

200.....41432
231.....37536
232.....37537
241.....37536
271.....37536
275.....37538
276.....37536
**Proposed Rules:**
23.....41376
229.....41144
240.....38995, 41144
249.....41144
274.....41144
275.....38050
279.....38050

**18 CFR**

2.....43944
46.....43619
157.....43944
**Proposed Rules:**
35.....41449
40.....43354
284.....39719
157.....43979
260.....43979
284.....43979
342.....39010

**19 CFR**

201.....39377
206.....39377
208.....39377
213.....39377
214.....39377
215.....39377
216.....39377
217.....39377
218.....39377
219.....39377
220.....39377
221.....39377
222.....39377
223.....39377
224.....39377
225.....39377
226.....39377
227.....39377
228.....39377
229.....39377
230.....39377
231.....39377
232.....39377
233.....39377
234.....39377
235.....39377
236.....39377
237.....39377
238.....39377
239.....39377
240.....39377
241.....39377
242.....39377
243.....39377
244.....39377
245.....39377
246.....39377
247.....39377
248.....39377
249.....39377
250.....39377
251.....39377
252.....39377
253.....39377
254.....39377
255.....39377
256.....39377
257.....39377
258.....39377
259.....39377
260.....39377
261.....39377
262.....39377
263.....39377
264.....39377
265.....39377
266.....39377
267.....39377
268.....39377
269.....39377
270.....39377
271.....39377
272.....39377
273.....39377
274.....39377
275.....39377
276.....39377
277.....39377
278.....39377
279.....39377
280.....39377
281.....39377
282.....39377
283.....39377
284.....39377
285.....39377
286.....39377
287.....39377
288.....39377
289.....39377
290.....39377
291.....39377
292.....39377
293.....39377
294.....39377
295.....39377
296.....39377
297.....39377
298.....39377
299.....39377

**20 CFR**

404.....37970
416.....37970

**21 CFR**

11.....39675
16.....42723
20.....38915
101.....39675
161.....41436
310.....38915
314.....38915
600.....38915
601.....37971
610.....37971
680.....37971
1020.....43320
1308.....42381
**Proposed Rules:**
1.....43987
573.....42069
601.....38145
1100.....37555
1140.....37555
1143.....37555

**22 CFR**

121.....37974
**Proposed Rules:**
171.....40951

**23 CFR**

650.....41350

**24 CFR**

5.....42272
91.....42272
92.....42272
570.....42272
574.....42272
576.....42272
903.....42272
**Proposed Rules:**
203.....38410

**25 CFR**

83.....37538, 37862

**26 CFR**

1.....38940, 38941
54.....41318
301.....43949
**Proposed Rules:**
1 .....39397, 42439, 43652
301.....39397
602.....39397

**27 CFR**

**Proposed Rules:**
9.....38147

**28 CFR**

527.....38620
571.....38622
**Proposed Rules:**
506.....38658
550.....43367
810.....39400

**29 CFR**

18.....37539
38.....43872
2519.....41318
2590.....41318
4022.....41436
**Proposed Rules:**
541.....38516

**31 CFR**

591.....39676
**Proposed Rules:**
22.....39977
315.....37539
353.....37539
360.....37539

**32 CFR**

232.....43560
323.....39381

**33 CFR**

100 .....38394, 38397, 39382, 42030, 42032
117 .....39382, 39383, 39683
147.....40903, 42385
165 .....37540, 37542, 37545, 37976, 37978, 37980, 37982, 38623, 38941, 38943, 38944, 38946, 39383, 39384, 39386, 39686, 39688, 39689, 39691, 39694, 39957, 39960, 39961, 42034, 42036, 42037, 42038, 42388, 43015, 43625, 43952, 43954
**Proposed Rules:**
100.....42069
117.....38417
147.....43998
165 .....37562, 39400, 39403, 42072, 42440

**34 CFR**

**Proposed Rules:**
668.....39608
682.....39608
685.....39608

**36 CFR**

**Proposed Rules:**
7.....39985
13.....39988

**38 CFR**

4.....42040
17.....43320
39.....43320
48.....43320
49.....43320
51.....43320
52.....43320
53.....43320
59.....43320

61 ....43320
62 ....43320
64 ....43320
**Proposed Rules:**
4 ....39011

**39 CFR**

501 ....42392
3001 ....43017
3020 ....42723
**Proposed Rules:**
957 ....37565
961 ....37567
966 ....37567
3050 ....43370

**40 CFR**

52 ....37985, 38400, 38403, 38625, 38951, 38959, 38966, 38969, 39696, 39961, 39966, 39968, 39970, 40905, 40909, 40911, 40913, 40915, 40917, 42042, 42044, 42046, 42050, 42393, 42726, 42727, 42730, 42733, 43625, 43628, 43956, 43960, 43964
60 ....38628, 42397
70 ....40922
80 ....38284
81 ....39970, 42046, 42050
82 ....42053, 42870
180 ....37547, 38976, 38981, 42397, 42400, 43323, 43329
257 ....37988
261 ....42735
262 ....37992
280 ....41566
281 ....41566
720 ....42739
721 ....42739
723 ....42739
725 ....42739
761 ....37994
**Proposed Rules:**
9 ....40138
22 ....40138
52 ....38152, 38419, 38423, 39020, 40952, 40954, 40955, 41449, 41450, 42075, 42076, 42443, 42446, 42459, 42763, 42765, 42774, 42777, 43371, 43661, 43662, 43663, 44000, 44001, 44005, 44013, 44014, 44017
85 ....40138
86 ....40138
87 ....37758
174 ....42462
180 ....43373
600 ....40138
704 ....38153
711 ....43383
1033 ....40138
1036 ....40138
1037 ....40138
1039 ....40138
1042 ....40138
1043 ....40138
1065 ....40138
1066 ....40138
1068 ....37758, 40138

**41 CFR**

301 ....37995
302 ....37995
303 ....37995
304 ....37995
305 ....37995
306 ....37995
307 ....37995
308 ....37995
309 ....37995
310 ....37995
**Proposed Rules:**
102–177 ....39719

**42 CFR**

480 ....40923
482 ....40923
**Proposed Rules:**
73 ....42079
88 ....39720
405 ....41686, 42168
409 ....39840
410 ....39200, 41686
411 ....41686
412 ....39200
413 ....37808
414 ....41686
416 ....39200
419 ....39200
424 ....39840
425 ....41686
431 ....42168
447 ....42168
482 ....42168
483 ....42168
484 ....39840
485 ....42168
488 ....42168
495 ....41686
510 ....41198

**43 CFR**

**Proposed Rules:**
47 ....39991
48 ....39991
3160 ....40768
3170 ....40768

**44 CFR**

64 ....37996, 42404

**45 CFR**

101 ....42408
147 ....41318
155 ....38652
1171 ....42066
1628 ....43966

**46 CFR**

503 ....37997
**Proposed Rules:**
501 ....38153
502 ....38153

**47 CFR**

1 ....38653, 38812, 43019
2 ....38812
15 ....37551
17 ....37552
20 ....38653
25 ....38812
27 ....38812
54 ....40923
74 ....38812
76 ....38001
78 ....38812
79 ....39698
80 ....38812
87 ....38812
90 ....38812
97 ....38812
101 ....38812
**Proposed Rules:**
2 ....38316
8 ....38424
15 ....38316
54 ....42670
69 ....40956
73 ....38158, 40957
74 ....38158
79 ....39722
80 ....38316
90 ....38316
97 ....38316
101 ....38316

**48 CFR**

Ch. 1 ....38292, 38313
1 ....38293, 38306, 40968
2 ....38293
3 ....38293
4 ....38293, 40968
5 ....38307
6 ....38293
7 ....38293
8 ....38293, 40968
9 ....38293, 38309
10 ....38293
12 ....38293, 38311
13 ....38293, 38311
15 ....38293, 38312
16 ....38293
17 ....38293, 40968
18 ....38311
19 ....38293
22 ....38293, 38307, 40968
25 ....38293
28 ....38293
30 ....38293
42 ....38293
50 ....38293
52 ....38293, 38306, 38309, 38312, 40968
53 ....38293
1837 ....43031
1852 ....43031

**49 CFR**

196 ....43836
198 ....43836
219 ....38654
390 ....37553
535 ....43631
1002 ....41437
**Proposed Rules:**
190 ....39916
191 ....39916
192 ....39916, 41460
195 ....39916
199 ....39916
512 ....40138
523 ....40138
534 ....40138
535 ....40138
537 ....40138
538 ....40138
571 ....43663
1201 ....39021
1241 ....39045
1242 ....39045
1243 ....39045
1244 ....39045
1245 ....39045
1246 ....39045
1247 ....39045
1248 ....39045

**50 CFR**

21 ....38013
300 ....38986, 43634
622 ....38015, 39715, 40936, 42423, 43033
635 ....38016
648 ....42747
660 ....39716, 43336
679 ....38017, 43337
**Proposed Rules:**
17 ....37568
219 ....39542
20 ....43266
224 ....40969
300 ....42464, 43694
424 ....42465
622 ....41472
648 ....39731
665 ....43046
679 ....39734, 40988

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

**Last List July 23, 2015**

## Public Laws Electronic Notification Service (PENS)

**PENS** is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

**Note:** This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.