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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–2568; Directorate Identifier 2014–SW–026–AD; Amendment 39–18424; AD 2016–05–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters (Previously Eurocopter France) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014–07–52 for certain Airbus Helicopters (previously Eurocopter France) Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters. AD 2014–07–52 required repetitively inspecting certain reinforcement angles of the rear structure to tailboom junction frame (reinforcement angles) for a crack at 10 hour time-in-service (TIS) intervals, repairing any cracked reinforcement angle, and allowed an optional repetitive inspection with a 165 hour TIS inspection interval as a terminating action for the 10 hour TIS inspections. This AD retains the inspection requirements of AD 2014–07–52 and requires the inspection of the area around each reinforcement angle screw hole as terminating action to the 10 hour TIS inspections. We are issuing this AD to detect a crack in the reinforcement angle, which if not corrected, could result in loss of the tailboom and subsequent loss of control of the helicopter.

DATES: This AD is effective April 8, 2016.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of June 25, 2014 (79 FR 33054, June 10, 2014).

ADDRESSES: For service information identified in this final rule, 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.

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–2015–2568; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, any incorporated-by-reference service information, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations Office, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *robert.grant@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to remove AD 2014–07–52, Amendment 39–17858 (79 FR 33054, June 10, 2014) and add a new AD. AD 2014–07–52 applied to Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters with Modification (MOD) 07 3215 or with a reinforcement angle part number (P/N) 350A08.2493.21 or P/N 350A08.2493.23 installed. AD 2014–07–52 required, for helicopters with 640 or more hours TIS, repetitively inspecting each reinforcement angle for a crack every 10 hours TIS. As an optional action, AD 2014–07–52 allowed a repetitive 165 hour TIS inspection of the reinforcement angle under each attaching screw for a crack. AD 2014–07–52 was prompted by Emergency AD No. 2014–0076–E, dated March 25, 2014, issued by EASA, which is the Technical Agent for the Member States of the European Union. EASA advises that during the inspection of several AS355 helicopters, cracks found in the reinforcement angles had initiated on the non-visible surface of the angle, and that this condition, if not corrected, could lead to further crack propagation and subsequent loss of the tailboom, resulting in loss of control of the helicopter. The EASA AD requires repetitive inspections of the reinforcement angles, and states that a terminating action is under investigation.

The NPRM published in the **Federal Register** on July 23, 2015 (80 FR 43645). The NPRM proposed to retain the 10 hour TIS repetitive inspections of the reinforcement angle and require (instead of allow as an option) the 165 hour TIS inspection of the junction frame bores as terminating action for the 10 hour TIS inspections. The NPRM also proposed to revise the applicability to only include helicopters with reinforcement angle P/N 350A08.2493.21 and P/N 350A08.2493.23, and not include helicopters with MOD 07 3215. Since MOD 07 3215 installed reinforcement angle P/N 350A08.2493.21 and P/N 350A08.2493.23, AD 2014–07–52 was written to apply to helicopters with either the reinforcement angle P/Ns or with MOD 07 3215, so that operators could more easily determine whether AD 2014–07–52 applied to their aircraft. Airbus Helicopters then developed MOD 07 3232, which removes reinforcement angle P/N 350A08.2493.21 and P/N 350A08.2493.23. We removed MOD 07 3215 from the applicability because we did not want the AD to apply to a helicopter with both MOD 07 3215 and MOD 07 3232 in its aircraft records, as it would not have reinforcement angle P/N 350A08.2493.21 or P/N 350A08.2493.23 installed. The proposed requirements were intended to detect a

crack in the reinforcement angle, which if not corrected, could result in loss of the tailboom and subsequent loss of control of the helicopter.

Since the NPRM was issued, a group email address has been established for requesting an FAA alternative method of compliance for a helicopter of foreign design. We have revised this contact information in this final rule to reflect the new email address.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (79 FR 33054, June 10, 2014).

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Interim Action

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

Differences Between This AD and the EASA AD

This AD is not applicable to the AS350BB as that model is not type certificated in the U.S. This AD applies to Airbus Helicopters Model AS350C and AS350D1 helicopters because these helicopters have a similar design. Finally, the EASA AD requires operators to contact Airbus Helicopters if there is a crack, and this AD does not, however it does require repairing the crack before further flight.

Related Service Information Under 1 CFR Part 51

Airbus Helicopters issued Emergency Alert Service Bulletin (EASB) No. 05.00.70 for Model AS350B, BA, BB, Bl, B2, B3, and D helicopters, and EASB No. 05.00.62 for Model AS355E, F, F1, F2, N, and NP helicopters, both Revision 0 and dated March 24, 2014. EASB No. 05.00.70 and EASB No. 05.00.62 describe procedures for inspecting the angle reinforcements for a crack. 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.

Costs of Compliance

We estimate that this AD affects 822 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. At an average labor rate of $85 per work-hour, inspecting the reinforcement angles for a crack without removing the screws requires 1.0 work-hour, for a cost per helicopter of $85 and a total cost of $69,870 for the U.S. fleet, per inspection cycle. Removing the screws and inspecting the reinforcement angle requires 2 work-hours, for a cost per helicopter of $170 and a total cost of $139,740 for the U.S. fleet, per inspection cycle. If required, repairing a cracked reinforcement angle requires about 10 work-hours, and required parts cost about $300, for a total cost per helicopter of $1,150.

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 helicopters identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–07–52, Amendment 39–17858 (79 FR 33054, June 10, 2014), and adding the following new AD:

2016–05–06 Airbus Helicopters (previously Eurocopter France): Amendment 39–18424; Docket No. FAA–2015–2568; Directorate Identifier 2014–SW–026–AD.

(a) Applicability

This AD applies to Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters, with a reinforcement angle part number (P/N) 350A08.2493.21 or P/N 350A08.2493.23 installed, certificated in any category.

Note 1 to paragraph (a) of this AD: Helicopters with Modification (MOD) 073232 do not have P/N 350A08.2493.21 or P/N 350A08.2493.23 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in a rear structure to tailboom junction frame reinforcement angle (reinforcement angle), which if not detected could result in loss of the tail boom and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2014–07–52, Amendment 39–17858 (79 FR 33054, June 10, 2014).

(d) Effective Date

This AD becomes effective April 8, 2016.

(e) Compliance

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

(f) Required Actions

(1) For helicopters with 640 or more hours time-in-service (TIS) since installation of MOD 073215 or since installation of an applicable reinforcement angle, within 10 hours TIS, and thereafter at intervals not exceeding 10 hours TIS, inspect each reinforcement angle for a crack as depicted in Figure 1 of Airbus Helicopters Emergency Alert Service Bulletin No. 05.00.70 for Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, and AS350D1 helicopters and Airbus Helicopters Emergency Alert Service Bulletin No. 05.00.62 for AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters, both Revision 0 and dated March 24, 2014.

(2) If there is a crack, before further flight, repair the reinforcement angle in a manner approved by the manager listed in paragraph (h)(1) of this AD.

(3) Within 165 hours TIS after the first inspection required by paragraph (f)(1) of this AD, and thereafter at intervals not exceeding 165 hours TIS, remove screw No. 5 from the reinforcement angle, thoroughly clean the area around the hole and inspect the reinforcement angle for a crack. If there is not a crack, reinstall the screw. Sequentially repeat the steps required by this paragraph for screws No. 6 through No. 12. If there is a crack, comply with paragraph (f)(2) of this AD. Accomplishment of the inspection required by this paragraph terminates the repetitive inspections required by paragraph (f)(1) of this AD.

(g) Special Flight Permits

Special flight permits are prohibited.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 10101 Hillwood Pkwy, Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@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.

(3) AMOCs approved previously in accordance with AD 2014–07–52, Amendment 39–17858 (79 FR 33054, June 10, 2014) are approved as AMOCs for the corresponding requirements of paragraph (f)(2) of this AD.

(i) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD 2014–0076–E, dated March 25, 2014. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2015–2568.

(j) Subject

Joint Aircraft Service Component (JASC) Code: 5302: Rotorcraft Tailboom.

(k) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on June 25, 2014 (79 FR 33054, June 10, 2014).

(i) Airbus Helicopters Emergency Alert Service Bulletin (EASB) No. 05.00.62, Revision 0, dated March 24, 2014.

(ii) Airbus Helicopters EASB No. 05.00.70, Revision 0, dated March 24, 2014.

Note 2 to paragraph (k)(3): Airbus Helicopters EASB No. 05.00.62 and EASB No. 05.00.70, both Revision 0 and dated March 24, 2014, are co-published as one document along with Airbus Helicopters EASB No. 05.00.45 and EASB No. 05.00.41, both Revision 0 and dated March 24, 2014, which are not incorporated by reference in this AD.

(4) For Airbus Helicopters service information identified in this final rule, 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.*

(5) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(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 Fort Worth, Texas, on February 25, 2016.

Scott A. Horn,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2016–04678 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3607; Directorate Identifier 2015–CE–010–AD; Amendment 39–18398; AD 2016–04–04]

RIN 2120–AA64

Airworthiness Directives; M7 Aerospace LLC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all M7 Aerospace LLC Models SA26–AT, SA226–T(B), SA226–AT, SA226–T, SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), and SA227–TT airplanes. This AD was prompted by information that the airplane flight manual (AFM) does not provide adequate guidance in the handling of engine failures, which may lead to reliance on the negative torque system (NTS) for reducing drag. This condition could lead the pilot to not fully feather the propeller with consequent loss of control. This AD requires inserting updates into the airplane flight manual (AFM) and/or the pilot operating handbook (POH) that will clearly establish that the NTS is not designed to automatically feather the propeller but only to provide drag protection. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective April 8, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 8, 2016.

ADDRESSES: For service information identified in this AD, contact M7 Aerospace LLC, 10823 NE Entrance Road, San Antonio, Texas 78216; phone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.elbitsystems-us.com;* email: *MetroTech@M7Aerospace.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3607.

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–2015–3607; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Michael Heusser, Aerospace Engineer, FAA, Fort Worth Aircraft Certification Office, 10101 Hillwood Parkway, Fort Worth, Texas 76177; telephone: (817) 222–5038; fax: (817) 222–5960; email: *Michael.A.Heusser@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all M7 Aerospace LLC Models SA26–AT, SA226–T(B), SA226–AT, SA226–T, SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), and SA227–TT airplanes. The NPRM published in the **Federal Register** on August 25, 2015 (80 FR 51495). The NPRM was prompted by a report of an accident where an M7 Aerospace LLC Model SA227–AC airplane experienced left engine power loss and consequent loss of control. Training manuals provide descriptions of the negative torque system (NTS), which provides partial anti-drag protection if a negative torque condition is sensed. This feature might cause pilots to assume the system automatically provides full anti-drag protection in the event of an engine failure or power loss. The pilot must also take prompt action to fully feather the propeller on the failed engine to reduce drag. A pilot's sole reliance on the NTS for reducing drag in the event of engine power loss may result in the pilot's failure to initiate the Engine Failure Inflight checklist and feather the propellers in time.

The NPRM proposed to require inserting updates into the airplane flight manual (AFM) and/or the pilot operating handbook (POH) that will clearly establish that the NTS is not designed to automatically feather the propeller but only to provide drag protection. We are issuing this AD to correct the unsafe condition on these products.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 51495, August 25, 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 51495, August 25, 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 51495, August 25, 2015).

Related Service Information Under 1 CFR Part 51

We reviewed the following M7 Aerospace LLC service information:

- M7 Aerospace LLC Merlin SA26–AT Dash One Airplane Flight Manual (AFM), Revision, section III, pages III–1 through III–6, revised May 14, 2015; and pages III–7 through III–8, FAA Approved May 14, 2015;
- M7 Aerospace LLC Merlin SA26–AT Dash Two, AFM, Revision, section III, pages III–1 through III–6, revised May 14, 2015, and pages III–7 through III–8, FAA Approved May 14, 2015;
- M7 Aerospace LLC Swearingen Merlin SA226–T AFM, Revision A–29, section III, pages III–2 though III–25, revised November 14, 2014, and page III–26, FAA Approved November 14, 2014;
- M7 Aerospace LLC Swearingen Merlin SA226–AT AFM, Revision B–33, section III, pages III–2 through III–24, revised November 14, 2014, and pages III–25 through III–30, FAA approved November 14, 2014;
- M7 Aerospace LLC Merlin IIIB SA226–T(B) AFM, Revision B–29, section 3, pages 3–2 through page 3–20, revised November 14, 2014; and pages 3–21 through 3–24, issued November 14, 2014;
- M7 Aerospace LLC Swearingen Metro SA226–TC AFM, Revision A–43, section III, pages III–2 through page III–24, revised November 14, 2014; and pages III–25 through III–32, FAA Approved November 14, 2014;
- M7 Aerospace LLC Fairchild Aircraft Model SA227–AC (4AC) Metro III AFM, Revision B–11, section 3, pages 3–3 through 3–30, revised November 14, 2014;
- M7 Aerospace LLC Fairchild Aircraft Model SA227–AC (4MC) Metro III AFM, Revision A–12, section 3, pages 3–4 through 3–30, revised November 14, 2014; and pages 3–31 through 3–36, FAA Approved November 14, 2014;
- M7 Aerospace LLC Fairchild Aircraft Model SA227–AC (6AC) Metro III AFM, Revision A–16, section 3, pages 3–4 through 3–20, revised November 14, 2014;
- M7 Aerospace LLC Fairchild Aircraft Model SA227–AC (7AC) Metro III AFM, Revision B–19, section 3, pages 3–3 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014;
- M7 Aerospace LLC Fairchild Aircraft SA227–AC (7MC) Metro III AFM, Revision A–13, section 3, pages 3–4 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014;
- M7 Aerospace LLC Fairchild Aircraft SA227–AC (8AC) Metro III AFM, Revision A–15, section 3, pages 3–4 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014;
- M7 Aerospace LLC Fairchild Aircraft SA227–AT (4AT) Merlin IVC, Pilot's Operating Handbook (POH)/AFM, Revision A–12, section 3, pages 3–4 through 3–30, revised November 14, 2014; and pages 3–31 through 3–34, FAA Approved November 14, 2014;
- M7 Aerospace LLC Fairchild Aircraft SA227–AT (6AT) Merlin IVC POH/AFM, Revision 13, section 3, pages 3–4 through 3–30, revised November 14, 2014; and pages 3–31 through 3–36, FAA Approved November 14, 2014;
- M7 Aerospace LLC Fairchild Aircraft SA227–AT (7AT) Merlin IVC POH/AFM, Revision B–12, section 3, pages 3–4 through 3–30, revised December 9, 2014, and pages 3–31 through 3–34, FAA Approved December 9, 2014;
- M7 Aerospace LLC Fairchild Aircraft SA227–AT (8AT) Merlin IVC POH/AFM, Revision 13, section 3, pages 3–4 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014;
- M7 Aerospace LLC Fairchild Aircraft SA227–BC (6BC) AFM, Revision 21, section 3, pages 3–4 through 3–30, revised December 9, 2014; and pages 3–31 through 3–36, FAA Approved December 9, 2014;
- M7 Aerospace LLC Fairchild Aircraft SA227–CC (6CC) AFM, Revision 17, section 3, pages 3–3 through 3–24, revised December 9, 2014; and pages 3–25 through 3–30, FAA Approved December 9, 2014;

• M7 Aerospace LLC Fairchild Aircraft SA227–DC (6DC) AFM, Revision 34, section 3, pages 3–3 through 3–26, revised December 9, 2014; and pages 3–27 through 3–32, FAA Approved December 9, 2014;

• M7 Aerospace LLC Fairchild Aircraft SA227–DC (8DC) AFM, Revision 8, section 3, pages 3–3 through 3–26, revised December 9, 2014; and pages 3–27 through 3–34, FAA Approved December 9, 2014;

• M7 Aerospace LLC Fairchild 300 Aircraft SA227–TT POH/AFM, Revision 15, section 3, pages 3–3 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014;

• M7 Aerospace LLC Fairchild 300 Aircraft SA227–TT (312) POH/AFM, Revision 13, section 3, page 3–3 and pages 3–5 through 3–30, revised December 9, 2014, and pages 3–31 through 3–32, FAA Approved December 9, 2014; and

• M7 Aerospace LLC Fairchild Model SA227–TT Merlin IIIC Aircraft POH/AFM, Revision 29, section 3, pages 3–3 through 3–24, revised December 9, 2014, and pages 3–25 through 3–32, issued December 9, 2014.

These revisions to the AFM and POH clearly establish that the NTS is not designed to automatically feather the propeller but only to provide drag protection. 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.

Costs of Compliance

We estimate that this AD affects 360 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
Insert revision into the appropriate AFM describing action to take when feathering propellers in the event of engine failure.	.5 work-hour × $85 per hour = $42.50.	* NA	$42.50	$15,300

* Not applicable.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2016–04–04 M7 Aerospace LLC: Amendment 39–18398; Docket No. FAA–2015–3607; Directorate Identifier 2015–CE–010–AD.

(a) Effective Date

This AD is effective April 8, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to M7 Aerospace LLC Models SA26–AT, SA226–T(B), SA226–AT, SA226–T, SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), and SA227–TT airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 01, Operations Information.

(e) Unsafe Condition

This AD was prompted by information that a pilot's sole reliance on the negative torque system (NTS) for reducing drag in the event of engine power loss may result in the pilot's failure to initiate the Engine Failure Inflight checklist and feather the propellers in time. This could lead the pilot to not fully feather the propeller with consequent loss of control. We are issuing this AD to add information to the airplane flight manual (AFM) and/or Pilot's Operating Handbook (POH) that reliance on the NTS to reduce drag during an engine failure could lead the pilot to not fully feather the propeller with consequent loss of control.

(f) Compliance

Unless already done, within the next 30 days after April 8, 2016 (the effective date of this AD), do the actions in paragraph (g) of this AD, as applicable, including all subparagraphs.

(g) Actions

Incorporate the applicable M7 Aerospace LLC AFM revisions as listed in paragraphs (g)(1) through (g)(12) of this AD:

(1) *For Model SA26–AT Dash One airplanes:* Insert section III, pages III–1

through III–6, revised May 14, 2015; and pages III–7 through III–8, FAA Approved May 14, 2015; into the Merlin Model SA–26AT Dash One AFM, Revision.

(2) *For Model SA26–AT Dash Two airplanes:* Insert section III, pages III–1 through III–6, revised May 14, 2015; and pages III–7 through III–8, FAA Approved May 14, 2015; into the Merlin Model SA–26AT Dash Two AFM, Revision.

(3) *For Model SA226–T airplanes:* Insert section III, pages III–2 though III–25, revised November 14, 2014, and page III–26, FAA approved November 14, 2014, into the Swearingen Merlin SA226–T AFM, Reissue A, dated June 28, 1976.

(4) *For Model SA226–AT airplanes:* Insert section III, pages III–2 through III–24, revised November 14, 2014, and pages III–25 through III–30, FAA approved November 14, 2014, into the Merlin SA226–AT AFM, Reissue B, dated May 6, 1977.

(5) *For Model SA226–T(B) airplanes:* Insert section 3, pages 3–2, through page 3–20, revised November 14, 2014; and pages 3–21 through 3–24, issued November 14, 2014; into the Merlin IIB SA226–T(B) AFM, Reissue B, dated November 2, 1979.

(6) *For Model SA226–TC airplanes:* Insert section III, pages III–2 through page III–24, revised November 14, 2014; and pages III–25 through III–32, FAA Approved November 14, 2014; into the Swearingen Metro SA226–TC AFM, Reissue A, dated December 1, 1976.

(7) *For Model SA227–AT airplanes:*

(i) *Model 4AT:* Insert section 3, pages 3–4 through 3–30, revised November 14, 2014; and pages 3–31 through 3–34, FAA Approved November 14, 2014; into the Model SA227–AT (4AT) Merlin IVC POH/AFM, Reissue A, dated November 30, 1988;

(ii) *Model 6AT:* Insert section 3, pages 3–4 through 3–30, revised November 14, 2014; and pages 3–31 through 3–36, FAA Approved November 14, 2014 into the SA227–AT (6AT) Merlin IVC POH/AFM, dated May 13, 1987.

(iii) *Model 7AT:* Insert section 3, pages 3–4 through 3–30, revised December 9, 2014, and pages 3–31 through 3–34, FAA Approved December 9, 2014, into the SA227–AT (7AT) Merlin IVC POH/AFM, Reissue B, dated November 30, 1988.

(iv) *Model 8AT:* Insert section 3, pages 3–4 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014; into the SA227–AT (8AT) Merlin IVC POH/AFM, dated May 13, 1987.

(8) *For Model SA227–TT Fairchild 300 airplanes:* Insert section 3, pages 3–3 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014; into the SA227–TT Fairchild 300 POH/AFM, Reissue A, dated August 7, 1981.

(9) *For Model SA227–TT Fairchild 312 airplanes:* Insert section 3, page 3–3 and pages 3–5 through 3–30, revised December 9, 2014; and pages 3–31 through 3–32, FAA Approved December 9, 2014; into the Model SA227–TT Fairchild 300 (312) 12,500 LBS POH/AFM, dated October 4, 1981.

(10) *For Model SA227–TT Fairchild Merlin IIIC airplanes:* Insert section 3, pages 3–3 through 3–24, revised December 9, 2014, and pages 3–25 through 3–32, issued December 9, 2014; into the SA227–TT Merlin IIIC POH/AFM, Reissue A, dated August 7, 1981.

(11) *For Model SA227–AC (C–26A) airplanes:*

(i) *Model 4AC:* Insert section 3, pages 3–3 through 3–30, revised November 14, 2014; into the Fairchild Aircraft Model SA227–AC Metro III AFM, Reissue B, dated November 7, 1990.

(ii) *Model 4MC:* Insert section 3, pages 3–4 through 3–30, revised November 14, 2014; and pages 3–31 through 3–36, FAA Approved November 14, 2014, into the Fairchild Aircraft Model SA227–AC Metro III AFM, Reissue A, dated May 22, 1989.

(iii) *Model 7AC:* Insert section 3, pages 3–3 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014, into the Fairchild Aircraft Model SA227–AC Metro III AFM, Reissue B, dated April 2, 1986.

(iv) *Model 7MC:* Insert section 3, pages 3–4 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014, into the Fairchild Aircraft Model SA227–AC Metro III AFM, Reissue A, dated May 22, 1989.

(v) *Model 8AC:* Insert section 3, pages 3–4 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014, into the Fairchild Aircraft Model SA227–AC Metro III AFM, Reissue A, dated May 22, 1989.

(vi) *Model 6AC:* Insert section 3, pages 3–4 through 3–20, revised November 14, 2014; into the Fairchild Aircraft Model SA227–AC Metro III AFM, Reissue A, dated May 22, 1989.

(12) *For Model SA227–BC (6BC) airplanes:* Insert section 3, pages 3–4 through 3–30, revised December 9, 2014; and pages 3–31 through 3–36, FAA Approved December 9, 2014, into the Fairchild Aircraft Model SA227–BC AFM, dated September 25, 1989.

(13) *For Model SA227–DC (C–26B) airplanes:*

(i) *Model (6DC):* Insert section 3, pages 3–3 through 3–26, revised December 9, 2014; and pages 3–27 through 3–32, FAA Approved December 9, 2014, into the Fairchild Aircraft Model SA227–DC AFM, dated August 23, 1991.

(ii) *Model (8DC):* Insert section 3, pages 3–3 through 3–31, revised December 9, 2014; and pages 3–32 through 3–34, FAA Approved December 9, 2014; into the Fairchild Aircraft Model SA227–DC AFM.

(14) *For Model SA227–CC (6CC) airplanes:* Insert section 3, pages 3–3 through 3–24, revised December 9, 2014; and pages 3–25 through 3–30, FAA Approved December 9, 2014; into the Fairchild Aircraft Model SA227–CC AFM, dated December 11, 1992.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Fort Worth Aircraft Certification Office, 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 (i)(1) of this AD.

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

(i) Related Information

For more information about this AD, contact Michael Heusser, Aerospace Engineer, FAA, Fort Worth Aircraft Certification Office, 10101 Hillwood Parkway, Fort Worth, Texas 76177; telephone: (817) 222–5038; fax: (817) 222–5960; email: *Michael.A.Heusser@faa.gov.*

(j) Material Incorporated by Reference

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

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

(i) M7 Aerospace LLC Merlin SA26–AT Dash One Airplane Flight Manual (AFM), Revision, section III, pages III–1 through III–6, revised May 14, 2015; and pages III–7 through III–8, FAA Approved May 14, 2015;

(ii) M7 Aerospace LLC Merlin SA26–AT Dash Two, AFM, Revision, section III, pages III–1 through III–6, revised May 14, 2015, and pages III–7 through III–8, FAA Approved May 14, 2015;

(iii) M7 Aerospace LLC Swearingen Merlin SA226–T AFM, Revision A–29, section III, pages III–2 though III–25, revised November 14, 2014, and page III–26, FAA Approved November 14, 2014;

(iv) M7 Aerospace LLC Swearingen Merlin SA226–AT AFM, Revision B–33, section III, pages III–2 through III–24, revised November 14, 2014, and pages III–25 through III–30, FAA November 14, 2014;

(v) M7 Aerospace LLC Merlin IIIB SA226–T(B) AFM, Revision B–29, section 3, pages 3–2 through page 3–20, revised November 14, 2014; and pages 3–21 through 3–24, issued November 14, 2014;

(vi) M7 Aerospace LLC Swearingen Metro SA226–TC AFM, Revision A–43, section III, pages III–2 through page III–24, revised November 14, 2014; and pages III–25 through III–32, FAA Approved November 14, 2014;

(vii) M7 Aerospace LLC Fairchild Aircraft Model SA227–AC (4AC) Metro III AFM, Revision B–11, section 3, pages 3–3 through 3–30, revised November 14, 2014;

(viii) M7 Aerospace LLC Fairchild Aircraft Model SA227–AC (4MC) Metro III AFM, Revision A–12, section 3, pages 3–4 through 3–30, revised November 14, 2014; and pages 3–31 through 3–36, FAA Approved November 14, 2014;

Note 1 to paragraph (j)(2)(viii): The list of effective pages for this manual on page 0-iv incorrectly identifies the effective date for page 3–4 as October 17, 1994. The correct date is November 14, 2014.

(ix) M7 Aerospace LLC Fairchild Aircraft Model SA227–AC (6AC) Metro III AFM, Revision A–16, section 3, pages 3–4 through 3–20, revised November 14, 2014;

(x) M7 Aerospace LLC Fairchild Aircraft Model SA227–AC (7AC) Metro III AFM,

Revision B–19, section 3, pages 3–3 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014;

(xi) M7 Aerospace LLC Fairchild Aircraft SA227–AC (7MC) Metro III AFM, Revision A–13, section 3, pages 3–4 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014;

(xii) M7 Aerospace LLC Fairchild Aircraft SA227–AC (8AC) Metro III AFM, Revision A–15, section 3, pages 3–4 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014;

(xiii) M7 Aerospace LLC Fairchild Aircraft SA227–AT (4AT) Merlin IVC, Pilot's Operating Handbook (POH)/AFM, Revision A–12, section 3, pages 3–4 through 3–30, revised November 14, 2014; and pages 3–31 through 3–34, FAA Approved November 14, 2014;

(xiv) M7 Aerospace LLC Fairchild Aircraft SA227–AT (6AT) Merlin IVC POH/AFM, Revision 13, section 3, pages 3–4 through 3–30, revised November 14, 2014; and pages 3–31 through 3–36, FAA Approved November 14, 2014;

(xv) M7 Aerospace LLC Fairchild Aircraft SA227–AT (7AT) Merlin IVC POH/AFM, Revision B–12, section 3, pages 3–4 through 3–30, revised December 9, 2014, and pages 3–31 through 3–34, FAA Approved December 9, 2014;

(xvi) M7 Aerospace LLC Fairchild Aircraft SA227–AT (8AT) Merlin IVC POH/AFM, Revision 13, section 3, pages 3–4 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014;

(xvii) M7 Aerospace LLC Fairchild Aircraft SA227–BC (6BC) AFM, Revision 21, section 3, pages 3–4 through 3–30, revised December 9, 2014; and pages 3–31 through 3–36, FAA Approved December 9, 2014;

(xviii) M7 Aerospace LLC Fairchild Aircraft SA227–CC (6CC) AFM, Revision 17, section 3, pages 3–3 through 3–24, revised December 9, 2014; and pages 3–25 through 3–30, FAA Approved December 9, 2014;

(xix) M7 Aerospace LLC Fairchild Aircraft SA227–DC (6DC) AFM, Revision 34, section 3, pages 3–3 through 3–26, revised December 9, 2014; and pages 3–27 through 3–32, FAA Approved December 9, 2014;

(xx) M7 Aerospace LLC Fairchild Aircraft SA227–DC (8DC) AFM, Revision 8, section 3, pages 3–3 through 3–26, revised December 9, 2014; and pages 3–27 through 3–34, FAA Approved December 9, 2014;

(xxi) M7 Aerospace LLC Fairchild 300 Aircraft SA227–TT POH/AFM, Revision 15, section 3, pages 3–3 through 3–30, revised December 9, 2014; and pages 3–31 through 3–34, FAA Approved December 9, 2014;

(xxii) M7 Aerospace LLC Fairchild 300 Aircraft SA227–TT (312) POH/AFM, Revision 13, section 3, page 3–3 and pages 3–5 through 3–30, revised December 9, 2014, and pages 3–31 through 3–32, FAA Approved December 9, 2014; and

(xxiii) M7 Aerospace LLC Fairchild Model SA227–TT Merlin IIIC Aircraft POH/AFM, Revision 29, section 3, pages 3–3 through 3–24, revised December 9, 2014, and pages 3–25 through 3–32, issued December 9, 2014.

Note 2 to paragraph (j)(2) of this AD: While not specifically identified on the manuals, paragraphs (j)(2)(vii) through (j)(2)(xii) apply to the military version C–26A, and paragraphs (j)(2)(xix) and (j)(2)(xx) apply to the military version C–26B of these airplanes.

(3) For M7 Aerospace LLC service information identified in this AD, contact M7 Aerospace LLC, 10823 NE Entrance Road, San Antonio, Texas 78216; phone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.elbitsystems-us.com;* email: *MetroTech@M7Aerospace.com.*

(4) You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

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

Issued in Kansas City, Missouri, on February 10, 2016.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–03171 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–3695; Airspace Docket No. 16–AGL–5]

Amendment of Class E Airspace for the Following North Dakota Towns; Harvey, ND, and Rolla, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace by updating the geographic coordinates at Harvey Municipal Airport, Harvey, ND; and Rolla Municipal Airport, Rolla, ND. The coordinates for Minot AFB and the Devils Lake VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) are also updated to coincide with the FAA's database.

DATES: Effective 0901 UTC, May 26, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX, 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Harvey Municipal Airport, Harvey, ND; and Rolla Municipal Airport, Rolla, ND.

History

In a review of the airspace, the FAA found the airspace for Harvey Municipal Airport, Harvey, ND; and Rolla Municipal Airport, Rolla, ND, as published in FAA Order 7400.9Z, Airspace Designations and Reporting Points, required the geographic coordinates of the above airports, Minot AFB, Minot, ND; and the Devil's Lake VOR/DME to be updated. This is an administrative change and does not affect the boundaries or operating requirements of the above airports.

Class E airspace designations are published in paragraph 6005 of FAA

Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends Title 14, Code of Federal Regulations (14 CFR) part 71, updating the geographic coordinates for Class E airspace extending upward from 700 feet above the surface at Harvey Municipal Airport, Harvey, ND; Rolla Municipal Airport, Rolla, ND; Minot AFB, Minot ND; and the Devils Lake VOR/DME to coincide with the FAA's aeronautical database.

This is an administrative change amending the description for Harvey Municipal Airport and Rolla Municipal Airport to be in concert with the FAA's aeronautical database, and does not affect the boundaries, or operating requirements of the airspace; therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, effective September 15, 2015, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL ND E5 Harvey, ND [Amended]

Harvey Municipal Airport, ND
(Lat. 47°47′28″ N., long 99°55′54″ W.)
Minot AFB, ND
(Lat. 48°24′57″ N., long. 101°21′29″ W.)
Bismarck VOR/DME
(Lat. 46°45′42″ N., long. 100°39′55″ W.)
Devils Lake VOR/DME
(Lat. 48°06′55″ N., long. 98°54′45″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Harvey Municipal Airport; and that airspace extending upward from 1,200 feet above the surface bounded on the north by V–430, on the west by the 47-mile radius of Minot AFB, on the southwest by V–15, on the south by the Bismarck VOR/DME 36-mile radius, on the southeast by V–169, and on the east by the Devils Lake VOR/DME 22-mile radius; and that airspace extending upward from 1,200 feet above the surface bounded on the northwest by V–169, on the south by latitude 47°30′00″ N., and on the east by longitude 99°19′00″ W., excluding all Federal airways.

* * * * *

AGL ND E5 Rolla, ND [Amended]

Rolla Municipal Airport, ND
(Lat. 48°53′04″ N., long. 99°37′15″ W.)
Devils Lake VOR/DME
(Lat. 48°06′55″ N., long. 98°54′45″ W.)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of Rolla Municipal Airport, excluding that airspace north of lat. 49°00′00″ N.; and that airspace extending upward from 1,200 feet above the surface within an area bounded on the north by lat. 49°00′00″ N., on the east by long. 99°00′00″ W., on the southeast by the 22-mile arc of the Devils Lake VOR/DME, on the south by V–430, on the southwest by the Rugby, ND, Class E airspace area, and on the west by long. 99°49′00″ W.

Issued in Fort Worth, Texas, on February 19, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–04202 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–6001; Airspace Docket No. 15–ANM–10]

RIN 2120–AA66

Amendment of United States Area Navigation (RNAV) Route Q–35; Western United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects the FAA docket number of a final rule published in the **Federal Register** on January 14, 2016, amending the legal description of RNAV Route Q–35 in the Western United States. In that rule, the FAA docket number was incorrectly published as FAA–2013–6001, instead of FAA–2015–6001.

DATES: Effective date 0901 UTC, March 31, 2016. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further

information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Jason Stahl, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

A final rule was published in the **Federal Register** on January 14, 2016 (81 FR 1877), FR Doc. 2015–33095, that reversed the order of points listed in the legal description of RNAV Route Q–35 as published in FAA Order 7400.9, Airspace Designations and Reporting Points. Subsequent to publication, the FAA found that the FAA docket number for this document was inadvertently mistyped. This action corrects the FAA docket number.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, in the **Federal Register** of January 14, 2016 (81 FR 1877), the docket number, as published in the **Federal Register** on January 14, 2016 (81 FR 1877), FR Doc. 2015–33095, amending the legal description of RNAV Route Q–35, is corrected as follows:

§ 71.1 [Amended]

■ On page 1877, column 1, line 4, Remove ''Docket No. FAA–2013–6001'' and add in its place ''Docket No. FAA–2015–6001.

Issued in Washington, DC, on February 25, 2016.

Kenneth Ready,

Acting Manager, Airspace Policy Group.

[FR Doc. 2016–04739 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 252

[Docket No. DOT–OST–2011–0044]

RIN 2105–AE06

Use of Electronic Cigarettes on Aircraft

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Department of Transportation is issuing a final rule to extend the smoking ban in DOT's regulation to include all charter (*i.e.,* nonscheduled) flights where a flight attendant is a required crewmember. The revised regulation would comport with 49 U.S.C. 41706, which was revised in 2012, to ban smoking on charter flights where a flight attendant is a required crewmember. This final rule also explicitly bans the use of electronic cigarettes (''e-cigarettes'') on all flights where smoking is banned. The Department interprets the existing regulation to prohibit e-cigarette use, but is codifying this interpretation.

DATES: The rule is effective April 4, 2016.

FOR FURTHER INFORMATION CONTACT: Robert M. Gorman, Senior Trial Attorney, or Blane A. Workie, Assistant General Counsel, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590, 202–366–9342, 202–366–7152 (fax), *robert.gorman@dot.gov* or *blane.workie@dot.gov* (email).

SUPPLEMENTARY INFORMATION:

Background

The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Pub. L. 106–181) was signed into law on April 5, 2000. Section 708 of this statute, ''Prohibitions Against Smoking on Scheduled Flights'' (codified as 49 U.S.C. 41706), banned passengers from smoking on all flights in scheduled passenger interstate and intrastate air transportation, and directed the Secretary of Transportation to prohibit smoking in foreign air transportation (with an exception process for foreign carriers). Shortly thereafter, the Department of Transportation (''DOT,'' or ''the Department'') amended its rule on smoking aboard aircraft, 14 CFR part 252, to implement section 41706. Under part 252, the smoking of tobacco products is banned on all scheduled passenger flights of air carriers, and on all scheduled passenger flight segments of foreign air carriers between points in the United States and between the United States and foreign points. Under part 252, foreign governments may request and obtain a waiver from DOT provided that an alternative smoking prohibition resulting from bilateral negotiations is in effect. Further, part 252 was amended to permit carriers operating single-entity charters to allow smoking throughout the aircraft, but also required a no-smoking section for each class of service (*e.g.,* first class) on other charter flights where smoking is not banned.

Throughout this preamble, we use the terms ''air carrier'' and ''foreign air carrier'' as defined in 49 U.S.C. 40102, in which an ''air carrier'' is a citizen of the United States undertaking to provide air transportation, and a ''foreign air carrier'' is a person, not a citizen of the United States, undertaking to provide foreign air transportation.

The Notice of Proposed Rulemaking

Electronic Cigarettes and Other Nicotine Delivery Systems

On September 15, 2011, the Department published a notice of proposed rulemaking (NPRM) in which it proposed to amend its existing smoking rule (part 252) to explicitly ban the use of e-cigarettes on all flights covered by that rule (*i.e.,* all flights of U.S. air carriers in scheduled passenger interstate, intrastate and foreign air transportation and all scheduled flight segments of foreign air carriers in, to, or from the United States).[1] E-cigarettes typically contain a cartridge or chamber, which contain an atomizer or heating element, a battery and a liquid solution. Most often e-cigarettes contain liquid nicotine but they may contain other chemicals. When a user inhales, the heating element aerosolizes the liquid solution. This produces an aerosol,[2] which requires an inhalation and exhalation similar to smoking cigarettes. In addition to nicotine, e-cigarette aerosol can contain heavy metals, ultrafine particulates that can be inhaled deep into the lungs, and cancer-causing agents like acrolein. Secondhand

[1] *Smoking of Electronic Cigarettes on Aircraft,* Department of Transportation, Office of the Secretary, 14 CFR part 252, [Docket No. DOT–OST–2011–0044], RIN 2105–AE06, 76 FR 57008 (Sept. 15. 2011).

[2] Our NPRM and many commenters referred to the exhaled product of e-cigarettes as a ''vapor.'' It is more accurate to refer to the product as an aerosol. See Grana et al., E-Cigarettes: A Scientific Review, *http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4018182/.* Products that create both vapors and aerosols are included in the Department's definition of ''smoking.''

aerosol that is exhaled by users may reduce air quality and is potentially harmful to health. Sometimes e-cigarettes are designed to look like traditional cigarettes, but at times they are also made to look like cigars, pipes, and even everyday products such as pens.

The increased promotion and availability of e-cigarettes raised the issue of whether the statutory ban on smoking on scheduled passenger flights in section 41706 and the existing regulatory prohibition on the smoking of tobacco products in part 252 applied to e-cigarettes. In the NPRM, we explained that the Department views the existing statutory and regulatory framework to be sufficiently broad to include the use of e-cigarettes; however, the purpose of the proposal was to clarify and codify this position. In addition to relying on section 41706 as our statutory authority for the rule, we also relied on 49 U.S.C. 41702, which requires air carriers to provide safe and adequate interstate air transportation. Another Federal statute, 49 U.S.C. 41712, which prohibits airlines from engaging in unfair or deceptive practices or unfair methods of competition in air transportation or the sale of air transportation, provides additional support for the e-cigarette rule. (See ''Authority to Regulate E-Cigarettes under 49 U.S.C. 41712,'' below).

The NPRM stated our position that the reasons supporting the statutory and regulatory ban on smoking also apply to a ban on e-cigarettes: Improving air quality within the aircraft, reducing the risk of adverse health effects on passengers and crewmembers, and enhancing aviation safety and passenger comfort. We also discussed *Sottera, Inc.* v. *Food & Drug Administration,* 627 F.3d 891 (D.C. Cir. Dec. 7, 2010), in which the court held that the Food and Drug Administration (FDA) could not regulate ''customarily marketed'' electronic cigarettes as drugs or devices under the Federal Food, Drug, and Cosmetic Act (FDCA), but that the FDA could regulate the e-cigarettes at issue as tobacco products under the FDCA as amended by the Family Smoking Prevention and Tobacco Act of 2009 (Tobacco Control Act).

The FDA has express authority under the Tobacco Control Act to regulate only the following tobacco products at this time: cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco. The Tobacco Control Act permits the FDA to extend its tobacco products authority to other types of tobacco products by issuing regulations. On April 25, 2014, the FDA issued a proposed rule to extend FDA's tobacco product authorities to include e-cigarettes and other types of tobacco products.[3]

Similarly, in our NPRM, we proposed to amend DOT's smoking rule so it clearly covers e-cigarettes by including a definition of smoking. For purposes of this rule, we proposed to define smoking as: ''the smoking of tobacco products or use of electronic cigarettes and similar products designed to deliver nicotine or other substances to a user in the form of a vapor,'' with an exemption for ''the use of a device such as a nebulizer that delivers a medically beneficial substance to a user in the form of a vapor.''

In the NPRM, the Department sought comment on: (1) Whether the definition of ''smoking'' in the proposed rule text was so broad that it might unintentionally include otherwise permissible medical devices that produce a vapor; (2) concerns over, and benefits of, the proposal to clarify the prohibition in part 252 to explicitly cover e-cigarettes; and (3) any other information or data relevant to the Department's decision.

Charter (Nonscheduled) Passenger Flights

In addition, the NPRM also stated the Department's intent to consider whether to extend the ban on smoking, including e-cigarettes, to charter flights with aircraft that have a seating capacity of 19 or more passenger seats—*i.e.,* those flights that generally require a flight attendant.[4] The Department proposed banning smoking on charter flights with 19 or more passenger seats, citing public health concerns for flight attendants who may be subject to secondhand smoke on board such charter flights. Thus, the Department sought comment on the benefits and drawbacks of extending the smoking ban to charter flights that have a seating capacity of 19 or more passenger seats.

A ban on smoking on charter flights where a flight attendant is a required crewmember was enacted into law on February 14, 2012, in the FAA Modernization and Reform Act of 2012, Public Law 112–95. Section 401 of the Act amended section 41706, the existing smoking statute, by broadening the smoking prohibition to include aircraft in nonscheduled passenger interstate, intrastate and foreign air transportation, if a flight attendant is a required crewmember on the aircraft (as determined by the Federal Aviation Administration or a foreign government).

Discussion of Comments

Overview

In response to the NPRM, the Department received over 1000 comments, the majority of which were in response to the e-cigarette issue. A majority of the comments received on the NPRM were from individuals. In addition, the Department received comments from the following entities: U.S. carrier and foreign carrier associations, members of Congress, pilot associations, flight attendant associations, consumer organizations, advocacy and special interest organizations, local governments, and medical associations.

The Department has carefully reviewed and considered the comments received. The commenters' positions are summarized below.

Definition of ''Smoking''

In the NPRM, we asked whether the definition of ''Smoking'' in the proposed rule text is too broad in that it may unintentionally include otherwise permissible medical devices that produce a vapor. We proposed the following definition:

> *Smoking* means the smoking of tobacco products or use of electronic cigarettes and similar products designed to deliver nicotine or other substances to a user in the form of a vapor. It does not include the use of a device such as a nebulizer that delivers a medically beneficial substance to a user in the form of a vapor.

The Air Transport Association of America (now Airlines for America (A4A)), International Air Transport Association (IATA), Regional Airline Association (RAA), and Air Carrier Association of America (ACAA) filed a joint comment stating their view that the proposed definition was adequate as written, and that it would not unintentionally include otherwise permissible medical devices. Also, the American Thoracic Society suggested that the Department consider explicitly stating in its definition that FDA-approved medical devices, such as

[3] *Deeming Tobacco Products to be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Regulations on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products,* Department of Health and Human Services, Food and Drug Administration, 14 CFR parts 1100, 1140, and 1143, [Docket No. FDA–2014–N–0189], RIN 0910–AG38, 79 FR 23142 (April 25, 2014).

[4] Generally, pursuant to FAA regulations, a flight attendant is a required crewmember for Part 121, 125, and 135 operations where the aircraft has a seating capacity of more than nineteen. *See* 14 CFR 121.391, 125.269, 135.107. A flight attendant is also a required crewmember for Part 121 operations with airplanes that have a maximum payload capacity of more than 7,500 pounds and a seating capacity of more than nine. 14 CFR 121.269(a)(1).

nebulizers, metered dose inhalers, ventilators, supplemental oxygen and other respiratory assistive devices meeting Federal Aviation Administration (FAA) requirements, are not covered by the definition of smoking.

With respect to comments received from individuals, there was a concern raised by some that the definition could include all inhalers, asthma inhalers, or permissible nicotine replacement products. Some suggested that ''medically beneficial'' is too broad because in some cases, nicotine may be medically beneficial. Therefore, the commenters suggest changing the language to ''medically necessary substances,'' ''FDA-approved devices,'' or ''prescription drugs.'' One commenter stated that the definition is circular because it uses ''smoking'' in the definition of ''smoking.'' In addition, some commenters suggested it would be clearer to add the word ''harmful'' before ''vapor.''

Finally, one commenter suggested the following definition as an alternative to the proposed rule text: ''any inhalation or exhalation of a tobacco product, electronic cigarette, or similar products that emits a smoke, mist, vapor, etc., with the exception of medical devices such as nebulizers.''

DOT Response

Based on the comments received, we have decided to edit our proposed definition of smoking to read as follows:

> *Smoking* means the use of a tobacco product, electronic cigarettes whether or not they are a tobacco product, or similar products that produce a smoke, mist, vapor, or aerosol, with the exception of products (other than electronic cigarettes) which meet the definition of a medical device in section 201(h) of the Federal Food, Drug and Cosmetic Act, such as nebulizers.

We feel this change more succinctly addresses our targeted prohibition and makes clear that products which meet the definition of a medical device (other than electronic cigarettes) in section 201(h) of the Federal Food, Drug and Cosmetic Act, such as nebulizers, are exempt. The use of electronic cigarettes would fall within the smoking ban even if electronic cigarettes were to meet the definition of a medical device.

Coverage of E-Cigarettes

In the NPRM, we explained that we interpret the existing part 252 to ban the use of e-cigarettes on all flights and that we were seeking to codify this interpretation. We solicited comments about the potential benefits or harm of this proposal.

In their joint comment, A4A, IATA, RAA, and ACAA stated their support for the proposed ban, arguing that e-cigarettes should be treated the same as other tobacco products. These organizations voiced concern over the ingredients in e-cigarettes, which could possibly cause airway irritation for users and others nearby. They also named design flaws, inadequate labeling, quality control, and health issues as concerns. Further, the commenters stated, ''in fact, all carriers already prohibit e-cigarette use in the cabin for the same reasons the Department provided.''

The Air Line Pilots Association (ALPA) stated its belief that the proposed rule would prevent degradation of the air quality onboard aircraft, and asserted that the health risks for human use need to be more thoroughly understood for both users and non-users who are subjected to ''secondhand smoke.'' ALPA also noted the possibility of passenger and crewmember confusion in differentiating e-cigarettes from tobacco cigarettes, as the two products can be difficult to distinguish from each other.

The Association of Flight Attendants (AFA) reported that it has received occasional reports of in-flight passenger use of the devices and some confusion among travelers regarding airline policies. AFA stated its support for treating the devices the same as traditional cigarettes. AFA believes that DOT is appropriately applying a precautionary principle because the toxicity of e-cigarettes is not well understood. In addition, the Association of Professional Flight Attendants, representing flight attendants for American Airlines, submitted a comment stating that American Airlines currently bans e-cigarettes, but nonetheless still urged DOT to promulgate a final rule to create consistency across the industry. The Association further noted that the science behind the effects that e-cigarettes may have on third parties is, at best, inconclusive, and that they adamantly advocate for a healthy environment for all flight attendants.

The Independent Pilots Association, the bargaining unit for the pilots of United Parcel Service, stated its support for the rule on safety grounds (based on the inherent dangers of using lithium battery powered e-cigarettes onboard aircraft). However, it also expressed the view that DOT has created a double standard of safety regulations by carving out less safe standards for cargo aircraft operations, and urged that the rule be applied to all aircraft.

We received comments from a number of medical associations, each voicing their support for the proposed ban. The American Academy of Pediatrics (AAP) commented that it was unaware of any data which would suggest that it is safe for children as passengers in aircraft to be in close proximity to exhaled ''vapors'' from e-cigarettes. Further, the AAP noted that FDA data demonstrate that e-cigarette vapor includes known toxicants, carcinogens, and irritants of the respiratory tract. The American Thoracic Society (ATS) commented that while e-cigarette manufacturers claim that the devices are a reduced-risk product, there is little evidence to support this claim, and that the limited research on these products has found significant variation between manufacturers' attestations and the actual dose of nicotine delivered by the products. ATS further stated that it is not aware of any studies that suggest exhaled e-cigarette vapors are risk-free and that the use of these devices in the confined space of an airline cabin should be viewed with extreme caution. The California Medical Association (CMA) stated its support for the prohibition of the use of any nicotine delivery devices not approved by the FDA in places where smoking is already prohibited by law. CMA also noted that several local and State governments have banned e-cigarettes in indoor public spaces and workplaces. The Oncology Nursing Society expressed its support for the ban, citing evidence for the presence of toxic chemicals in e-cigarette aerosol.

The Department also received a letter of support for the proposed rule signed by seven members of the U.S. Senate.[5] The Senators urged a strong final rule, and stated that the devices raise significant public health concerns. They also expressed concern with respect to the manufacturing and quality control of e-cigarettes. In sum, the Senators stated that the proposed rule recognizes the rights of airline passengers to a safe travel environment and promotes public health.

In addition, we received two comments from local governments. The New York City Department of Health and Mental Hygiene (DOHMH) submitted a comment stating its concern that e-cigarettes are not FDA-approved and may contain chemicals that could harm users or those around them, especially in confined spaces such as

[5] Letter from Senators Barbara Boxer, Richard J. Durbin, Tom Harkin, Richard Blumenthal, Jack Reed, and Edward J. Markey to Secretary Anthony Foxx (June 10, 2014) (available in the public docket).

aircraft. DOHMH noted that the proposed rule would make enforcement of the existing smoking ban easier, as e-cigarettes can be difficult to distinguish from traditional cigarettes. Seattle and King County, Washington, which passed a regulation prohibiting the use of e-cigarette devices in places where smoking is prohibited by law, commented that a precautionary approach is warranted as the products are relatively new to the market and research has not conclusively identified the components of the vapor that are exhaled.

We received several comments from other advocacy organizations. The American Cancer Society, American Heart Association, American Lung Association, Campaign for Tobacco-Free Kids, and Legacy submitted a joint comment in support of the proposed rule, stating that in the context of smoking prohibitions on aircraft, e-cigarettes should be considered the same as traditional cigarettes. The organizations commented that the health consequences of e-cigarette use are unknown, and therefore restrictions on their use inside aircraft are appropriate until it can be shown with a high degree of certainty that they pose no harm to non-users. The organizations also argued that allowing the use of e-cigarettes on aircraft would create significant confusion for passengers and enforcement challenges for airline personnel, citing an incident on a Southwest Airlines flight on July 13, 2011, where a man was arrested for pelting a flight attendant with peanuts and pretzels after being asked to put away his e-cigarette upon attempting to smoke the device. The organizations also argued that DOT's proposed rule is consistent with the decision in *Sottera.* Finally, the organizations argued that prohibiting e-cigarette use on aircraft promotes the health goal of reducing the use of tobacco products through the promotion of non-smoking environments.

Americans for Nonsmokers' Rights (ANR) submitted a comment in support of the proposed rule, stating its belief that e-cigarettes should be prohibited in all places where the smoking of tobacco products is prohibited. ANR stated that its primary reason for supporting the ban is that the devices' components raise significant health concerns. ANR also asserted that e-cigarettes can undermine and cause confusion over compliance with smoke-free rules when used on airplanes. Finally, ANR noted that there are at least 25 municipalities that define ''smoking'' to include the use of e-cigarettes and prohibit their use in workplaces and public places. Arizonans for Nonsmokers' Rights expressed the view that e-cigarettes posed respiratory hazards to non-users, and that permitting e-cigarettes aboard aircraft may infringe on the rights of individuals with respiratory disabilities.

The Kentucky Center for Smoke-free Policy submitted a comment strongly in support of the proposed ban, stating that although there is a need for rigorous scientific study of e-cigarettes, it is known that the vapor emitted from the devices contains several volatile organic compounds (*e.g.,* acetone, styrene, and ethyl alcohol acetaldehyde) that can cause negative health effects. The Kentucky Center also commented that the use of e-cigarettes on aircraft may lead people to believe that smoking is permitted, and may undermine smoke-free policies. The Tobacco Free Coalition of Pinellas County (FL) expressed similar health concerns.

FlyersRights.org, a non-profit airline passenger rights advocacy organization, conducted a survey of its members to gauge public opinion on the proposed rule. The survey garnered 987 responses, and those who responded voted overwhelmingly (81.4%) in favor of the NPRM. Support was generally based on the grounds of public health or cabin comfort. Those opposing the ban were almost evenly divided in their reasoning, with some doubting that the e-cigarettes pose any risk, others believing that current research is insufficient to support the regulation, and still others objecting generally to the proposed ban.

The following organizations submitted comments in opposition to the proposed rule. Smokin' Vapor LLC submitted a comment in opposition stating that e-cigarettes do not burn any matter, and that their ingredients (water, flavorings, nicotine—when chosen—and propylene glycol) are safe, and even beneficial to users in some instances. The National Vapers Club submitted a comment stating that e-cigarettes do not produce smoke and therefore do not create the byproducts of combustion. National Vapers stated that banning e-cigarettes is akin to banning the use of Nicotrol inhalers. The organization added that e-cigarettes have not been shown to cause any harm to bystanders; until such harm is proven, the club believes that the ban is unfounded. National Vapers also asserted that it is the responsibility of airlines to explain the use of e-cigarettes to those who are uncomfortable with them, and to alleviate the concerns of those who are not familiar with the products. In addition, Smokers Fighting Discrimination, Inc., submitted a comment in opposition to the proposed ban, stating that e-cigarettes emit water vapor, but not smoke.

Smokefree Pennsylvania submitted a comment that outlined several reasons for its opposition to the proposed ban. The organization challenged the Department's statutory authority to promulgate the rule under 49 U.S.C. 41706. The organization reasoned that the statute does not authorize the ban of e-cigarettes because vapor does not involve combustion, and thus is vastly different from tobacco smoke. Smokefree Pennsylvania stated that the Department falsely alleged that using an e-cigarette is the same as smoking. The organization also challenged the Department's statutory authority under 49 U.S.C. 41702, stating that there is no evidence that e-cigarettes have harmed anyone or that they pose any health or safety risks to users or non-users. The organization alleged that the NPRM deceives the public into believing that e-cigarettes emit smoke and pose health risks to users and non-users similar to those posed by cigarette smoke. Furthermore, it argued that none of the studies cited by the Department had found any hazardous levels of chemicals in e-cigarettes. The organization also asserted that the proposal is unenforceable, as e-cigarette consumers can use the products discreetly without anyone noticing because the vapor that is emitted is not visible. As evidence of this assertion, the organization stated that there have been no citations issued for violating indoor e-cigarette usage bans in New Jersey, Seattle, or other jurisdictions where e-cigarettes have been banned. Finally, the organization noted that violators of the Department's proposed rule would face a $3,300 fine, which the organization claimed is excessive and may violate the 8th Amendment's prohibition against cruel and unusual punishment.

The Consumer Advocates for Smoke-Free Alternatives Association (CASAA) and the Competitive Enterprise Institute (CEI) submitted a comment urging the Department to withdraw its proposed ban, and cited reasons for its opposition similar to those offered by Smokefree Pennsylvania. CASAA and CEI challenged the Department's statutory authority, arguing that the statutory ban on in-flight smoking, 49 U.S.C. 41706, does not extend to smoke-free products such as e-cigarettes. Also, these organizations argued that the Department's reliance on 49 U.S.C § 41702 is misplaced, as there is no research indicating that e-cigarette vapor, with or without nicotine, is harmful to users or bystanders. The organizations cited a Health New Zealand report where e-cigarette mist

was tested for over 50 cigarette smoke toxicants, and no such toxicants were found. CASAA and CEI additionally argued that the Department has failed to perform a cost-benefit analysis and has not demonstrated that the ban would produce any benefits; the American Aviation Institute echoed this view. Lastly, CASAA and CEI stated that the possible civil penalty of $3,300 for violating part 252 is not justified, as e-cigarettes would not impair cabin air quality or cause damage to aircraft seats or carpeting.

We now turn to comments received from the public. By the end of the comment period on November 15, 2011, the Department received approximately 700 total comments; approximately 500 of those were from individuals opposed to the proposed ban. (Many of the comments received in opposition to the proposed rule were identical.) The purported lack of DOT jurisdictional authority to create the proposed rule and lack of research, data, evidence, or proof to support the rule were common themes. Many felt that the Department was overstepping its statutory authority, and argued that e-cigarettes are not smoked, but ''vaped'' (producing water vapor), and as such do not fall within the smoking statute, section 41706. Also, many felt that the Department failed to justify the proposed ban under section 41702 because it did not provide any evidence that e-cigarettes are harmful to bystanders. Some individuals asserted that there have not been any reported health issues with respect to the devices and stated that lack of evidence cannot be the basis for a rule. Many argued that the proposed rule was an example of unnecessary government regulation, and that the better approach would be to allow the industry to devise its own rules for the products. It was also argued that the proposed regulation would be unenforceable because users can easily hide their use of e-cigarettes. Finally, some argued that the civil penalty associated with a violation of the proposed rule is excessive and illegal under the 8th Amendment.

Supporters of the rule generally viewed the Department as having the appropriate authority and stated that the unknown risk and potential harmful effects justified the ban. Many voiced concern over the air quality aboard aircraft, stating that the rights and public health concerns of passengers who are not e-cigarette users should be protected, as these people do not have the option of leaving the space. Supporters also raised the point that potentially vulnerable passengers, such as children, the elderly, and people with asthma should be protected from the effects of e-cigarette vapor. Another reason cited in support of the rule was the elimination of potential passenger and crew confusion; supporters argued that a ban on both traditional cigarettes and e-cigarettes would make enforcement of the smoking regulation easier for crewmembers, because e-cigarettes resemble traditional cigarettes. It was also stated that this proposed rule would create only minimal inconvenience for smokers and ''vapers,'' as the existing smoking ban on aircraft has been in place since 2000.

In more recent years, the Department has noted a substantial increase in individual comments supporting the ban. Of the approximately 350 additional individual comments received after the close of the comment period, approximately 60 opposed the ban while approximately 290 supported it. Most commenters supporting the ban cited health concerns, and expressed the view that e-cigarette aerosol was either already demonstrated to be harmful, or should be banned unless it is proven to be safe. A number of individuals expressed impatience at the Department's slow progress in implementing the ban.

We note that several commenters, both organizations and individuals, cited safety reasons as additional grounds for supporting the proposed ban (*e.g.,* potential fire concerns and hazards associated with the lithium batteries that power the devices).

DOT Response

After fully considering the comments received, the Department has decided to amend its existing smoking rule to explicitly ban the use of e-cigarettes on all flights in passenger interstate, intrastate and foreign air transportation where other forms of smoking are banned. We are primarily concerned with the potential adverse health effects of secondhand exposure to aerosols generated by e-cigarettes, particularly in the unique environment of an aircraft cabin. We further believe that the ban on the use of e-cigarettes fulfills the statutory mandates of sections 41706, 41702, and 41712. We do not address in this rulemaking any safety-related issues that may exist with regard to the use of e-cigarettes aboard aircraft. The Pipeline and Hazardous Materials Safety Administration (PHMSA) regulates hazardous materials safety [6] and the FAA regulates smoking aboard aircraft under its safety mandate. *See* 14 CFR 121.317, 129.29, 135.127.

Authority To Regulate E-Cigarettes Under 49 U.S.C. 41706

We begin with section 41706, the statutory smoking ban. With respect to domestic air transportation, section 41706(a) provides that ''an individual may not smoke in an aircraft in scheduled passenger interstate or intrastate air transportation; or in an aircraft in nonscheduled passenger interstate or intrastate air transportation if a flight attendant is a required crewmember on the aircraft.'' Similarly, with respect to foreign air transportation, section 41706(b) provides that ''the Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit smoking in an aircraft in scheduled passenger foreign air transportation; and in an aircraft in nonscheduled passenger foreign air transportation, if a flight attendant is a required crewmember on the aircraft.''

While section 41706 does not define 'smoking,'' nothing in the text of section 41706 suggests that the definition of ''smoking'' should be limited to the combustion of traditional tobacco products. Instead, Congress vested broad authority in the Department to implement the statutory smoking ban. Specifically, section 41706(d) states that ''the Secretary shall provide such regulations as are necessary to carry out this section.'' We interpret section 41706 as a whole as vesting the Department with the authority to define the term ''smoking,'' and to refine that definition as necessary to effectuate the purpose of the statute while adapting to new technologies and passenger behavior. Like section 41706, the Department's regulation in 14 CFR part 252 did not contain a definition of ''smoking'' prior to the issuance of this final rule. However, the Department has previously taken the position that the prohibition against smoking in 49 U.S.C. 41706 and 14 CFR part 252 should be read to ban the use of electronic cigarettes on U.S. air carrier and foreign air carrier flights in scheduled intrastate, interstate and foreign air transportation, a position that was noted in connection with a June 17, 2010 hearing before the Senate Committee on Commerce, Science and Transportation. This final rule formalizes the Department's interpretation by defining smoking to explicitly include the use of e-cigarettes.

[6] With respect to the Independent Pilots Association's comment that DOT should expand the ban on e-cigarettes to include cargo flights, we note that the Association's concern appears to be largely on the safety hazards of transporting lithium batteries. On August 6, 2014, PHMSA issued a final rule addressing this issue. See 79 FR 46011 (August 6, 2014); PHMSA–2009–0095 (HM–224F).

Some commenters contend that section 41706 cannot be relied upon to reach this result because it prohibits smoking, and e-cigarettes are ''vaped'' and produce a vapor. Although e-cigarettes typically do not undergo combustion, they do produce an aerosol of chemicals and require an inhalation and exhalation action similar to that which is required when smoking traditional cigarettes. E-cigarettes are generally designed to look like and be used in the same manner as conventional cigarettes. Further, the purpose behind the statutory ban on smoking aboard aircraft in section 41706 and the regulatory ban on smoking tobacco products in part 252 were to improve cabin air quality, reduce the risk of adverse health effects on passengers and crewmembers, and enhance passenger comfort. The in-cabin dynamics of e-cigarette use are similar enough to traditional smoking to necessitate including e-cigarette use within the definition of ''smoking.'' Like traditional smoking, e-cigarette use introduces a cloud of chemicals into the air that may be harmful to passengers who are confined in a narrow area within the aircraft cabin without the ability to avoid those chemicals.

A recent study published in the journal *Nicotine & Tobacco Research* found that e-cigarettes are a source of secondhand exposure to nicotine but not to combustion toxicants.[7] The conclusions of the study were that using e-cigarettes in indoor environments may involuntarily expose non-users to nicotine, and that more research is needed to evaluate the health consequences of secondhand exposure to nicotine, especially among vulnerable populations such as children, pregnant women, and people with cardiovascular conditions. More recent research has determined that persistent residual nicotine on indoor surfaces from e-cigarettes can lead to third hand exposure through the skin, inhalation, and ingestion long after the air itself has cleared.[8]

Additionally, we find it significant that the three medical associations that submitted comments cited the unknown health risks of exposure to e-cigarette aerosol in a confined space as a reason for concern. Also citing public health concerns were the American Cancer Society, American Heart Association, American Lung Association, Campaign for Tobacco-Free Kids, and Legacy. In addition, each comment received from the airline industry voiced strong support for the rule, based on the unknown ingredients in the devices and their possible health consequences.

While the specific hazards of e-cigarette aerosol have not yet been fully identified, the Department does not believe that it would be appropriate to exempt e-cigarettes from the ban for now, pending a more definitive catalog of those hazards. Since the NPRM was issued, research continues to undermine claims that the use of e-cigarettes would have no adverse health implications on users or others who are nearby. Research has detected toxic chemicals such as formaldehyde and acetaldehyde in the aerosol from certain e-cigarettes.[9] The aerosol was also found to contain acrolein, which can cause irritation to the nasal cavity and damage to the lining of the lungs, and may contribute to cardiovascular disease in cigarette smokers.[10] Another study identified 22 chemical elements in e-cigarette aerosol, including lead, nickel, and chromium, among others that can cause adverse health effects in the respiratory and nervous systems.[11]

Some studies have found that lower levels of toxicants are observed in e-cigarette aerosols than in combusted tobacco smoke.[12] However, research on near real-use conditions of e-cigarettes has found increased indoor air levels of polycyclic aromatic hydrocarbons; 1,2-propanediol; 1,2,3-propanetriol; glycerine; nicotine; fine particles; ultrafine particles; particle number concentrations; and aluminum, all of which raise health concerns.[13] We recognize that the aerosol that is exhaled by users of some e-cigarettes and similar electronic apparatus may not pose as much harm as smoke emitted from combusted tobacco products. However, given that studies do indicate that both nicotine and other toxicants are found in the exhaled aerosol, limiting exposures must be considered. Because the potential for harm to consumers from second hand aerosol is even greater in the closed environment of an aircraft, we believe a precautionary approach is warranted. In sum, releasing an aerosol that may contain harmful substances or respiratory irritants in a confined space, especially when those who are at a higher risk are present, is contrary to the statutory ban on smoking aboard aircraft.

Authority To Regulate E-Cigarettes Under 49 U.S.C. 41702

We also find an independent source of authority for this rulemaking in section 41702, which mandates safe and adequate interstate air transportation. The Department's predecessor, the Civil Aeronautics Board (CAB), relied upon section 404(a) of the Federal Aviation Act of 1958 (subsequently re-codified as 41702), requiring air carriers ''to provide safe and adequate service, equipment and facilities,'' as authority to adopt its first regulation restricting smoking on air carrier flights (ER–800, 38 FR 12207, May 10, 1973). At that time, CAB issued a ''smoking rule'' under its economic regulations titled, ''Part 252—Provision of Designated 'No Smoking' Areas Aboard Aircraft Operated by Certificated Air Carriers,'' which mandated designated ''no smoking'' areas on commercial flights. See 38 FR 12207 (May 10, 1973). The rule predated a Congressional ban on smoking on scheduled flights. In the preamble to the 1973 rule, the CAB cited a joint study by the FAA and the then Department of Health, Education, and Welfare that concluded that the low levels of contaminants in tobacco smoke did not represent a health hazard to nonsmoking passengers on aircraft; however, the study found that a significant portion of the nonsmokers stated that they were bothered by tobacco smoke. The CAB stated, ''unlike persons in public buildings, nonsmoking passengers on aircraft may be assigned to a seat next to, or otherwise in close proximity to, persons who smoke and cannot escape this

[7] Jan Czogala et al., *Secondhand Exposure to Vapors From Electronic Cigarettes,* 16 Nicotine & Tobacco Research 655 (2014), doi: 10.1093/ntr/ntt203.

[8] ML Goniewicz & L Lee, *Electronic Cigarettes Are a Source of Thirdhand Exposure to Nicotine,* Nicotine Tob Res. 2014 Aug 30. pii:ntu152. [Epub ahead of print]; *see also* WG Kuschner *et al., Electronic Cigarettes and Thirdhand Tobacco Smoke: Two Emerging Health Care Challenges for the Primary Care Provider,* 4 Int J Gen Med. 115 (2011), doi: 10.2147/IJGM.S16908.

[9] Goniewicz, M. L., J. Knysak, M. Gawron, *et al., Levels of Selected Carcinogens and Toxicants in Vapour From Electronic Cigarettes,* 23 *Tobacco Control 133 (2013), doi: 10.1136/tobaccocontrol–2012–050859.*

[10] Goniewicz, M. L., J. Knysak, M. Gawron, *et al., Levels of Selected Carcinogens and Toxicants in Vapour From Electronic Cigarettes,* 23 *Tobacco Control 133 (2013), doi: 10.1136/tobaccocontrol–2012–050859.*

[11] Williams, M., A. Villarreal, K. Bozhilov, *et al., Metal and Silicate Particles Including Nanoparticles Are Present in Electronic Cigarette Cartomizer Fluid and Aerosol,* 8 *Public Library of Science One* e57987 (2013), doi: 10.1371/journal.pone.0057987.

[12] Goniewicz, M., et al., ''Levels of Selected Carcinogens and Toxicants in Vapour from Electronic Cigarettes,'' *Tobacco Control,* 23(2):133–139, 2014.

[13] Schober, W., et al., *Use of Electronic Cigarettes (E-Cigarettes) Impairs Indoor Air Quality and Increases FeNO Levels of E-Cigarette Consumers,* 217 Int J Hyg Environ Health 628 (2014), doi: 10.1016/j.ijheh.2013.11.003; Schripp T., D. Markewitz, E. Uhde, and T. Salthammer, *Does E-Cigarette Consumption Cause Passive Vaping?,* 23 Indoor Air 25 (2013), doi: 10.1111/j.1600–0668.2012.00792.x.

environment until the end of the flight.'' The principal basis for the 1973 smoking rule was passenger discomfort issues. Just as the CAB relied on the ''adequate'' prong of the predecessor to section 41702 to adopt a smoking ban in 1973, the Department believes that it has the authority today to ban the use of e-cigarettes under section 41702 to ensure ''adequate'' service by reducing a similar kind of passenger discomfort. In our view, passenger discomfort arises from at least two aspects of e-cigarette aerosol exposure. First, the non-user passenger may feel the direct effects of inhaling the aerosol, which, as noted above, has been shown to contain respiratory irritants. More broadly, passengers may reasonably be concerned that they are inhaling unknown quantities of harmful chemicals, and that they will not be able to avoid the exposure for the duration of the flight.

Authority To Regulate E-Cigarettes Under 49 U.S.C. 41712

In addition to the Department's authority under sections 41716 and 41702, the Department has the authority and responsibility to protect consumers from unfair or deceptive practices in air transportation under 49 U.S.C. 41712. Using this authority, the Department has found practices to be ''unfair'' if they are harmful to passengers but could not be reasonably avoided by them. For example, the Department relied upon section 41712 and its ''unfair'' practice component when promulgating the ''Tarmac Delay Rule,'' [14] in which the Department addressed problems consumers face when aircraft sit for hours on the airport tarmac. In doing so, the Department considered the harm to the consumer and the fact that the harm was unavoidable. The Department concluded that regulatory action was necessary and that a three-hour time limit is the maximum time after which passengers must be permitted to deplane from domestic flights given the cramped, close conditions in aircraft and the inability of passengers to avoid lengthy tarmac delays. Here, as with the tarmac delay rule, the Department believes that the practice of allowing use of e-cigarettes onboard aircraft would be potentially harmful to passengers and there is no way for the passenger to reasonably avoid the harm. The harms include the potential for decreased cabin air quality, confusion about whether the passenger is being exposed to traditional cigarette smoke, and possible health risks arising from exposure to the chemicals contained in e-cigarette aerosol. These harms are unavoidable because passengers who do not wish to be exposed to e-cigarette aerosol cannot escape this environment until the end of the flight.

In sum, we are amending our existing smoking regulation to explicitly ban the use of e-cigarettes because we view the ban to be consistent with the statutory mandates of sections 41706, 41702 and 41712. We do not believe that it is appropriate, as some commenters have suggested, to allow the airline industry to adopt its own standards with respect to the inclusion of electronic cigarettes within the prohibition on smoking. We recognize that the industry has generally banned the use of electronic cigarettes on flights, either as a matter of preference or in recognition of the Department's well-publicized enforcement policy. On the other hand, we believe that without a clear, uniform regulation, some carriers may feel free to adopt policies that allow the use of e-cigarettes onboard aircraft. In light of the potential health hazards posed to flight attendants and fellow passengers, as well as the potential diminution in air cabin quality posed by the use of electronic cigarettes in an aircraft cabin, we do not believe that a free-market approach is appropriate or desirable.

An additional benefit of this rule is that it eliminates passenger or crewmember confusion with regard to the permissibility of e-cigarettes by creating an explicit ban. In our notice, we stated that through Congressional correspondence, anecdotal evidence, and online sources, including blogs, we were made aware that some passengers have attempted to use e-cigarettes onboard aircraft. The Association of Flight Attendants also stated in comments submitted to the Department that it receives occasional reports of in-flight passenger use and confusion among travelers regarding airline policies. In the absence of regulation, e-cigarette users may believe that an airline's policy banning e-cigarettes is merely a preference, and that they may continue to use such devices because they are not prohibited by federal law. This rule would eliminate any such arguments with respect to the use of e-cigarettes, and provide flight crew with the clear message that e-cigarettes are placed firmly on the same footing as traditional tobacco products. The traveling public would also have the benefit of knowing with certainty that e-cigarettes are prohibited onboard aircraft, Moreover, to the extent that carriers may be inclined to permit e-cigarettes on the ground that the Department's enforcement policy is not consistent with the regulatory text, this rule would preclude that option.

Charter (Non-Scheduled) Flights

Section 401 of the FAA Modernization and Reform Act of 2012 prohibited smoking on domestic nonscheduled (charter) passenger flights that require a flight attendant, and directed the Department to prohibit smoking on nonscheduled (charter) passenger flights in foreign air transportation that require a flight attendant. In the NPRM in this proceeding, we sought comment on the issue of banning smoking on most charter flights. We received few comments on this issue; however, those that did comment overwhelmingly supported the proposal. The Association of Flight Attendants (AFA) stated its support for the ban, claiming that it would be beneficial to the occupational health of flight attendants and the health of the traveling public. AFA stated that there is virtually universal agreement that exposure to environmental tobacco smoke is harmful to health, and requested that DOT acknowledge these findings and expand the smoking ban to all charter operations.

The Association of Professional Flight Attendants, representing American Airlines flight attendants, stated its support of the ban to create consistency across the industry and argued that no flight attendant should be subjected to cigarette smoke on an airplane, given what is known about secondhand smoke.

The American Cancer Society, American Heart Association, American Lung Association, Campaign for Tobacco-Free Kids, and Legacy stated that the health effects of secondhand smoke are well established in scientific literature. The organizations argued that charter flight staff should not be exposed at their workplace to secondhand smoke, which has been shown to increase risk of heart disease, stroke, and cancer. These organizations expressed their concern that charter flight passengers are potentially exposed to secondhand smoke for extended periods of time in a confined space. The organizations argued that there is no safe level of exposure to secondhand smoke, regardless of the type of plane or flight one takes, and that the current regulations do not effectively protect public health. We received a few comments from the public on this issue, with most stating their support for the proposal and some suggesting extending the ban to all flights.

[14] See 74 FR 68983 (December 30, 2009) and 76 FR 23110 (April 25, 2011).

DOT Response

We are amending the rule text of part 252 to implement section 401 of the FAA Modernization and Reform Act. Section 401 requires U.S. and foreign air carriers to ban smoking in nonscheduled passenger interstate, intrastate, and foreign air transportation where a flight attendant is a required crewmember. The amendment to part 252 is necessary to harmonize the Departmental regulation with the new statutory requirement.[15] The 2011 NPRM sought comment on banning smoking on charter flights that use aircraft with 19 or more passenger seats. In view of the statutory smoking ban in section 401 that was signed into law in 2012, this final rule conforms part 252 to the requirement in the statute. Consequently, this new rule bans smoking on all nonscheduled passenger air transportation where a flight attendant is a required crewmember of the aircraft.

The rule also continues a ban on smoking on nonscheduled passenger air transportation where a flight attendant is *not* a required crewmember of the aircraft, except for single entity charters and on-demand services of air taxi operators. Under the existing sections 252.2 and 252.13, U.S. carriers are required to ban smoking on all flights (scheduled and charter) that use aircraft with 30 or fewer passenger seats except for the on-demand services of air taxi operators. Section 252.19 of the existing rule permits smoking on single-entity charter flights of U.S. air carriers. In other words, under the existing rule, smoking is allowed on single-entity charter flights and on-demand services of air taxi operators regardless of aircraft size. For U.S. carriers, smoking is prohibited on all other charter flights that use aircraft with 30 or fewer passenger seats.

If an aircraft has more than 30 seats, under section 252.7 of the existing rule the air carrier operating the charter flight (other than single-entity charters or on-demand services of air taxi operators) must establish a non-smoking section for each class of service. As an organizational matter, we are eliminating this section as it is no longer needed because section 401 bans smoking on charter flights where a flight attendant is a required crewmember. All charter flights covered under section 252.7 would require a flight attendant as that section only applies to aircraft with more than 30 seats.

The only change that is not directly required by the statute is eliminating the requirement in the existing rule for carriers to give notice to each passenger on a single-entity charter of the smoking procedures for that flight. It would be of limited usefulness to have such a requirement where smoking on single-entity charters would not be banned by this rule (*i.e.,* on aircraft where a flight attendant is not a required crewmember, which essentially means aircraft with 19 seats or less).

[15] For the reasons discussed in the prior section, this ban will include the use of e-cigarettes.

Regulatory Analysis and Notices

A. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review) and DOT Regulatory Policies and Procedures

This final rule has been determined to be significant under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures. It has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review) and is consistent with the requirements in both orders.

The Final Regulatory Evaluation, included in this section, qualitatively evaluates the benefits and costs of the final rule. Both benefits and costs are expected to be very small because the final rule only represents a modest change, if any, to existing industry practice. Nonetheless, the Department believes that the rule is necessary for the reasons noted below. As discussed below, DOT was unable to find any airline that explicitly states that it allows smoking of any type or includes accommodating smokers in its business plan, including e-cigarettes and their users, and as such, would be affected by this rule. In fact, the overwhelming majority of passenger seats are on scheduled flights where smoking traditional cigarettes is already banned. Moreover and again as discussed below, commercial airlines have interpreted the existing DOT smoking ban to cover e-cigarettes and do not allow their use. Due to the inability to identify any specific airlines that would have to change their policies in response to the final rule, it was not possible to quantify benefits or costs. However, DOT does not rule out the possibility that a few airlines may at times provide services that could be affected by the rule, and therefore provides a qualitative analysis of potential benefits and costs for those situations.

The Final Regulatory Evaluation

Introduction

In April 2000, the *Wendell H. Ford Aviation Investment and Reform Act for the 21st Century* (Pub. L. 106–181) was signed into law. Section 708 of the Act amended 49 U.S.C. 41706 to impose a ban on smoking on all *scheduled* passenger interstate, intrastate, and foreign air transportation. DOT subsequently incorporated this ban in its rule on smoking on commercial airline flights. Because of confusion as to whether the use of e-cigarettes was allowed on aircraft, in September 2011, DOT issued a NPRM (see 79 FR 57008), which proposed to amend 14 CFR part 252 to explicitly include the use of e-cigarettes in the smoking ban. Specifically, the NPRM proposed to define smoking as, ''the smoking of tobacco products or use of electronic cigarettes and similar products designed to deliver nicotine or other substances to a user in the form of vapor.'' The NPRM also considered whether to extend the smoking ban (including e-cigarettes) to nonscheduled passenger flights or air carriers and foreign air carriers between points in the United States and between the United States and any foreign point with aircraft that have a designed seating capacity of 19 or more passenger seats.

In February 2012, the *FAA Modernization and Reform Act of 2012* (Pub. L. 112–95) (the Act) was signed into law. Section 401 of the Act amended 49 U.S.C. 41706 to extend the smoking prohibition to aircraft in *nonscheduled* passenger interstate, intrastate, and foreign air transportation, offered by both U.S. and foreign carriers, if a flight attendant is a required crewmember.

This final rule primarily makes two regulatory changes. First, it amends the existing smoking ban in 14 CFR part 252 to explicitly ban the use of e-cigarettes whenever smoking is banned by revising the definition of smoking to cover the use of e-cigarettes. Second, the rule amends 14 CFR part 252 to implement section 401 of the FAA Modernization and Reform Act and extends the smoking ban to flights in nonscheduled interstate, intrastate, and foreign passenger air transportation where a flight attendant is required.

Current Industry Practice/Regulatory Baseline

In 2014, there were a total of 104 U.S. carriers and 151 foreign air carriers providing service in the United States. About 75 percent of these carriers provided scheduled service and the remaining 25 percent provided only

charter service. However, the overwhelming majority of air passenger service is provided by the 75 percent of scheduled service carriers; in 2014, roughly 99 percent of U.S. passenger enplanements were associated with scheduled flights.[16] Table A.1 provides an overview of the carriers providing service in the United States in 2014.

TABLE A.1—CARRIERS OPERATING IN THE U.S. MARKET BY SIZE AND TYPE OF SERVICE

	Seats on largest aircraft	Total carriers	Charter only	Scheduled service
U.S. Carriers	>60	41	13	28
	30–60	15	2	13
	<30	48	11	37
U.S. Carrier Total		104	26	78
Foreign Carriers	>60	123	12	111
	30–60	2	0	2
	<30	26	25	1
Foreign Carrier Total		151	37	114

Source: DOT contractor estimates based on 2014 T–100 segment database, 2013 B–43 aircraft inventory, Regional Airline Association 2014 Annual Report and review of carrier Web sites.

14 CFR part 252 currently bans smoking on all scheduled passenger interstate, intrastate, and foreign air transportation. Thus, as noted above, the overwhelming majority of flights are covered by the general smoking ban (75 percent of carriers representing 99 percent of passenger enplanements). No regulatory definition of ''smoking'' is included in the existing Part 252, and questions have emerged regarding its applicability to e-cigarettes. DOT has stated that e-cigarettes are covered by its existing smoking rule, part 252.[17] Based upon DOT review of individual Web sites, U.S. and foreign carriers generally appear to be in compliance with this interpretation and do not allow their use. While some carriers provide no explanation for their interpretation, some airlines cite a ''nuisance factor,'' concerns for triggering smoke detection equipment, and concerns for other passengers' health. Exhibit A.1 lists some typical examples of e-cigarette policies taken from a select number of the 104 individual U.S. carrier and 151 foreign carrier Web sites.

EXHIBIT A.1—ELECTRONIC CIGARETTE POLICIES FOR SELECTED CARRIERS

AirTran Airways—''In addition to smoking, the use of chewing tobacco and electronic cigarettes are not permitted onboard any scheduled or private charter AirTran Airways flight.''

Alaska Airlines—''Smoking, chewing tobacco, smokeless tobacco, and the use of electronic smoking devices are not permitted on any Alaska Airlines flight.''

American—''You can travel with electronic cigarettes in your carry-on baggage, but you are not allowed to use them onboard at any time.''

Delta—''E-cigarettes cannot be operated at any time on a Delta or Delta Connection Aircraft.''

JetBlue—''While the majority of electronic cigarettes may be non-hazardous, JetBlue does NOT allow the USE of them on any of our flights, but will allow them in checked or carry-on baggage. It is considered a nuisance item as small amounts of vapor are expelled from the cigarette.''

Southwest—''Electronic Cigarettes and Smoking Devices'' are ''never permitted'' for use on board.

United—''The use of electronic, simulated smoking materials (such as electronic cigarettes, pipes or cigars) is prohibited on United Airlines.''

Air France—''Use of e-cigarettes is prohibited on all Air France flights. The vapor emitted by these devices may trigger the cabin smoke detectors.''

Air New Zealand—''The use and charging of electronic cigarettes (eCigarettes) is also not permitted as the vapour may contain levels of nicotine that are unacceptable to other passengers.''

British Airways—''We have a no smoking policy on board all our aircraft and in our airport lounges. This includes electronic cigarettes (e-cigarettes), as they emit a small amount of mist which can make it appear that a customer is actually smoking.''

KLM—''All KLM flights are non-smoking flights. Smoking is not permitted at any place or at any time on board our aircraft. This also applies to artificial cigarettes.''

Lufthansa—''Please note, however, that you are not permitted to smoke electronic cigarettes on board Lufthansa flights.''

Source: Individual carrier Web sites.

For the remaining 25 percent of carriers providing only charter service (representing about one percent of passenger enplanements), smoking is not prohibited by law in all cases. On flights where smoking is not banned by law, airlines must have a non-smoking section and must accommodate in that section every passenger who has complied with the airline's check-in deadline and who wishes to be seated there.

Apparently, however, charter airlines have taken a direction similar to rental car companies and hotels, where nonsmoking policies are now the norm.[18] Finding a charter that allows in-flight smoking or guarantees a smoker's right to engage in the activity has become difficult, if not impossible. According to one Web site that assists in booking charters:

''. . . some charter operators such as GlobeAir have a strict no-smoking policy across their fleet. 'It got to the point where we felt that smoking on board not only posed

[16] Source: Bureau of Transportation Statistics, T–100 Market and Segment (*http://www.rita.dot.gov/bts/data_and_statistics/by_mode/airline_and_airports/airline_passengers.html*).

[17] See *https://www.transportation.gov/sites/dot.gov/files/docs/PolicyOnECigarettes.pdf.*

[18] *http://usatoday30.usatoday.com/travel/hotels/2008-11-17-smoke-free-hotels-no-smoking_N.htm*; *http://consumertraveler.com/today/still-smoking-be-careful-before-you-rent-a-car/.*

a health hazard but also increases the risk of fire,' says Bernhard Fragner, CEO.'' [19]

And another:

''Alot (sic) of the air charter aircraft are now non-smoking due to fact that all airline flights are now non-smoking flights. Charter operators complain that the tobacco smell from smoking gets into the fabric of their airplanes and bothers the next passenger(s).'' [20]

And, according to a charter company: [21]

''All Skyward Aviation aircraft prohibit smoking to ensure the complete safety of passengers and flight crew members.'' [22]

While some charters address the use of e-cigarettes and include them in their smoking prohibitions, it is unknown whether this is standard practice.

There are incentives for charter airlines to voluntarily adopt smoking bans despite the lack of a legal requirement. In the case of domestic charters, assuring the accommodation of nonsmoking passengers in a nonsmoking section in accordance with the law could create some planning difficulties unless a service provider knows in advance the smoking status of each passenger; it is easier and requires less planning to simply disallow the activity. Moreover, to attract customers, many of these carriers advertise receipt of various safety certifications (*e.g.,* the FAA's Diamond Award of Excellence, Argus rated, AACA Medallion) as part of their marketing strategy. Permitting passengers to smoke onboard would be at odds with the standards of the certifying organizations. Finally, and perhaps most importantly, it is more costly to operate aircraft where smoking is permitted. Smoking increases hardware costs since cabin air filters have to be changed more frequently and avionics need to be cleaned more often. The higher expense associated with maintenance of aircraft in which smoking is allowed deters carriers from allowing the activity, unless of course, the increase in expense is justified by a net increase in demand from smokers (and thus revenues) to cover these costs.[23] It is unclear whether these incentives apply to e-cigarettes.

An internet search yields a few anecdotes suggesting some smokers have been frustrated by the lack of options for those who wish to smoke during flight, which is a further indication that the industry norm has tended toward smoking prohibition, at least for traditional cigarettes. There have been some limited attempts to market flights for smokers or create a ''smokers airline'' which would allow or even encourage passengers to smoke during flight. However, none of these efforts have been successful to date.[24] This probably reflects that a consumer's decision regarding which flight to purchase is complicated, involving price, availability, safety record or perceptions, and multiple other attributes. The ability to smoke on a flight would only be one aspect, and probably a very small one, in the overall decision. In addition, one would expect that at least some customers would purposely avoid flights that allowed smoking. Due to relative importance of other attributes (*i.e.* price), there are limits to how successful carriers who focus exclusively on attracting smokers can be.

In sum, at least 99 percent of passenger enplanements occur on flights that prohibit smoking of any type, including both traditional cigarettes and e-cigarettes. The remaining one percent of enplanements appears to be on charter flights that largely prohibit smoking of traditional cigarettes. Some of the charter companies also extend the prohibition to e-cigarettes, but the extent of that practice is unknown.

Need for the Rule

The involuntary exposure to second-hand smoke or e-cigarette aerosol in an airplane cabin represents one classic example of a market failure, an externality; the smoker (of either traditional or electronic cigarettes) does not bear the full cost of the activity. Part of the cost of smoking in an airplane cabin is borne by nearby passengers or flight crew who are unable to regulate their exposure. The costs of involuntary exposure to smoke or aerosol are in the form of actual adverse health consequences, perception and fear of adverse health consequences and annoyance or irritation regarding undesirable odors. Even if a carrier were to disclose that it allowed smoking (of either traditional cigarettes or e-cigarettes), patrons may not receive this information prior to departure or in the case of some smaller markets, they may not have a convenient option to avoid exposure by choosing an airline that disallowed use (which could represent another type of market failure, but not one that is the primary concern of this regulatory action).

Regarding e-cigarettes specifically, they typically do not involve combustion. However, they require an inhalation and exhalation action similar to smoking traditional cigarettes and they produce a cloud of aerosol which can be mistaken for smoke. E-cigarettes are generally designed to look like and be used in the same manner as conventional cigarettes. Passengers who do not engage in or understand the process of e-cigarette use can easily mistake the act for traditional smoking. Thus, even if second-hand exposure to e-cigarette aerosol were ever determined to not lead to the same type of health consequences as exposure to tobacco smoke, nearby passengers may still experience discomfort, stress or some in cases display aggression or fear because they believe their health is threatened. Currently, the state of knowledge regarding the effects of secondhand exposure to e-cigarette aerosol does not rule out the possibility of actual adverse health effects to nearby individuals who do not directly choose to engage in this activity. In fact, some research supports the case that bystanders incur actual adverse health effects when exposed to secondhand e-cigarette aerosol.

In the absence of a rule, carriers are free to make their own determinations regarding the use of e-cigarettes. Charter operations have historically had additional flexibility regarding smoking in general, as long as they accommodate nonsmoking patrons in accordance with the law (*e.g.,* no-smoking sections). Scheduled service providers have chosen to prohibit e-cigarette use and charters typically do not allow smoking of traditional cigarettes (some charters also prohibit e-cigarettes but the degree to which this is standard practice is unknown). Without this rule, it is

[19] *http://corporatejetinvestor.com/articles/how-to-charter-private-jet-503/.*

[20] *http://www.usskylink.com/resource/air-charter-faq-details.asp?fldNAME=Air%20Charter%20Flights.*

[21] A few other examples of explicit smoking prohibitions are as follows: Charter Air Transport, Inc. states ''Smoking is prohibited on all flights. . . . NOTE: This includes electronic cigarettes'' (see *http://www.charterairtransport.com/*); Avjet Corporation indicates that their entire charter fleet is nonsmoking (*http://www.avjet.com/*); Atlas Air's policy is that ''Smoking is prohibited on our Flights (*www.atlasair.com/aa/*); and Dynamic Airways conditions of service include ''Dynamic flights are non-smoking. Smoking cigarettes, regular and electronic, is not allowed onboard our aircraft, but chewing tobacco is allowed'' (*https://www.airdynamic.com*) . Interestingly one carrier addresses e-cigarette use with no reference to traditional smoking, ''You're not allowed to use electronic cigarettes on the plane'' (*http://www.thomson.co.uk/flight/0.*

[22] *http://www.skywardaviation.com/76/FAQ.html.*

[23] The increase would need to be net of the reduction in demand from passengers with an aversion to smoking.

[24] The names of these airlines were: Great American Smokers' Club, Smokers Express, Freedom Air, and Smintair. None ever commenced commercial operation (see, for example, *http://www.sourcewatch.org/index.php/Smokers_Express_Airlines; http://articles.chicagotribune.com/1993-10-03/travel/9310030004_1_flights-american-trans-air-smokers; http:///articles.chicagotribune.com/1993-10-03/travel/9310030027_1_freedom-air-smokers-passengers; http://www.nytimes.com/2006/09/03/business/worldbusiness/03iht-smoke.2683305.html*)

possible that some airlines could relax their current policies, which would increase passenger and flight crew secondhand exposure to aerosols and quite possibly, traditional tobacco smoke in the case of some charters.

Impacts, Benefits and Costs of the Final Rule

In general, the impacts of the rule will be very modest, and generate little in terms of measurable benefits and costs. There will probably be no change to the current baseline for scheduled passenger operations. The existing regulation prohibits smoking on such flights and as described above, airlines that provide scheduled passenger service treat the smoking ban as covering e-cigarettes. Scheduled operations represent roughly 99 percent of passenger enplanements and thus, the rule can do little to impact current industry practice overall.

For charter (nonscheduled) flight operations, the impacts should also be small. Based upon review of carrier Web sites and their advertisements, charter companies appear to prohibit smoking of traditional cigarettes. Operating a nonsmoking airline is less costly, makes accommodating non-smoking patrons in accordance with the law easier, and assists in the receipt of certain safety certifications and perhaps the award of government contracts that may serve as useful marketing tools. While it is not known with any certainty whether the prohibitions apply to e-cigarette use, the widespread and seamless adoption of e-cigarette bans in the scheduled service component of the industry suggests that extending the prohibitions to e-cigarettes can be accomplished without too much difficulty or cost.

Including E-Cigarettes in the General Smoking Ban: Benefits and Costs

As noted above, the inclusion of e-cigarettes in the general smoking ban will not affect, but will simply reinforce, current industry practice in the scheduled service segment of the airline industry. Consequently, the final rule probably will produce close to zero benefits and zero costs over the current baseline when considering impacts solely to and resulting from scheduled service providers. The inclusion of e-cigarettes may potentially have greater impact on nonscheduled or charter service and these potential impacts, as well as benefits and costs, are discussed below.

Conversely, if DOT were to determine that e-cigarettes were not covered under the ban, the current industry environment could be affected, more so than would be expected under this final rule. First, some carriers could incur new costs relative to the baseline due to the need to more actively enforce their prohibitions. This could occur if some consumers mistakenly interpret DOT's failure to enact a federal prohibition as ensuring their right to engage in e-cigarette use in an airplane cabin. Alternatively, some carriers might lift their prohibitions, which could reduce the burden on the minority of the population that uses e-cigarettes and whose activities are now restricted. However, removing e-cigarette restrictions would reduce benefits relative to the current baseline by exposing other passengers and flight crew to secondhand aerosols. Additionally, airlines would probably need to offer additional training to crew members and the pre-flight briefing would have to be longer, to educate and explain what, when and where particular smoking products may and may not be used.

The nonscheduled segment of the industry could potentially experience greater impact than the scheduled service segment, because while some charter airlines explicitly prohibit e-cigarette use, the extent to which this practice is standard or typical is unknown. However, the widespread adoption of an e-cigarette ban on the part of scheduled service airlines suggests that implementing an e-cigarette prohibition is not particularly costly, at least when a general smoking ban is already in place. To the extent that e-cigarette use is allowed on charter flights, a ban will add a burden to smoking patrons who will no longer be able to engage in the activity while in flight. The burden to smoking patrons will probably constitute the primary burden of the rule with respect to e-cigarettes. However, benefits will accrue to nearby passengers and crew who no longer are exposed to secondhand aerosol.

Implementation of Section 401 of the FAA Modernization and Reform Act: Benefits and Costs

The rule amends 14 CFR part 252 to implement section 401 of the FAA Modernization and Reform Act and extends the general smoking ban to nonscheduled interstate, intrastate, and foreign passenger air transportation when a flight attendant is required. To the extent that charter airlines allow smoking, the final rule will produce benefits in terms of reduced secondhand exposure to tobacco smoke, and the resulting positive health effects to nonsmoking passengers and flight crew. Again based upon a review of charter airline Web sites, most already prohibit smoking on their flights so the benefits of this nature are expected to be small.

There is no cost to operators for hardware related to smoking bans. In fact, smoking bans reduce hardware costs as cabin air filters do not have to be changed as frequently and avionics do not have to be cleaned as often, which is one reason that charter flights have opted to prohibit smoking, even when allowed by law. The American Aviation Institute, in its comments on the NPRM, raised the issue of additional costs due to new placards and notification lights, and re-printing of airline manuals.[25] These should not be significant costs associated with this final rule since all aircraft are already required to be equipped with no-smoking signs and lights. Some operators may feel the need to update documents used to communicate to passengers and employees the activities prohibited by law. However, such document update is not a direct requirement of the final rule and would be voluntary on the part of affected airlines. The costs of updating such materials should be small since most charter flights already do not allow smoking and probably have developed documents in support of their policies. In addition, such documents are routinely updated since laws regarding prohibited behaviors and security concerns are constantly evolving. An operator could reduce the costs of updating documents to reflect changes as they pertain to smoking by waiting until there is a more general need for updating.

To the extent that the rule, in effect, expands the existing ban on smoking (for traditional tobacco products and its extension to electronic cigarettes), there could be a cost to operators in the form of lost revenue or profits due to a reduction in demand for flights from customers who would wish to smoke on those flights. Such costs are largely speculative since they would apply to operators who allow smoking and consumers who chose their particular flights based primarily on the ability to smoke; DOT was unable to identify any businesses, successful or otherwise, operating under this model. Given that smokers will not have a smoking flight alternative (except perhaps chartering their own private flight where a flight attendant is not required), they will need to choose another transportation mode such as driving to their destination or if an alternative mode is

[25] Comments of the American Aviation Institute in the Matter of Smoking of Electronic Cigarettes on Aircraft, Docket DOT–OST–2011–0044, September 26, 2011.

not feasible, they would need to choose to not travel at all, if the ability to smoke was the primary consideration in their decision-making process. Or they might choose alternate nicotine delivery systems, such as patches and gum. The lack of flight alternatives coupled with the presence of alternative nicotine delivery systems will likely limit the reduction in demand that the small number of operators who would allow smoking could experience. In addition, any reduction in demand from smokers may, to some extent, be offset by increased demand from non-smokers.

Comparison of Costs to Benefits

Due to the inability to identify any specific carrier that would need to change its current practices significantly, DOT was unable to quantify the costs and the benefits of the rule, but believes both are probably very small. The overwhelming majority of passengers travel on scheduled service where smoking, including the use of e-cigarettes, is already prohibited. If smoking were to be allowed on nonscheduled flights, benefits of a ban would include reductions in potential exposure to secondhand smoke for passengers and crewmembers. Expanding the ban on smoking to cover e-cigarettes could reduce health hazards related to secondhand exposure to exhaled aerosols. The costs to operators should be minimal, but some passengers could experience some costs due to a reduced opportunity to smoke.

The risks and resulting adverse health consequences associated with secondhand exposure to tobacco smoke are well-documented.[26] Existing evidence indicates that e-cigarettes may also have adverse health impacts, not just for users, but for those nearby. Those seated next to users may not want to expose themselves (or their babies or older children) to the risks of these adverse health impacts and at least some crewmembers may prefer to work in an environment free of these risks since they fly far more frequently than most passengers. Due to the involuntary nature of the risk of secondhand exposure, the Department believes that it is prudent to give greater weight to the potential benefits of the rule than to the inconvenience costs incurred by smoking passengers or any small incremental costs incurred by airline operators.

Alternatives

DOT has identified only one viable regulatory alternative: A final rule that is limited in scope to solely to implementing Section 401 of the FAA Modernization and Reform Act. Such a rule would not alter the definition of smoking to cover e-cigarettes. DOT has determined that the alternative of ''no regulatory action'' (*i.e.* the status quo) is not viable since the Department is required to implement Section 401 of the FAA Modernization and Reform Act, at a minimum.

Restricting the rule to Section 401 implementation would represent the minimum regulatory action that the Department could undertake. To the extent that smoking of traditional cigarettes is occurring on nonscheduled interstate, intrastate, and foreign passenger air transportation when a flight attendant is a required crew member, there would still be some benefits related to reduced secondhand smoke exposure from traditional cigarettes.

This alternative would continue to allow airlines to develop their own policies regarding use of e-cigarettes, allowing them to change their current policies if they desire. If a carrier chose to change its policy, this would expose passengers and crewmembers to potentially harmful health risks. Also, any change in policy to allow for the use of e-cigarettes would require flight attendants to distinguish among various cigarettes and devices to determine which are acceptable. For example, the Air Line Pilots Association (ALPA) noted in their comments the possibility of passenger and crewmember confusion in differentiating e-cigarettes from tobacco cigarettes, as the two products can be difficult to distinguish from each other. In addition, carriers that do not change their policies could incur new costs due to the need to more actively enforce their prohibitions. This could occur if some consumers mistakenly interpret the lack of a federal prohibition as ensuring their right to engage in e-cigarette use in an airplane cabin. For these reasons, DOT rejected this alternative.

B. Regulatory Flexibility Analysis

DOT has examined the economic implications of this final rule for small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Unless an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires the agency to analyze regulatory options that would lessen the economic effect of the rule on small entities. As discussed below, DOT finds that this final rule will not have a significant economic impact on a substantial number of small entities.

For purposes of rules promulgated by the Office of the Secretary of Transportation regarding aviation economic and consumer matters, an airline is a small entity for purposes of the Regulatory Flexibility Act if it provides air transportation only with aircraft having 60 or fewer seats and no more than 18,000 pounds payload capacity. Referring to Table A.1, this final rule applies to 63 (15 + 48) small U.S. carriers.[27] Of these small carriers, 50 (13 + 37), or about 79 percent, provide scheduled service and are subject to the general smoking ban. As noted above, scheduled service providers have overwhelmingly adopted prohibitions on e-cigarette use. DOT is unaware of any small scheduled service carrier that would need to change its e-cigarette policy in response to this final rule. In addition, the widespread industry ban on e-cigarettes suggests that it is quite easy to cover e-cigarettes once a smoking ban is in place. Thus, it is expected that the typical small scheduled service airline will experience no impacts due to this rule.

The remaining 13 (2 + 11) small airlines, or roughly 21 percent, provide nonscheduled or charter services. Based upon a review of their individual Web sites, none of these carriers cater their businesses to smoking patrons (smokers of either traditional or e-cigarettes). As noted above, providers of charter airplane service have several incentives to prohibit smoking of traditional cigarettes, including lower operating costs, ease of accommodating nonsmoking patrons, and meeting the standards necessary for receipt of safety certifications and government contracts. In addition, several of the small charter airlines have fleets that consist of extremely small aircraft (*i.e.* Cessnas or other planes that seat fewer than 10 passengers), and smoking is already banned on these aircraft (see existing section 252.13). Moreover, some of these companies provide medical transportation services, which is likely at odds with a permissive smoking policy. While it is not known with any certainty whether these factors also represent incentives to restrict e-cigarette use, the swift adoption of e-cigarette bans in the scheduled service component of the industry suggests that extending the prohibitions to e-

[26] See, for example: *http://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects//* ; *http://www.lung.org/stop-smoking/smoking-facts/health-effects-of-secondhand-smoke.html?referrer=https://www.google.com/*

[27] RFA analysis is typically limited to domestic firms because SBA guidelines and definitions pertain to U.S.-based entities.

cigarettes can be accomplished without too much difficulty or cost once a ban on smoking is already in place.

For the reasons described about, the final rule is unlikely to produce a significant financial impact on any small carrier, and probably will not affect their operations in any meaningful way. Therefore, the Secretary of Transportation certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 13132 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This regulation has no substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. It does not contain any provision that imposes substantial direct compliance costs on State and local governments. It does not contain any provision that preempts state law, because states are already preempted from regulating in this area under the Airline Deregulation Act, 49 U.S.C. 41713. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

D. Executive Order 13084

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because none of the measures in the rule will significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing notice of and a 60-day comment period on, and otherwise consult with members of the public and affected agencies concerning, each proposed collection of information. This rule imposes no new information reporting or record keeping necessitating clearance by the Office of Management and Budget.

F. National Environmental Policy Act

The Department has analyzed the environmental impacts of this final rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). *See* 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* Paragraph 3.c.6.i of DOT Order 5610.1C categorically excludes ''[a]ctions relating to consumer protection, including regulations.'' The purpose of this rulemaking is to extend the smoking ban in 14 CFR part 252 to include all charter flights where a flight attendant is a required crewmember and to ban the use of e-cigarettes. The Department does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

G. Unfunded Mandates Reform Act

The Department analyzed the final rule under the factors in the Unfunded Mandates Reform Act of 1995. The Department considered whether the rule includes a federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. The Department has determined that this final rule will not result in such expenditures. Accordingly, this final rule is not subject to the Unfunded Mandates Reform Act.

List of Subjects in 14 CFR Part 252

Air carriers, Aircraft, Consumer protection, Smoking.

Issued in Washington, DC, on February 19, 2016 under authority delegated in 49 CFR 1.27(n).

Kathryn B. Thomson,

General Counsel.

For the reasons stated in the preamble, the Office of the Secretary of Transportation amends 14 CFR part 252 as set forth below:

PART 252—[AMENDED]

■ 1. The authority citation for 14 CFR part 252 is revised to read as follows:

Authority: Pub. L. 101–164; 49 U.S.C. 40102, 40109, 40113, 41701, 41702, 41706 as amended by section 708 of Pub. L. 106–181 and section 401 of Pub. L. 112–95, 41711, and 46301.

■ 2. Section 252.1 is revised to read as follows:

§ 252.1 Purpose.

This part implements a ban on smoking as defined in § 252.3, including the use of electronic cigarettes and certain other devices, on flights by air carriers and foreign air carriers.

■ 3. Section 252.2 is revised to read as follows:

§ 252.2 Applicability.

This part applies to operations of air carriers engaged in interstate, intrastate and foreign air transportation and to foreign air carriers engaged in foreign air transportation.

■ 4. Section 252.3 is revised to read as follows:

§ 252.3 Definitions.

As used in this part:

Air carrier means a carrier that is a citizen of the United States undertaking to provide air transportation as defined in 49 U.S.C. 40102.

Foreign air carrier means a carrier that is not a citizen of the United States undertaking to provide foreign air transportation as defined in 49 U.S.C. 40102.

Smoking means the use of a tobacco product, electronic cigarettes whether or not they are a tobacco product, or similar products that produce a smoke, mist, vapor, or aerosol, with the exception of products (other than electronic cigarettes) which meet the definition of a medical device in section 201(h) of the Federal Food, Drug and Cosmetic Act, such as nebulizers.

■ 5. Section 252.4 is added to read as follows:

§ 252.4 Smoking ban: air carriers.

Air carriers shall prohibit smoking on the following flights:

(a) Scheduled passenger flights.

(b) Nonscheduled passenger flights, except for the following flights where a flight attendant is not a required crewmember on the aircraft as determined by the Administrator of the Federal Aviation Administration:

(1) Single entity charters.

(2) On-demand services of air taxi operators.

(c) Nothing in this section shall be deemed to require air carriers to permit smoking aboard aircraft.

■ 6. Section 252.5 is revised to read as follows:

§ 252.5 Smoking ban: foreign air carriers.

(a)(1) Foreign air carriers shall prohibit smoking on flight segments that

occur between points in the United States, and between the United States and any foreign point, in the following types of operations:

(i) Scheduled passenger foreign air transportation.

(ii) Nonscheduled passenger foreign air transportation, if a flight attendant is a required crewmember on the aircraft as determined by the Administrator of the Federal Aviation Administration or a foreign carrier's government.

(2) Nothing in this section shall be deemed to require foreign air carriers to permit smoking aboard aircraft.

(b) A foreign government objecting to the application of paragraph (a) of this section on the basis that paragraph (a) provides for extraterritorial application of the laws of the United States may request and obtain a waiver of paragraph (a) from the Assistant Secretary for Aviation and International Affairs, provided that an alternative smoking prohibition resulting from bilateral negotiations is in effect.

§ 252.7 [Removed]

■ 7. Section 252.7 is removed.

■ 8. Section 252.8 is revised to read as follows:

§ 252.8 Extent of smoking restrictions.

The restrictions on smoking described in §§ 252.4 and 252.5 shall apply to all locations within the aircraft.

§§ 252.13 and 253.15 [Removed]

■ 9. Sections 252.13 and 253.15 are removed.

■ 10. Section 252.17 is revised to read as follows:

§ 252.17 Enforcement.

Air carriers and foreign air carriers shall take such action as is necessary to ensure that smoking by passengers or crew is not permitted where smoking is prohibited by this part, including but not limited to aircraft lavatories.

§ 252.19 [Removed]

■ 11. Section 252.19 is removed.

[FR Doc. 2016–04799 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 801 and 830

[Docket No. FDA–2011–N–0090]

Unique Device Identification System; Editorial Provisions; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA or Agency) is amending the Unique Device Identification (UDI) System regulation to make editorial changes. This technical amendment updates the email address associated with FDA's UDI system, which allows FDA to obtain information and offer support and assistance on medical devices through their distribution and use, ensuring consistency with the requirements in the Federal Food, Drug, and Cosmetic Act (the FD&C Act). This change is necessary to ensure that the UDI team continues to maintain regular email communications with device labelers.

DATES: This rule is effective March 4, 2016.

FOR FURTHER INFORMATION CONTACT: Adaeze Teme, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5574, Silver Spring, MD 20993–0002, 240–402–0768.

SUPPLEMENTARY INFORMATION: FDA is updating the UDI email address in the following regulations that set forth the procedures for notifying the Agency when: (1) Requesting an exception from or alternative to a unique device identifier requirement (§ 801.55 (21 CFR 801.55)); (2) requesting continued use of legacy FDA identification numbers assigned to devices (§ 801.57 (21 CFR 801.57)); and (3) applying for accreditation as an issuing Agency (§ 830.110 (21 CFR 830.110)).

Specifically, the Agency is removing an old email address and replacing it with a new one, thereby maintaining consistency with the requirements of the FD&C Act (21 U.S.C. 321 *et seq.*).

In the **Federal Register** of September 24, 2013 (78 FR 58786), FDA issued a final rule to establish a system to adequately identify devices through distribution and use. The rule required the label of medical devices to include a UDI, except where an exception or alternative applies. The labeler must submit product information concerning devices to FDA's Global Unique Device Identification Database (GUDID). The final rule incorporated a direct avenue for the labeler to communicate with FDA's GUDID via a UDI email address. This rule updates §§ 801.55(b)(2), 801.57(c)(2), and 830.110(a) by replacing the old email address with a new one.

List of Subjects

21 CFR Part 801

Labeling, Medical devices, Reporting and recordkeeping requirements.

21 CFR Part 830

Administrative practice and procedure, Incorporation by reference, Labeling, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 801and 830 are amended as follows:

PART 801—LABELING

■ 1. The authority citation for 21 CFR part 801 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 360i, 360j, 371, 374.

■ 2. In § 801.55, revise paragraph (b)(2) to read as follows:

§ 801.55 Request for an exception from or alternative to a unique device identifier requirement.

* * * * *

(b) * * *

(2) In all other cases, by email to: *GUDIDSupport@fda.hhs.gov,* or by correspondence to: UDI Regulatory Policy Support, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3303, Silver Spring, MD 20993–0002.

* * * * *

■ 3. In § 801.57, revise the second sentence of paragraph (c)(2) to read as follows:

§ 801.57 Discontinuation of legacy FDA identification numbers assigned to devices.

* * * * *

(c) * * *

(2) * * * * A request for continued use of an assigned labeler code must be submitted by email to: *GUDIDSupport@fda.hhs.gov,* or by correspondence to: UDI Regulatory Policy Support, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3303, Silver Spring, MD 20993–0002.

* * * * *

PART 830—UNIQUE DEVICE IDENTIFICATION

■ 4. The authority citation for 21 CFR part 830 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 352, 353, 360, 360d, 360i, 360j, 371.

■ 5. In § 830.110, revise paragraph (a)(1) to read as follows:

§ 830.110 Application for accreditation as an issuing agency.

(a) * * * (1) An applicant seeking initial FDA accreditation as an issuing agency shall notify FDA of its desire to be accredited by sending a notification by email to: *GUDIDSupport@fda.hhs.gov,* or by correspondence to: UDI Regulatory Policy Support, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3303, Silver Spring, MD 20993–0002.

* * * * *

Dated: February 29, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04707 Filed 3–3–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–386]

Schedules of Controlled Substances: Extension of Temporary Placement of 10 Synthetic Cathinones in Schedule I of the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final order.

SUMMARY: The Administrator of the Drug Enforcement Administration is issuing this final order to extend the temporary schedule I status of 10 synthetic cathinones pursuant to the temporary scheduling provisions of the Controlled Substances Act. The 10 substances are: 4-methyl-*N*-ethylcathinone (4–MEC); 4-methyl-*alpha*-pyrrolidinopropiophenone (4-MePPP); alpha-pyrrolidinopentiophenone (α-PVP); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone); 2-(methylamino)-1-phenylpentan-1-one (pentedrone); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone); 4-fluoro-*N*-methylcathinone (4–FMC); 3-fluoro-*N*-methylcathinone (3–FMC); 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone); and alpha-pyrrolidinobutiophenone (α-PBP) [hereinafter 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP, respectively], including their optical, positional, and geometric isomers, salts, and salts of isomers. The current final order temporarily placing 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP into schedule I is in effect through March 6, 2016. This final order will extend the temporary scheduling of 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP for one year, or until the permanent scheduling action for these 10 substances is completed, whichever occurs first.

DATES: This final order is effective March 4, 2016.

FOR FURTHER INFORMATION CONTACT: Barbara J. Boockholdt, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, and are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for purpose of this action. 21 U.S.C. 801–971. The DEA published the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II.

The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while ensuring an adequate supply is available for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, every controlled substance is classified into one of five schedules based upon its potential for abuse, its currently accepted medical use in treatment in the United States, and the degree of dependence the drug or other substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of all scheduled substances is published at 21 CFR part 1308.

Section 201 of the CSA (21 U.S.C. 811) provides the Attorney General with the authority to temporarily place a substance into schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b) if she finds that such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the Attorney General may extend the temporary scheduling for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA (21 U.S.C. 812) or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 355. 21 U.S.C. 811(h)(1). The Attorney General has delegated her scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

Background

On March 7, 2014, the DEA published a final order in the **Federal Register** amending 21 CFR 1308.11(h) to temporarily place the 10 synthetic cathinones 4-methyl-*N*-ethylcathinone (4–MEC); 4-methyl-*alpha*-pyrrolidinopropiophenone (4-MePPP); alpha-pyrrolidinopentiophenone (α-PVP); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone); 2-(methylamino)-1-phenylpentan-1-one (pentedrone); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone); 4-fluoro-*N*-methylcathinone (4–FMC); 3-fluoro-*N*-methylcathinone (3–FMC); 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone); and alpha-pyrrolidinobutiophenone (α-PBP) into schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). 79 FR 12938. That final order was effective on the date of publication, and was based on findings by the Deputy Administrator of the DEA that the temporary scheduling of these ten synthetic cathinones was necessary to avoid an imminent hazard to the public safety pursuant to 21 U.S.C. 811(h)(1). Section 201(h)(2) of the CSA (21 U.S.C. 811(h)(2)) requires that the temporary control of these substances expires two years from the effective date of the scheduling order, or on March 6, 2016. However, the CSA also provides that during the pendency of proceedings under 21 U.S.C. 811(a)(1) with respect

to the substance, the temporary scheduling of that substance could be extended for up to one year. Proceedings for the permanent scheduling of a substance under 21 U.S.C. 811(a) may be initiated by the Attorney General (delegated to the Administrator of the DEA pursuant to 28 CFR 0.100) on his or her own motion, at the request of the Secretary of Health and Human Services,[1] or on the petition of any interested party.

The Administrator of the DEA, on his own motion pursuant to 21 U.S.C. 811(a), has initiated proceedings under 21 U.S.C. 811(a)(1) to permanently schedule 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP. The DEA has gathered and reviewed the available information regarding the pharmacology, chemistry, trafficking, actual abuse, pattern of abuse, and the relative potential for abuse for these 10 synthetic cathinones. On December 30, 2014, the DEA submitted a request to the HHS to provide the DEA with a scientific and medical evaluation of available information and a scheduling recommendation for 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP, in accordance with 21 U.S.C. 811 (b) and (c). Upon evaluating the scientific and medical evidence, on March 2, 2016, the HHS submitted to the Administrator of the DEA its 10 scientific and medical evaluations for these substances. Upon receipt of the scientific and medical evaluation and scheduling recommendations from the HHS, the DEA reviewed the documents and all other relevant data, and conducted its own eight-factor analysis of the abuse potential of 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP in accordance with 21 U.S.C. 811(c). The DEA has published a notice of proposed rulemaking for the placement of 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP into schedule I elsewhere in this issue of the **Federal Register**.

Pursuant to 21 U.S.C. 811(h)(2), the Administrator of the DEA orders that the temporary scheduling of 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP, including their optical, positional, and geometric isomers, salts, and salts of isomers be extended for one year, or until the permanent scheduling proceeding is completed, whichever occurs first.

In accordance with this final order, the schedule I requirements for handling 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α-PBP, including their optical, positional, and geometric isomers, salts, and salts of isomers, will remain in effect for one year, or until the permanent scheduling proceeding is completed, whichever occurs first.

Regulatory Matters

The CSA provides for an expedited temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h). The Attorney General may, by order, schedule a substance in schedule I on a temporary basis. *Id.* 21 U.S.C. 811(h) also provides that the temporary scheduling of a substance shall expire at the end of two years from the date of the issuance of the order scheduling such substance, except that the Attorney General may, during the pendency of proceedings to permanently schedule the substance, extend the temporary scheduling for up to one year.

To the extent that 21 U.S.C. 811(h) directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued and extended, the DEA believes that the notice and comment requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553) do not apply to this extension of the temporary scheduling action. In the alternative, even assuming that this action might be subject to section 553 of the APA, the Administrator finds that there is good cause to forgo the notice and comment requirements of section 553, as any further delays in the process for extending the temporary scheduling order would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety. Further, the DEA believes that this final order extending the temporary scheduling action is not a ''rule'' as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget (OMB).

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism), it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) is inapplicable, as it applies only to rules. It is in the public interest to maintain the temporary placement of 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α-PBP in schedule I because they pose a public health risk. The temporary scheduling action was taken pursuant to 21 U.S.C. 811(h), which is specifically designed to enable the DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. Under 21 U.S.C. 811(h), temporary scheduling orders are not subject to notice and comment rulemaking procedures. The DEA understands that the CSA frames temporary scheduling actions as orders rather than rules to ensure that the process moves swiftly, and this extension of the temporary scheduling order continues to serve that purpose. For the same reasons that underlie 21 U.S.C. 811(h), that is, the need to place these substances in schedule I because they pose an imminent hazard to public safety, it would be contrary to the public interest to delay implementation of this extension of the temporary scheduling order. Therefore, in accordance with section 808(2) of the CRA, this final order extending the temporary scheduling order shall take effect immediately upon its publication. The DEA has submitted a copy of this final order to both Houses of Congress and to the Comptroller General, although such filing is not required under the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act), 5 U.S.C. 801–808 because, as noted above, this action is an order, not a rule.

[1] Because the Secretary of the Department of Health and Human Services has delegated to the Assistant Secretary for Health of the Department of Health and Human Services the authority to make domestic drug scheduling recommendations, for purposes of this final order, all subsequent references to ''Secretary'' have been replaced with ''Assistant Secretary.''

Dated: March 2, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–05004 Filed 3–3–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9757]

RIN 1545–BM98

Consistent Basis Reporting Between Estate and Person Acquiring Property From Decedent

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that provide transition rules providing that executors and other persons required to file or furnish a statement under section 6035(a)(1) or (a)(2) before March 31, 2016, need not do so until March 31, 2016. These temporary regulations are applicable to executors and other persons who file after July 31, 2015, returns required by section 6018(a) or (b).

DATES: *Effective date.* These regulations are effective on March 4, 2016.

Applicability dates: For date of applicability, see § 1.6035–2T(b).

FOR FURTHER INFORMATION CONTACT: Theresa Melchiorre (202) 317–6859 (not a toll-free number).

Background

On July 31, 2015, the President of the United States signed into law *H.R. 3236,* the *Surface Transportation and Veterans Health Care Choice Improvement Act of 2015,* Public Law 114–41, 129 Stat. 443 (Act). Section 2004 of the Act added new section 6035.

Section 6035 imposes reporting requirements with regard to the value of property included in a decedent's gross estate for federal estate tax purposes. Section 6035(a)(1) provides that the executor of any estate required to file a return under section 6018(a) must furnish, both to the Secretary and to the person acquiring any interest in property included in the decedent's gross estate for federal estate tax purposes, a statement identifying the value of each interest in such property as reported on such return and such other information with respect to such interest as the Secretary may prescribe.

Section 6035(a)(2) provides that each other person required to file a return under section 6018(b) must furnish, both to the Secretary and to each person who holds a legal or beneficial interest in the property to which such return relates, a statement identifying the same information described in section 6035(a)(1).

Section 6035(a)(3)(A) provides that each statement required to be furnished under section 6035 (a)(1) or (2) is to be furnished at such time as the Secretary may prescribe, but in no case at a time later than the earlier of (i) the date which is 30 days after the date on which the return under section 6018 was required to be filed (including extensions, if any) or (ii) the date which is 30 days after the date such return is filed.

On August 21, 2015, the Treasury Department and the IRS issued Notice 2015–57, 2015–36 IRB 294. Notice 2015–57 delays until February 29, 2016, the due date for any statements required by section 6035 that are due before that same date.

On February 11, 2016, the Treasury Department and the IRS issued Notice 2016–19, 2016–09 IRB. That notice provides that executors or other persons required to file or furnish a statement under section 6035(a)(1) or (a)(2) before March 31, 2016, need not do so until March 31, 2016.

Explanation of Provisions

These temporary regulations reiterate that executors or other persons required to file or furnish a statement under section 6035(a)(1) or (a)(2) before March 31, 2016, need not do so until March 31, 2016. The text of these temporary regulations also serves as the text of the proposed regulations under § 1.6035–2 in the related notice of proposed rulemaking (REG–127923–15) in the Proposed Rules section of this issue of the **Federal Register**. These temporary regulations are issued within 18 months of the date of the enactment of the statutory provisions to which the temporary regulations relate and, as authorized by section 7805(b)(2), are effective/applicable to executors and other persons who file a return required by section 6018(a) or (b) after July 31, 2015.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings notices, notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by visiting the IRS Web site at *http://www.irs.gov.*

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. In addition, section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations because they are excepted from the notice and comment requirements of section 553(b) and (c) of the Administrative Procedure Act under the interpretative rule and good cause exceptions provided by section 553(b)(3)(A) and (B) of that Act. The Act included an immediate effective date, thus making the first required statements due 30 days after enactment. It is necessary to provide more time to provide the statements required by section 6035(a) to allow the Treasury Department and the IRS sufficient time to issue both substantive and procedural guidance on how to comply with the section 6035(a) requirement and to provide executors and other affected persons the opportunity to review this guidance before preparing the required statements. These regulations reiterate the relief in Notice 2016–19 and, because of the immediate need to provide relief, notice and public comment pursuant to 5 U.S.C. 553(b) and (c) is impracticable, unnecessary, and contrary to the public interest. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), please refer to the Special Analyses section of the preamble to the cross-referenced notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code (Code), these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these temporary regulations is Theresa Melchiorre, Office of the Associate Chief Counsel (Passthroughs and Special Industries). Other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Temporary Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

* * * * *

Section 1.6035–2T also issued under 26 U.S.C. 6035.

* * * * *

■ **Par. 2.** Section 1.6035–2T is added to read as follows:

§ 1.6035–2T Transitional relief.

(a) *Statements due before March 31, 2016.* Executors and other persons required to file or furnish a statement under section 6035(a)(1) or (a)(2) before March 31, 2016, need not do so until March 31, 2016.

(b) *Effective/applicability date.* This section is effective/applicable to executors and other persons who file a return required by section 6018(a) or (b) after July 31, 2015.

John Dalrymple,

Deputy Commissioner for Services and Enforcement,

Approved: January 22, 2016.

Mark J. Mazur,

Assistant Secretary of Treasury (Tax Policy).

[FR Doc. 2016–04716 Filed 3–2–16; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

31 CFR Part 605

Conduct on Bureau of Engraving and Printing Property

AGENCY: Bureau of Engraving and Printing, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury, Bureau of Engraving and Printing (BEP or Bureau) is amending its regulations in order to remove certain obsolete language, clarify the rules of conduct on the property, and increase the maximum penalty amount permitted for violations to $5,000 in accordance with the United States Code.

DATES: This regulation is effective April 4, 2016.

FOR FURTHER INFORMATION CONTACT: Mark Hoggan, Attorney-Advisor, Office of the Chief Counsel, Department of the Treasury, Bureau of Engraving and Printing, by phone at (202) 874–2500.

SUPPLEMENTARY INFORMATION:

I. Background

The mission of the Bureau of Engraving and Printing is to develop and produce United States currency notes, trusted worldwide. BEP prints billions of dollars in currency—referred to as Federal Reserve notes—each year for delivery to the Federal Reserve System. Due to the sensitive nature of currency production operations, the Bureau is generally closed to the public. Limited areas of the Bureau, however, are accessible for public tours during certain authorized dates and times. Any individual entering, exiting, or on the Bureau's property is subject to the rules of conduct as prescribed within the regulations, and violations may result in criminal prosecution. The BEP has a high degree of security due to producing United States currency notes, and individuals entering, exiting, and on the property are placed on notice that they are subject to search and inspection of their person, personal items and property while entering, exiting, and on the property.

This final rule updates the Bureau's 1994 (59 FR 41978) regulations that concern conduct on BEP property. The final rule removes certain obsolete language, clarifies the rules of conduct on the property, and increases the maximum penalty amount permitted for violations to $5,000 in accordance with 18 U.S.C. 3571. The final rule also omits the term *Special* as used in the previous regulations when referring to the BEP Police. The term *Special* was unnecessary and could lead to potential confusion. This change has no effect on the legal authority and jurisdiction of the BEP Police. The rights and responsibilities of the BEP Police remain unchanged.

The notice of proposed rulemaking was published on December 10, 2015, and provided a 60-day comment period, which ended on February 8, 2016. No comments were received. Based on the rationale set forth in the **SUPPLEMENTARY INFORMATION** to the notice of proposed rulemaking and in this final rule, the BEP is adopting the proposed rule as a final rule with the slight modifications of adding the words ''search or'' before the word ''inspection'' in paragraphs (b)(6), (b)(7), and (b)(8) to ensure clarity and consistency between related provisions.

II. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), the Bureau certifies that this final rule will not have a significant economic impact on a substantial number of small entities because this final rule primarily affects individuals accessing BEP property and is not likely to affect any small businesses.

III. Unfunded Mandates Reform Act of 1995

The Bureau certifies that no actions were deemed necessary under the Unfunded Mandates Reform Act of 1995. Furthermore, this final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments.

IV. Regulatory Planning and Review (Executive Orders 12866 and 13563)

This final rule is not a significant regulatory action as defined in Executive Order 12866. Executive Order 13563 calls for public participation and an open exchange of ideas in the regulatory process and seeks regulations that are accessible, consistent, written in plain language, and easy to understand. The Bureau has developed this final rule in a manner consistent with these principles.

List of Subjects in 31 CFR Part 605

Federal buildings and facilities.

For the reasons stated in the preamble, the Bureau of Engraving and Printing amends 31 CFR part 605 to read as follows:

PART 605—REGULATIONS GOVERNING CONDUCT IN BUREAU OF ENGRAVING AND PRINTING BUILDINGS AND ON THE GROUNDS OF WASHINGTON, DC AND FORT WORTH, TEXAS

■ 1. The authority citation for part 605 continues to read as follows:

Authority: 5 U.S.C. 301; Delegation, Administrator, General Services, dated December 3, 1992; Treasury Delegation, Assistant Secretary (Management), dated February 4, 1993.

■ 2. Revise § 605.1 to read as follows:

§ 605.1 Conduct on Bureau of Engraving and Printing property.

(a) *Applicability.* These regulations apply to the buildings and grounds of the Bureau of Engraving and Printing (BEP) located in Washington, DC, at 14th and C Streets SW., and in Fort Worth, Texas, at 9000 Blue Mound Road, and to all persons entering on such property. Unless otherwise stated, BEP buildings and grounds are referred

to in these regulations as the ''property.''

(b) *Limited access.* (1) The property is a high-security facility and shall, in general, be closed to the public. Except as specified in this paragraph (b), access is limited to BEP employees and those persons having official business with BEP. Failure to comply with any regulations of this part may result in denial of access or removal from the property.

(2) Public tours of limited areas of the property are available during such times as the Director may prescribe.

(3) Limited areas of the property may be open to persons authorized by the Director or the Director's designee.

(4) All persons entering and exiting the property may be required to present suitable identification and may be required to sign entry logs or registers.

(5) All persons entering and exiting the property may be subject to screening devices and shall submit to screening upon request by BEP Police or authorized officials.

(6) All persons entering and exiting the property may be subject to search or inspection of their person, handbags, briefcases, and other handheld articles by BEP Police or authorized officials. All persons on the property may be subject to additional search or inspection by BEP Police or authorized officials upon entry, exit, and request.

(7) All motor vehicles entering, exiting, or located on the property are subject to search or inspection of the exterior and interior compartments by BEP Police or authorized officials at any time.

(8) All lockers, cabinets, closets, desks or similar storage areas on the property are subject to search or inspection by BEP Police or authorized officials.

(9) All computers, data storage devices, and data files owned or controlled by BEP are subject to search or inspection at any time.

(10) Any entrance onto the property without official permission is prohibited.

(c) *Video monitoring.* All persons entering, exiting, and on the property will be monitored by video. Most internal areas of the property, especially production areas, are continuously monitored by video. Any video image may be recorded.

(d) *Preservation of property.* It shall be unlawful for any person, without proper authority, to willfully destroy, damage, deface, or remove property.

(e) *Compliance with instructions and signs.* All persons on the property shall comply with the instructions of BEP Police, authorized officials, and posted signs or notices.

(f) *Nuisances.* The use of loud, abusive, or profane language, loitering, unauthorized assembly, the creation of any hazard to persons or property, improper disposal of rubbish, spitting, prurient prying, the commission of any obscene or indecent act, or any other disorderly conduct on the property is prohibited. The throwing of any articles of any kind in, upon, or from the property and climbing upon any unauthorized portion of the property is prohibited.

(g) *Gambling.* (1) Participation in games for money or other property, the operation of gambling devices, the conduct of a lottery or pool, the selling or purchasing of numbers, tickets, or any other gambling on the property is prohibited.

(2) Possession on the property of any numbers slip or ticket, record, notation, receipt or other writing of a type ordinarily used in any illegal form of gambling, unless explained to the satisfaction of the Director or the Director's designee, shall be evidence of participation in an illegal form of gambling on the property.

(h) *Intoxicating substances, illegal narcotics, and other controlled substances.* The possession, use, consumption, or being under the influence of intoxicating substances, illegal narcotics, and other controlled substances (see 21 CFR part 1308) while entering and on the property is prohibited. BEP Police may direct a person to complete a field sobriety test or breathalyzer test upon reasonable suspicion of intoxication or influence. The Director may authorize the possession, use, and consumption of alcoholic beverages on BEP property for infrequent, special occasions. Such authorization must be in writing.

(i) *Soliciting, vending, debt collection, and distribution of handbills.* Fundraising for any cause other than the Combined Federal Campaign or other cause authorized by the Office of Personnel Management, the commercial soliciting and vending of all kinds, the display or distribution of commercial advertising, or the collecting of private debts other than as provided by law, in or on the property is prohibited. This rule does not apply to BEP concessions or notices posted by authorized employees on the bulletin boards. Distribution of material such as pamphlets, handbills, and flyers is prohibited without prior approval from the Director or the Director's designee.

(j) *Photographs and recordings.* The taking of photographs on the property is prohibited without permission of the Director or the Director's designee. The taking of voice or video recordings on the property is prohibited without the permission of the Director or the Director's designee. **Note:** The property includes the Tour and Visitor Center and the limited areas accessible for public tour.

(k) *Animals.* Animals, except service animals, shall not be brought on the property for other than official purposes.

(l) *Vehicular and pedestrian traffic.* (1) Drivers of all vehicles on the property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of BEP Police and all posted traffic signs. Drivers are subject to all applicable motor vehicle laws and regulations of the surrounding jurisdiction.

(2) The blocking of entrances, driveways, walks, loading platforms, fire hydrants, or standpipes on the property is prohibited.

(3) Parking on the property is not allowed without a permit or authority. Parking without a permit or authority, not in accordance with a permit or authority, or contrary to the direction of BEP Police, authorized officials, and posted signs or notices is prohibited.

(m) *Weapons and explosives.* No person on the property shall carry firearms, explosives, or other dangerous or deadly weapons as defined by Title 18 United States Code, either openly or concealed, except for official purposes.

(n) *Smoking.* Smoking on the property is not permitted except in designated smoking areas.

(o) *Penalties and other law.* (1) Violations of this part shall be punishable by a fine of not more than $5,000 or the maximum extent allowable under the United States Code, whichever is greater, or imprisonment of not more than 30 days, or both in accordance with 40 United States Code, Section 1315.

(2) Violations of 18 United States Code, Section 930 (dangerous weapon clause) shall be punishable by a fine of $100,000 or imprisonment for not more than a year, or both, unless there is intent to commit a crime with the weapon, in which case the punishment shall be a fine of $250,000 or imprisonment for not more than five years, or both.

(3) Nothing contained in this part shall be construed to abrogate any other Federal, District of Columbia, or Texas law or regulations, or any Tarrant County ordinance applicable to the property.

Dated: February 24, 2016.

Leonard R. Olijar,

Director.

[FR Doc. 2016–04817 Filed 3–3–16; 8:45 am]

BILLING CODE 4840–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0952]

RIN 1625–AA09

Drawbridge Operation Regulation; Victoria Barge Canal, Bloomington, TX

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the method of operation for the Victoria Barge Canal Railroad Bridge (''bridge'') across the Victoria Barge Canal, mile 29.4, at Bloomington, Victoria County, Texas. This final rule makes permanent the change in method of operation to allow the bridge owner to operate the bridge remotely from a dispatching center in Spring, Texas. This final rule increases the efficiency of operations while allowing for the safe navigation of vessels through the bridge.

DATES: This rule is effective March 4, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type [USCG–2014–0952]. In the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ms. Geri Robinson; Bridge Administration Branch, Coast Guard; telephone 504–671–2128, email *geri.a.robinson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On December 30, 2014, we published a temporary deviation from regulations; request for comments (TD) entitled ''Drawbridge Operation Regulation; Victoria Barge Canal, Bloomington, Texas'' in the **Federal Register** (79 FR 78304). We received no comments on this temporary deviation. No public meeting was requested, and none was held. However, a contractor raised an issue regarding the requirements of dispatchers to contact the vessels when a vessel entered the two-mile bridge zone. In response to this concern, the Coast Guard decided that prior to issuance of a final rule, further comments would be accepted under an interim rule.

On July 10, 2015, the Coast Guard published an interim rule with request for comments entitled ''Drawbridge Operation Regulation; Victoria Barge Canal, Bloomington, Texas'' in the **Federal Register** (80 FR 39683). The interim rule allowed mariners to continue transit while the bridge was being remotely operated and comment as to whether the proposed method of operation was sufficient to ensure the safety of vessels transiting the area. We did not receive any comments on the interim rule. No public meeting was requested, and none was held.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The bridge owner, the Victoria County Navigation District, in conjunction with the Union Pacific Railroad (UPRR) requested permission to remotely operate the Victoria Barge Canal Railroad Bridge across the Victoria Barge Canal, mile 29.4 at Bloomington, Victoria County, Texas. Traffic on the waterway consists of commercial traffic—primarily vessels and tows providing services to the Port of Victoria, and no reported recreational traffic transits the waterway. The vertical lift bridge has a vertical clearance of 22 feet above high water in the closed-to-navigation position and 50 feet above high water in the open-to-navigation position.

Presently, the bridge opens on signal for the passage of vessels in accordance with 33 CFR 117.991. Under the Temporary Deviation published on December 30, 2014, and the interim rule published on July 10, 2015, this bridge has been remotely operated for the past year and mariners will not notice any changes to the ongoing method of operation of the bridge.

This final rule allows all vessels utilizing this stretch of the waterway to continue to transit the waterway unencumbered while providing for the bridge owner to operate the bridge from a remote location. Vessel operators should not see any changes in the efficiency of vessel movements as the bridge will still be required to open on signal for the passage of vessels.

IV. Discussion of Comments, Changes and the Final Rule

As discussed above, a temporary deviation was published on December 30, 2014, and an interim rule was published on July 10, 2015. The Coast Guard provided separate 60-day comment periods for the temporary deviation and the interim rule. No comments were received and no changes to the final rule have been made.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the ability that vessels can still transit the bridge. This final rule allows all vessels utilizing this stretch of the waterway to continue to transit the waterway unencumbered while providing for the bridge owner to operate the bridge from a remote location. Vessel operators should not see any changes in the efficiency of vessel movements as the bridge will still be required to open on signal for the passage of vessels.

B. 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 received no comments from the Small Business Administration on this rule. The Coast Guard certifies

under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The property owners, vessel operators and waterway users who wish to transit on Victoria Barge Canal daily. However, this rule will not have a significant impact on a substantial number of small entities for the following reasons: A test deviation was conducted and an interim rule was published and no opposition in response to the test or interim rule was received by the Coast Guard Office of Bridge Administration. Further, through pre-coordination and consultation with property owners, vessel operators and waterway users, this operating schedule accommodates all waterway users with minimal impact.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Government

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 have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, 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.

E. 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.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a 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 rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

G. 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.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

For the reasons discussed in the preamble, the interim rule amending 33 CFR part 117 that published at 80 FR 39683 on July 10, 2015, is adopted as a final rule without change.

Dated: February 19, 2016.

David R. Callahan,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2016–04827 Filed 3–3–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0148]

RIN 1625–AA00

Safety Zone; Little Calumet River, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Little Calumet River, Chicago, IL. This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and after a bridge demolition. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Lake Michigan.

DATES: This rule is effective without actual notice from March 4, 2016 to 1 p.m. on March 10, 2016. For the purposes of enforcement, actual notice will be used from 8 a.m. to 1 p.m. on February 29, 2016, or in the event of inclement weather or other unforeseen circumstances enforcement will take place on an alternate date from March 1, 2016 to March 10, 2016 from 8 a.m. to 1 p.m.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0148 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule. 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 LT Lindsay Cook, Marine Safety Unit Chicago, U.S. Coast Guard; telephone (630) 986–2155, email *Lindsay.N.Cook@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish a NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect the public and vessels from the hazards associated with a bridge demolition being conducted on February 29, 2016 or an alternate date from March 1, 2016 to March 10, 2016.

We are issuing this rule, and 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.

III. Legal Authority and Need for Rule

The legal basis for the rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 33 CFR 1.05–1, 160.5; Department of Homeland Security Delegation No. 0170.1.

On February 29, 2016 or an alternate date from March 1, 2016 to March 10, 2016 a bridge demolition will take place on the Grand Calumet River at the junction with the Little Calumet River in Chicago, IL. The Captain of the Port Lake Michigan has determined that the bridge demolition will pose a significant risk to public safety and property. Such hazards include launched and falling debris.

IV. Discussion of the Rule

With the aforementioned hazards in mind, the Captain of the Port Lake Michigan has determined that this temporary safety zone is necessary to ensure the safety of the public during a bridge demolition on the Grand Calumet River at the junction with the Little Calumet River. This safety zone will be enforced from 8 a.m. to 1 p.m. on February 29, 2016 or an alternate date from March 1, 2016 to March 10, 2016. This zone will encompass all waters 1,500 feet in both directions on the Little Calumet River from the junction of the Little Calumet River and the Grand Calumet River.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or a designated on-scene representative. The Captain of the Port or a designated on-scene representative may be contacted via VHF Channel 16.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

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 on February 29, 2016 or an alternate date from March 1, 2016 to March 10, 2016 from 8 a.m. to 1 p.m. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

B. Impact on Small Entities

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

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this temporary rule on 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 on a portion of the Little Calumet River on February 29, 2016 or an alternate date from March 1, 2016 to March 10, 2016 from 8 a.m. to 1 p.m.

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, we will issue local Broadcast Notice to Mariners and Public Notice of Safety Zone so vessel owners and operators can plan accordingly.

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.

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.

C. 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).

D. Federalism and Indian Tribal Governments

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 have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. 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.

F. 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 (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 for a bridge demolition on the Grand Calumet River at the junction with the Little Calumet River, Chicago, IL. 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.

G. 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.

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.T09–0148 to read as follows:

§ 165.T09–0148 Safety Zone; Little Calumet River, Chicago, IL.

(a) *Location.* All waters 1,500 feet in both directions on the Little Calumet River from the junction of the Little Calumet River and the Grand Calumet River.

(b) *Enforcement Period.* This rule will be enforced on February 29, 2016 or an alternate date from March 1, 2016 to March 10, 2016 from 8 a.m. to 1 p.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 Lake Michigan or a 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 Lake Michigan or a designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on his or her behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Lake Michigan or an on-scene representative to obtain permission to do so. The Captain of the Port Lake Michigan or an 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 Lake Michigan, or an on-scene representative.

Dated: February 24, 2016.

A.B. Cocanour,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2016–04825 Filed 3–3–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2011–0228]

Safety Zone, Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Chicago Sanitary and Ship Canal between Mile Marker 296.1 to Mile Marker 296.7 at specified times from March 3, 2016 to March 11, 2016. This action is necessary to protect the waterway, waterway users, and vessels from the hazards associated with the U.S. Army Corps of Engineer's underwater inspections of the electric dispersal system for invasive species.

DATES: The regulations in 33 Code of Federal Regulations (CFR) 165.930 will be enforced from March 3, 2016 from 7 a.m. until 11 a.m. and then from 1 p.m. until 5 p.m. In the event the work cannot be completed on March 3, 2016, the safety zone will be enforced on March 4, 2016 through March 11, 2016 from 7 a.m. until 11 a.m. and from 1 p.m. until 5 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT Lindsay Cook, Waterways Management Division, Marine Safety Unit Chicago, U.S. Coast Guard; telephone 630–986–2155, email address *D09-DG-MSUChicago-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.930. Specifically, the Coast Guard will enforce this safety zone on all waters of the Chicago Sanitary and Ship Canal between Mile Marker 296.1 to Mile Marker 296.7. Enforcement will occur on March 3, 2016 from 7 a.m. until 11 a.m. and from 1 p.m. until 5 p.m. In the event the work cannot be completed on March 3, 2016 due to inclement weather or unforeseen circumstances this safety zone will be enforced on March 4, 2016 through March 11, 2016 from 7 a.m. until 11 a.m. and from 1 p.m. until 5 p.m. During the enforcement period, no vessel may transit this regulated area without approval from the Captain of the Port Sector Lake Michigan (COTP) or a COTP designated representative.

This notice of enforcement is issued under the authority of 33 CFR 165.930 and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Captain of the Port Lake Michigan will also provide notice through other means, which may include

Broadcast Notice to Mariners, Local Notice to Mariners, local news media, distribution in leaflet form, and on-scene oral notice. Additionally, the Captain of the Port Lake Michigan may notify representatives from the maritime industry through telephonic and email notifications.

Dated: February 24, 2016.

A. B. Cocanour,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2016–04826 Filed 3–3–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2010–0816; FRL–9943–35–Region 4]

Air Plan Disapproval; Georgia: Disapproval of Automatic Rescission Clause

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to disapprove a portion of a revision to the Georgia State Implementation Plan (SIP), submitted through the Georgia Department of Natural Resources Environmental Protection Division (Georgia EPD), on January 13, 2011, that would allow for the automatic rescission of federal permitting-related requirements in certain circumstances. EPA is disapproving Georgia's automatic rescission clause because the Agency has determined that this provision is not consistent with the Clean Air Act (CAA or Act) or federal regulations related to SIPs.

DATES: This rule will be effective April 4, 2016.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2010–0816. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *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: Sean Lakeman, 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. Mr. Lakeman can be reached by telephone at (404) 562–9043 or via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On September 8, 2011, EPA took final action to approve portions of a requested revision to the Georgia SIP, submitted by Georgia EPD on January 13, 2011. *See* 76 FR 55572. Specifically, the portions of Georgia's January 13, 2011, SIP submittal that EPA approved incorporated two updates to the State's air quality regulations under Georgia's New Source Review (NSR) Prevention of Significant Deterioration (PSD) program. First, the SIP revision established emission thresholds for determining which new stationary sources and modification projects become subject to Georgia's PSD permitting requirements for their greenhouse gas (GHG) emissions. Second, the SIP revision incorporated provisions for implementing the PSD program for the fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS). EPA noted in its September 8, 2011 final rule approving portions of Georgia's January 13, 2011, SIP submittal that the Agency was still evaluating the portion of the SIP submittal related to a provision (at 391–3–1–.02(7)(a)(2)(iv)) that would automatically rescind portions of Georgia's SIP in the wake of certain court decisions or other triggering events (the automatic rescission clause), and consequently was not taking action on that provision in that final action. *See* 76 FR at 55573.

Specifically, at 391–3–1–.02(7)(a)(2)(iv), Georgia's rules read as follows: ''The definition and use of the term 'subject to regulation' in 40 CFR,

part 52.21, as amended June 3, 2010, is hereby incorporated by reference; provided, however, that in the event all or any portion of 40 CFR 52.21 containing that term is: (i) Declared or adjudged to be invalid or unconstitutional or stayed by the United States Court of Appeals for the Eleventh Circuit or for the District of Columbia Circuit; or (ii) withdrawn, repealed, revoked or otherwise rendered of no force and effect by the United States Environmental Protection Agency, Congress, or Presidential Executive Order. [sic] Such action shall render the regulation as incorporated herein, or that portion thereof that may be affected by such action, as invalid, void, stayed, or otherwise without force and effect for purposes of this rule upon the date such action becomes final and effective; provided, further, that such declaration, adjudication, stay, or other action described herein shall not affect the remaining portions, if any, of the regulation as incorporated herein, which shall remain of full force and effect as if such portion so declared or adjudged invalid or unconstitutional or stayed or otherwise invalidated or effected were not originally a part of this rule. The Board declares that it would [not] have incorporated the remaining parts of the federal regulation if it had known that such portion thereof would be declared or adjudged invalid or unconstitutional or stayed or otherwise rendered of no force and effect.''

In a notice of proposed rulemaking (NPR) published on July 31, 2015, EPA proposed to disapprove the portion of Georgia's January 13, 2011, submittal that would add the automatic rescission clause at Georgia Rule 391–3–1–.02(7)(a)(2)(iv) to the SIP. *See* 80 FR 45635. EPA is now taking final action to disapprove this portion of Georgia's submittal.

In assessing the approvability of Georgia's proposed automatic rescission clause, EPA considered two key factors: (1) Whether the public will be given reasonable notice of any change to the SIP that occurs as a result of the automatic rescission clause; and (2) whether any future change to the SIP that occurs as a result of the automatic rescission clause would be consistent with EPA's interpretation of the effect of the triggering action (*e.g.,* the extent of an administrative or judicial stay) on federal permitting requirements at 40 CFR 52.21. These criteria are derived from the SIP revision procedures set forth in the CAA and federal regulations.

Regarding public notice, CAA section 110(l) provides that any revision to a SIP submitted by a State to EPA for approval ''shall be adopted by such State after reasonable notice and public hearing.'' *See* 42 U.S.C. 7410(l). Under Georgia's automatic rescission clause, the SIP would automatically be revised as a result of a triggering action without public notice. To the extent that there is any ambiguity regarding how a court order or other triggering action impacts the federal permitting requirements at 40 CFR 52.21, that ambiguity will lead to ambiguity regarding the extent to which the triggering action results in a SIP revision (and indeed, whether a particular court ruling or other action in fact triggers an automatic SIP revision under Georgia's automatic rescission clause). EPA concludes that Georgia's automatic rescission clause would not provide reasonable public notice of a SIP revision as required by CAA 110(l), 42 U.S.C. 7410(l).

EPA's consideration of whether any SIP change resulting from the automatic rescission clause would be consistent with EPA's interpretation of the effect of the triggering action on federal permitting requirements at 40 CFR 52.21 is based on 40 CFR 51.105. Under 40 CFR 51.105, ''[r]evisions of a plan, or any portion thereof, will not be considered part of an applicable plan until such revisions have been approved by the Administrator in accordance with this part.'' However, the Georgia automatic rescission clause takes effect immediately upon certain triggering actions without any EPA intervention. The effect of this is that EPA is not given the opportunity to determine the effect and extent of the triggering court order or federal law change on the federal permitting requirements at 40 CFR 52.21; instead, the SIP is modified without EPA's approval.

Comments on the NPR were due on or before August 31, 2015. EPA received adverse comments on our proposed action, specifically on our proposed disapproval of the automatic rescission clause, from Georgia EPD. EPA also received comments from Georgia Industry Environmental Coalition, Inc. (GIEC). After considering the comments, EPA has decided to finalize our action as proposed. A summary of the comments and EPA's responses follow.

II. Response to Comments

Comment 1: Georgia EPD contends that the public notice, the comment period, and the public hearing held for the rule change that adopted the automatic rescission clause at Georgia Rule 391–3–1–.02(7)(a)(2)(iv) satisfies CAA section 110(l) requirements. Specifically, Georgia EPD notes that it published public notices in several newspapers announcing an opportunity to comment on the proposed automatic rescission clause, held a public hearing, and addressed all comments received during the public comment period. According to Georgia EPD, Georgia's rescission clause already went through public notice and comment, and there is no reason to require another round of public notice and comment simply because the automatic rescission clause is triggered.

GIEC likewise argues that Georgia EPD followed notice-and-comment procedures prior to the adoption of the automatic rescission clause that satisfy the requirements of CAA section 110(l). GIEC adds that the notice-and-comment procedures the Georgia EPD performed are indistinguishable from notice-and-comment procedures taken by the Tennessee Department of Environment and Conservation (TDEC) and the Louisville Metro Air Pollution Control District (LMAPCD) prior to enacting EPA-approved ''automatic rescission'' SIP provisions. GIEC contends that in approving the TDEC and LMAPCD provisions, EPA concluded that these agencies' respective prior notice-and-comment procedures satisfied CAA section 110(l) because they placed the public on notice that the respective SIPs would update automatically to reflect rescission-triggering actions. According to GIEC, because EPA concluded that TDEC and LMAPCD notice-and-comment procedures occurring *prior to* promulgation of their respective automatic rescission provisions satisfied CAA section 110(l), EPA cannot now conclude that the Georgia provision would not provide reasonable public notice under CAA section 110(l) when Georgia followed indistinguishable notice-and-comment procedures prior to promulgating that provision. GIEC contends that if EPA were to finally conclude in this rulemaking that the provision does not satisfy CAA section 110(l), such a conclusion would be arbitrary, capricious, an abuse of discretion, beyond the Agency's statutory and Constitutional limits, and otherwise contrary to law in light of the Agency's final determinations concerning the TDEC and LMAPCD SIPs.

Response 1: EPA disagrees with the Commenters' contention that the public notice and comment procedures associated with Georgia's adoption of the automatic rescission clause are sufficient to fulfill notice-and-comment requirements with respect to any future SIP revision resulting from the rescission clause's operation. While EPA does not dispute that Georgia EPD provided for public comment and a hearing when promulgating the

automatic rescission clause at Georgia Rule 391–3–1–.02(7)(a)(2)(iv), that public comment opportunity did not—and could not—satisfy CAA section 110(l)'s public-notice-and-comment requirement with respect to future SIP revisions that would occur in the wake of a triggering action if EPA were to approve the automatic rescission clause into Georgia's SIP.

Contrary to the GIEC's suggestion, EPA's approval of the automatic rescission clauses adopted by TDEC and LMAPCD does not render EPA's disapproval of Georgia's automatic rescission clause unlawful or arbitrary and capricious. This is because Georgia's automatic rescission clause differs substantially from the automatic rescission clauses adopted by TDEC and LMAPCD. First, under the automatic rescission clauses adopted by TDEC and LMAPCD, no change to the SIP will occur until EPA publishes a **Federal Register** notice announcing that a portion of 40 CFR 52.21 has been stayed, vacated, or withdrawn. *See* 77 FR 12484 (March 1, 2012); 77 FR 62150 (October 12, 2012). As EPA explained in the final actions approving these clauses, because no change to the SIP will occur until EPA has published a **Federal Register** notice announcing the change in federal regulations, ''the timing and extent of any future SIP change resulting from the automatic rescission clause will be clear to both the regulated community and the general public.'' *Id.* Second, unlike Georgia's proposed rescission clause, the automatic rescission clauses adopted by TDEC and LMAPCD make it clear to the public in advance that any SIP change resulting from operation of the automatic rescission clause will be consistent with EPA's interpretation of how the triggering action impacted federal regulations.

In sharp contrast, the SIP changes resulting from operation of Georgia's proposed automatic rescission clause would happen automatically upon a triggering event without any public notice or EPA involvement. To the extent that there is any ambiguity regarding how a court order or other triggering action impacts the federal permitting requirements at 40 CFR 52.21, that ambiguity would lead to ambiguity regarding the specific revision to Georgia's SIP resulting from the triggering action. Not only does the public have no assurance that changes resulting from operation of the rescission clause would be consistent with EPA's interpretation of the applicable federal regulations, but after a change occurs, the exact change may not be clear to the public.[1] Furthermore, because ambiguity may exist regarding whether a particular court ruling or other action in fact triggers an automatic SIP revision under Georgia's automatic rescission clause, it may not be clear to the public whether the SIP has changed at all. Due to this ambiguity with respect to how the SIP might be revised under Georgia's proposed automatic rescission clause in the wake of a triggering action, EPA concludes that approval of the automatic rescission clause into Georgia's SIP would authorize future SIP revisions without reasonable public notice in violation of CAA section 110(l).

Comment 2: Georgia EPD states that after the D.C. Circuit issued its Amended Judgment in *Coalition for Responsible Regulation* v. *EPA,* 606 Fed. Appx. 6; 2015 U.S. App. LEXIS 11132 (D.C. Cir. 2015) (issued in response to the Supreme Court's decision in *Utility Air Regulatory Group* v. *EPA,* 134 S. Ct. 2427 (2014)), EPA removed the affected portions of the federal PSD regulations without providing an opportunity for public comment because EPA deemed the action to be ministerial. *See* 80 FR 50199 (August 19, 2015). According to Georgia EPD, its rescission clause is no different than the process utilized by EPA in this rule to remove vacated permitting requirements from federal regulations following the Supreme Court's decision.

Likewise, GIEC states that EPA's removal of 40 CFR 52.21(b)(49)(v) as a ministerial act performed without notice-and-comment establishes that Georgia's proposed automatic rescission clause, to the extent that it operates to invalidate Georgia's incorporation of 40 CFR 52.21(b)(49)(v), would not contravene the public notice requirements of CAA section 110(l). Quoting from EPA's **Federal Register** notice, GIEC points out that EPA characterized its removal of 40 CFR 52.21(b)(49)(v) from the CFR as a ''necessary ministerial act'' for which the Agency determined ''it was not necessary to provide a public hearing or an opportunity for public comment.'' GIEC further notes that EPA stated that ''notice-and-comment would be contrary to the public interest because it would unnecessarily delay the removal from the CFR of the Tailoring Rule Step 2 PSD permitting provisions that the Supreme Court held were invalid.''

Response 2: EPA disagrees with these comments. The April 2015 EPA rule referenced by the Commenter did not revise a SIP submitted by a state for EPA approval. Thus, EPA's rule was not subject to the procedures applicable to the revisions of SIPs. EPA's rule revised section 40 CFR 51.166, which governs the content of state SIP submissions. But the EPA rule did not revise any SIP submitted by a state.

CAA section 110(l) requires without exception that ''[e]ach revision'' to a SIP submitted to EPA for approval be adopted by the state ''after reasonable notice and public hearing.'' *See* 42 U.S.C. 7410(l). Thus, there are no circumstances under which a state can revise its SIP without providing for public notice and comment on the revision.

EPA's April 2015 action was not governed by section 110(l) of the CAA. That rule was promulgated under the Administrative Procedures Act (APA). Section 307(d) of the CAA says that the rulemaking procedures in that section ''shall not apply in the case of any rule or circumstance referred to in subparagraphs (A) and (B) of subsection 553(b) of Title 5.'' Subparagraph (B) of this section in the APA provides that an agency need not provide notice of proposed rulemaking or opportunity for public comment when the agency for good cause finds that it is impracticable, unnecessary, or contrary to the public interest. *See* 5 U.S.C. 553(b). The APA does not address procedures for state actions to revise a SIP. Such actions are addressed in section 110(l) of the CAA.

In addition, although EPA's rule was not subject to public comment under an exception in the APA, EPA's action provided notice to the public of the change in the law. Georgia's rescission clause provides no mechanism for informing the public of a change in state law.

Moreover, EPA did not deem all of the regulatory revisions needed to implement the D.C. Circuit's April 10, 2015, Amended Judgment in *Coalition for Responsible Regulation* v. *EPA* to be ministerial. To the contrary, EPA explained in the final rule removing certain vacated elements from the federal PSD and title V regulations that the action did not fully address all of the revisions needed to implement the Amended Judgment because ''[t]hose additional revisions to the PSD and title V regulations, although necessary to implement the Coalition Amended Judgment, *are not purely ministerial in nature* and will be addressed in [a] separate notice-and-comment

[1] Georgia's proposed automatic rescission clause would invalidate affected regulatory text, but would not actually remove the text from the regulation. Thus, if EPA were to approve Georgia's automatic rescission clause, it would be left up to the public, the regulated community, and ultimately, the courts, to determine whether and how a potential triggering action changed SIP requirements.

rulemaking, which will give the public an opportunity to comment on how the EPA proposed to address those portions of the *Coalition* Amended Judgment.'' *See* 80 FR 50199, 50200 (August 19, 2015) (emphasis added). It is unclear how these more complex regulatory changes would be handled under Georgia's proposed automatic rescission clause. In any event, even if Georgia had the authority to revise its SIP without providing for public notice and comment—which it does not—EPA's decision to provide public notice but no opportunity for public comment on certain regulatory changes that it considered to be ministerial in no way supports Georgia EPD's claim that it would be appropriate to deem all of the SIP revisions needed to remove vacated GHG permitting elements to be ministerial and to make such changes to Georgia's SIP without any public notice or opportunity for public comment.

Finally, Georgia's proposed automatic rescission clause is not limited to GHG permitting requirements. Rather, the clause applies broadly to actions that affect ''all or any portion of 40 CFR 52.21'' that contain the term ''subject to regulation.'' *See* Georgia Rule 391–3–1–.02(7)(a)(2)(iv). Thus, arguments regarding the alleged lack of ambiguity with respect to changes needed to address a triggering action pertaining to GHG permitting in particular are insufficient to support EPA's approval of Georgia's automatic rescission clause. Even if a ministerial change generally (or the particular change addressed in EPA's action) could be exempt from the requirements of 110(l), because of the broad reach of Georgia's rescission clause, it is impossible to conclude in advance that every automatic SIP change resulting from a triggering action would be ministerial.

Comment 3: Georgia EPD states that the occurrence of a triggering action and the resulting rescission would not be a change to the SIP because the triggering action and rescission clause were already included in Georgia Rule 391–3–1–.02(7)(a)(2)(iv). Thus, according to Georgia EPD, the SIP is not being revised and therefore does not require approval from the Administrator.

Response 3: EPA disagrees with this comment. Georgia's proposed automatic rescission clause would automatically invalidate SIP language in response to a triggering action. Such a change would constitute a SIP revision.

Comment 4: GIEC states that ''EPA's preliminary conclusion that the [automatic rescission clause] is inconsistent with 40 CFR 51.105 is incorrect because EPA has been and will be afforded adequate opportunity under the CAA and through other proceedings to ensure that any SIP change resulting from the automatic operation of the [rescission clause] is consistent with EPA's interpretation of the effect of the triggering action on the permitting requirements at 40 CFR 52.21.'' GIEC states that although the rescission clause is self-executing, ''Georgia EPD would implement the effect of the provision's operation through permitting decisions that, under the Georgia SIP, are expressly subject to EPA notice, comment, and objection procedures.'' Specifically, GIEC contends that the ''permit notice, comment, and objection procedures running to EPA's benefit provide EPA with ample opportunity to convey its interpretation of (and ultimately object to) the effect of any [rescission clause] triggering action on the permitting requirements at 40 CFR 52.21 if EPA's interpretation of such an action conflicted with that of the Georgia EPD.''

Response 4: EPA disagrees with this comment. The CAA's SIP revision procedures are distinct from the permit notice, comment, and EPA objection procedures. Indeed, section 110(i) of the Act specifically prohibits States and EPA, except in certain limited circumstances not applicable here, from taking any action to modify any requirement of a SIP with respect to any stationary source, except in compliance with the CAA's requirements for promulgation or revision of a state plan. *See* 42 U.S.C. 7410(i). Thus, contrary to the Commenter's contention, EPA's opportunity to object to a state permit cannot substitute for the state's compliance with the CAA's SIP revision requirements. Because Georgia's rescission clause would automatically revise the SIP in the wake of a triggering action, by the time EPA has the opportunity to review the permit for a particular source, it will be too late for EPA to ''object'' to a prior SIP revision brought about by a triggering action under Georgia's automatic rescission clause. Georgia cannot substitute permit review procedures for the procedural requirements governing SIP revisions at CAA section 110(l) and 40 CFR 51.105.

Comment 5: GIEC states that it is ''highly unlikely'' that any action triggering the rescission clause's operation would be subject to interpretation because the provision is triggered by clear and unambiguous occurrences—the withdrawal, repeal, or revocation of all or part of the term ''subject to regulation'' in 40 CFR 52.21 by executive or congressional action or its invalidation or stay by the Eleventh Circuit or D.C. Circuit Courts of Appeal. GIEC further states that the triggering actions do not become operative until any such action is ''final and effective.'' GIEC comments that specifically with respect to GHG permitting requirements at 40 CFR 52.21(b)(49)(v), there was no ambiguity regarding the impact of the D.C. Circuit's Amended Judgment in *Coalition for Responsible Regulation,* which GIEC states would have been the ''triggering action'' if Georgia's automatic rescission clause had been approved by EPA.

According to GIEC, EPA had (and took) several opportunities to interpret the effect of the U.S. Supreme Court's decision in *Utility Air Regulatory Group* v. *EPA,* 134 S. Ct. 2427 (2014), on the permitting requirements at 40 CFR 52.21. GIEC points to various memoranda issued by EPA after the Supreme Court's decision. GIEC also notes that as early as July 2014, EPA was on notice that the Georgia EPD construed *Utility Air Regulatory Group* v. *EPA* to invalidate 40 CFR 52.21(b)(49)(v) and, accordingly, the SIP provision adopting that regulation was ''no longer valid.'' GIEC states that to its knowledge, EPA did not object to the Georgia EPD's construction of *Utility Air Regulatory Group* v. *EPA* or the Division's conclusions regarding the validity of 40 CFR 52.21(b)(49)(v) and the Georgia SIP provision incorporating it. GIEC concludes that in light of the straightforward and unambiguous manner in which Georgia's rescission clause automatically operated as a result of the issuance of the D.C. Circuit's Amended Judgment in *Coalition for Responsible Regulation* and the opportunities EPA had and took to determine the effect of *Utility Air Regulatory Group* v. *EPA* on the permitting requirements at 40 CFR 52.21, it is incorrect and appears somewhat disingenuous for EPA to preliminarily conclude that the rescission clause is inconsistent with 40 CFR 51.105.

Response 5: EPA disagrees with this comment. Contrary to GIEC's contention, it is not ''highly unlikely'' that any action triggering operation of Georgia's automatic rescission clause would be subject to interpretation. Among other actions, the automatic rescission clause would be triggered by a decision by the U.S. Court of Appeals for the Eleventh Circuit or the District of Columbia Circuit that declares a portion of 40 CFR 52.21 to be ''invalid.'' It is sometimes the case that the precise regulatory changes needed to address a court decision involve more than simply removing the provision at issue. Under such circumstances, the exact changes to SIP requirements brought about by a triggering action under Georgia's

automatic rescission clause would be unclear.

Rather than support GIEC's argument, the D.C. Circuit's Amended Judgment in *Coalition for Responsible Regulation* v. *EPA,* 606 Fed. Appx. 6; 2015 U.S. App. LEXIS 11132 (D.C. Cir. 2015) provides a useful example of a triggering action that involves some degree of ambiguity with respect to how it impacts regulatory requirements. The D.C. Circuit ordered, among other things, that ''the regulations under review . . . be vacated to the extent they require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emissions or has the potential to emit above the applicable major source thresholds, or (ii) for which there is a significant emissions increase from a modification.'' 2015 U.S. App. LEXIS 11132, at 130–131. The Court further ordered ''that EPA take steps to rescind and/or revise the applicable provisions of the Code of Federal Regulations as expeditiously as practicable to reflect the relief granted,'' and ''that EPA consider whether any further revisions to its regulations are appropriate'' in light of the Supreme Court's decision in *Utility Air Regulatory Group* v. *EPA. Id.* at 131. As explained above, EPA subsequently published a final action removing some, but not all, of the regulatory provisions impacted by the D.C. Circuit's Amended Judgment. *See* 80 FR at 50199. EPA explained in that notice that some of the regulatory changes needed to address the Amended Judgment are not purely ministerial. *Id.* at 50200. Because those regulatory changes involve the exercise of EPA's discretion to some extent, EPA intends to publish a separate **Federal Register** notice proposing those changes and soliciting public comment. *Id.*

Thus, contrary to GIEC's argument, it cannot be assumed that Georgia's automatic rescission clause would be triggered only by ''clear and unambiguous occurrences.'' Rather, as illustrated by EPA's efforts to respond to the D.C. Circuit's Amended Judgment in *Coalition for Responsible Regulation* v. *EPA,* there may be ambiguity with respect to the precise change to the permitting requirements in Georgia's SIP that would result from a triggering action under the automatic rescission clause. Because Georgia's automatic rescission clause would automatically change Georgia's SIP without public notice or EPA approval, any ambiguity regarding the regulatory impact of the triggering action would lead to ambiguity for regulated entities and the general public regarding the applicable SIP permitting requirements. This is especially true because while the automatic rescission clause would render the affected SIP provisions ''invalid,'' the invalid text would not be removed or otherwise identified. Thus, it would not necessarily be clear to the public and regulated entities which SIP requirements remain in effect and which have been rendered invalid. Significantly, Georgia EPD (and Georgia courts) may disagree with EPA regarding the regulatory changes brought about by a triggering action under Georgia's automatic rescission clause. Thus, in the wake of a triggering action, Georgia's SIP may not be consistent with federal regulations. Given the uncertainty regarding what SIP revisions may result from the future operation of Georgia's automatic rescission clause, EPA cannot at this time ''approve'' such future SIP revisions in accordance with 40 CFR 51.105.

Comment 6: Georgia EPD comments that the Supreme Court issued its decision in *Utility Air Regulatory Group* v. *EPA* on June 23, 2014. Georgia EPD then states: ''Ten months later, EPA still had not made any revisions to the federal PSD or Title V permitting requirements. As a result, on April 10, 2015, the D.C. Circuit Court issued an amended judgment in *Coalition for Responsible Regulation, Inc.* v. *Environmental Protection Agency,* 606 Fed. Appx. 6; 2015 U.S. App. LEXIS 11132, which vacated the Tailoring Rule to the extent that it requires sources to obtain PSD or Title V permits solely due to a potential to emit GHGs. This prompted EPA to remove portions of those regulations from the **Federal Register** that were initially promulgated in 2010.'' According to Georgia EPD: ''Because EPA did not publish the Final Rule in the **Federal Register** until August 2015, without an immediate rescission clause, facilities would have been required to continue to follow the provisions in the Tailoring Rule for an additional 14 months after the Court vacated the rule. The [Georgia] EPD automatic rescission clause immediately did what it took EPA fourteen (14) months to do.''

Response 6: EPA disagrees with this comment. First, Georgia EPD's comment reflects some misconceptions regarding the aftermath of the Supreme Court's decision in *Utility Air Regulatory Group* v. *EPA.* Contrary to Georgia EPD's suggestion, it was not EPA's delay in revising the federal permitting regulations that resulted in the D.C. Circuit issuing its Amended Judgment. Rather, the D.C. Circuit was acting in response to the Supreme Court's remand of the case back to the D.C. Circuit for issuance of an amended judgment and mandate consistent with the Supreme Court's opinion. Consistent with standard judicial practice, following the Supreme Court's remand of the case to the D.C. Circuit, EPA briefed the D.C. Circuit on what the agency considered to be the appropriate relief and waited for the D.C. Circuit to issue its Amended Judgment and mandate before taking action to remove provisions from the federal PSD and title V regulations. Notably, the parties to the litigation had differing views as to how the Supreme Court's decision should impact the federal regulations. The D.C. Circuit issued its Amended Judgment on April 10, 2015, and EPA published a final rule in the **Federal Register** on August 19, 2015, removing those portions of the federal permitting regulations that the D.C. Circuit specifically identified as vacated. *See* 80 FR at 50199. However, as discussed above, EPA concluded that some of the regulatory changes needed to address the D.C. Circuit's Amended Judgment are not purely ministerial and therefore, EPA will address these changes in a separate notice-and-comment rulemaking. *Id.* at 50200.

Georgia EPD's comment also reflects some confusion regarding how Georgia's automatic rescission clause operates. Specifically, Georgia EPD apparently believes that the Supreme Court's decision, itself, was the triggering action under the automatic rescission clause. *See* Georgia EPD Comments at 2–3. Industry commenters, on the other hand, take the position that it was the D.C. Circuit's Amended Judgment that served as the triggering action. *See* GIEC Comments at 5. This disagreement between Georgia EPD and industry commenters underscores EPA's statement in the NPR that in addition to ambiguity regarding how the SIP might be revised in the future by operation of the automatic rescission clause, there may also be confusion regarding ''whether a court ruling or other action in fact triggers an automatic SIP revision under Georgia's automatic rescission clause.'' *See* 80 FR at 45637. In contrast, when a SIP revision is made in accordance with statutory and regulatory requirements, there is no ambiguity regarding how and when the SIP is changed.

Regarding Georgia EPD's comment that without the automatic rescission clause, ''facilities would have been required to continue to follow the provisions in the Tailoring Rule for an additional 14 months after the [Supreme] Court vacated the rule,'' EPA notes that shortly after the Supreme Court issued its decision, EPA announced that it would no longer

apply or enforce federal regulatory provisions or the EPA-approved PSD SIP provisions that require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant: (i) That the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (*e.g.,* 40 CFR 52.21(b)(49)(v)). Memorandum from Janet G. McCabe, Acting Asst. Adm'r, Office of Air & Radiation, to Regional Administrators, Regions 1–10, *Next Steps and Preliminary Views on the Application of Clean Air Act Permitting Programs to Greenhouse Gases Following the Supreme Court's Decision in Utility Air Regulatory Group* v. *EPA* (July 24, 2014), at 2 (available at *http://www3.epa.gov/nsr/documents/20140724memo.pdf*). EPA further announced that it did not intend to continue applying regulations that would require that states include in their SIP a requirement that such sources obtain PSD permits.'' *Id.* Georgia can exercise this same discretion with respect to enforcement of state GHG permitting requirements affected by the Supreme Court's decision that the State has not yet had the opportunity to revise.

EPA appreciates Georgia's desire to enable its SIP to automatically update to reflect actions that invalidate federal regulatory requirements. As Georgia EPD noted in its comments, there are some types of automatic updating provisions that EPA has found to be approvable. Specifically, EPA concluded that the automatic rescission clauses adopted by TDEC and LMAPCD were approvable because under those provisions, no change to the SIP will occur until EPA publishes a **Federal Register** document announcing that a portion of 40 CFR 52.21 has been stayed, vacated, or withdrawn. *See* 77 FR at 12485 (TDEC provision); 77 FR at 62153 (LMAPCD provision). Another acceptable approach would be to enable the SIP to automatically update to reflect revisions to 40 CFR 52.21.

Comment 7: Georgia EPD states that EPA has itself adopted a similar automatic rescission clause in a note to paragraph (b)(2)(iii)(a) of 40 CFR 52.21, which states: ''By court order on December 24, 2003, the second sentence of this paragraph (b)(2)(iii)(a) is stayed indefinitely. The stayed provisions will become effective immediately if the court terminates the stay.''

Response 7: EPA disagrees with this comment. The language in 40 CFR 52.21 cited by Georgia EPD has no substantive effect on the regulations and therefore is not an automatic rescission clause. It was added by EPA to clarify for the public that paragraph (b)(2)(iii)(a) was stayed indefinitely by the D.C. Circuit in *State of New York* v. *EPA,* No. 03–1380 and consolidated cases. As EPA explained in the **Federal Register** notice promulgating this language, ''this rule is merely a housekeeping measure that reflects the court order. The action does not have any substantive effect.'' 69 FR 40274, 40275. In any event, as discussed above, EPA's procedural obligations derive from the APA, not the CAA. While the APA provides some exceptions from public notice requirements, CAA section 110(l) does not.

Comment 8: GIEC states that EPA's August 19, 2015 promulgation of the Final Rule entitled ''Prevention of Significant Deterioration and Title V Permitting for Greenhouse Gases: Removal of Certain Vacated Elements,'' 80 FR 501999, compels the Agency to take final action to approve Georgia's rescission clause to the extent that it operates to invalidate Georgia's incorporation of 40 CFR 52.21(b)(49)(v) and to effectively remove the paragraph from the Georgia SIP. According to GIEC, the automatic operation of the rescission clause to invalidate Georgia's incorporation of 40 CFR 52.21(b)(49)(v) is functionally identical to, and cannot be distinguished from, the ministerial action EPA performed in its August 19, 2015 Final Rule. Accordingly, GIEC contends that EPA's August 19, 2015 Final Rule rendered moot any grounds on which EPA could rely to disapprove Georgia's automatic rescission clause to the extent it operates to invalidate Georgia's incorporation of now-vacated and removed 40 CFR 52.21(b)(49)(v). GIEC further claims that EPA's final rule removing 40 CFR 52.21(b)(49)(v) establishes that the rescission clause's invalidation of Georgia's incorporation of 40 CFR 52.21(b)(49)(v) would not contravene 40 CFR 51.105 because such invalidation is consistent with EPA's interpretation of the triggering action on federal permitting requirements at 40 CFR 52.21.

Response 8: EPA disagrees with this comment. It is not possible for EPA to approve Georgia's automatic rescission clause only for the limited purpose of enabling the automatic rescission of Georgia's incorporation by reference of 40 CFR 52.21(b)(49)(v). The plain language of the rescission clause extends well beyond the GHG permitting requirements to encompass ''all of any portion of 40 CFR 52.21'' that contains the term ''subject to regulation'' that is impacted by a triggering action. *See* Georgia Rule 391–3–1–.02(7)(a)(2)(iv). As explained above, EPA concludes that it cannot approve this language into Georgia's SIP because it would allow for future automatic SIP revisions without reasonable public notice as required by CAA 110(l) and without EPA approval as required by 40 CFR 51.105.

Comment 9: GIEC states that EPA's approval of the rescission clause to the extent that it operates to invalidate 40 CFR 52.21(b)(49)(v) would avoid unnecessary delay in removal of this provision from the Georgia SIP, and that such delay could likely result in confusion on the part of the regulated industry about how the D.C. Circuit's Amended Judgment affects the PSD and Title V regulations and PSD permitting requirements administered by the Georgia EPD.

Response 9: With respect to GIEC's concern that any delay in removing Georgia's incorporation of 40 CFR 52.21(b)(49)(v) into its SIP could likely result in confusion on the part of the regulated industry regarding applicable PSD permitting requirements, as acknowledged by the commenter, EPA has issued several memoranda explaining how EPA interprets the effect of the U.S. Supreme Court's decision on PSD permitting requirements, and these memoranda are available on EPA's Web site. Further information regarding EPA's interpretation of the impact of the Court's decision appears in the August 19, 2015, **Federal Register** notice removing certain vacated provisions from the CFR. *See* 80 FR at 50199. Finally, as discussed above, EPA has announced that it will no longer apply or enforce federal regulatory provisions or the EPA-approved PSD SIP provisions that require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (*e.g.,* 40 CFR 52.21(b)(49)(v)). Georgia can exercise this same discretion with respect to enforcement of state GHG permitting requirements affected by the Supreme Court's decision (and the D.C. Circuit's subsequent Amended Judgment) that the State has not yet had the opportunity to revise. Regarding GIEC's concerns with respect to the Title V operating permit regulations, EPA notes that today's final action does not impact Georgia's approved Title V program because a state's title V regulations are not incorporated into the SIP and are not subject to SIP revision procedures.

Comment 10: Georgia EPD states that ''if the federal GHG rule (or part of the federal rule) is vacated and considered invalid or stayed by the Courts, it should be immediately removed from the Georgia SIP. The state rulemaking process can be time consuming and may not be capable of responding to judicial, executive (including EPA), or congressional action in time to allow the permitting process to remain consistent with federal requirements. Therefore, Georgia EPD created the rescission clause to ensure that Georgia's PSD rule will be consistent with federal requirements at all times.''

Response 10: EPA appreciates Georgia's desire to ensure that the permitting requirements in its SIP remain consistent with federal requirements. However, Georgia's proposed automatic rescission clause would create the possibility that Georgia's SIP would be inconsistent with federal requirements in the wake of a triggering action. Specifically, Georgia's proposed rescission clause would revise Georgia's SIP automatically following a triggering action, without waiting for EPA's public notice explaining how exactly the triggering action impacts federal requirements. Georgia EPD (and Georgia courts) may disagree with EPA regarding the regulatory changes brought about by a triggering action under Georgia's automatic rescission clause, resulting in confusion for regulated entities and the general public. This possibility of inconsistency between the Georgia SIP and federal regulatory requirements, and the lack of public notice regarding such inconsistency, makes Georgia's proposed automatic SIP revision different from other automatic updating mechanisms that EPA has found to be approvable. For example, as Georgia EPD noted in its comments, EPA concluded that the automatic rescission clauses adopted by TDEC and LMAPCD were approvable because under those provisions, no change to the SIP will occur until EPA publishes a **Federal Register** notice announcing that a portion of 40 CFR 52.21 has been stayed, vacated, or withdrawn. *See* 77 FR at 12485; 77 FR at 62153. Another acceptable approach would be to enable the SIP to automatically update to reflect to the most recent version of 40 CFR 52.21, which is the approach that EPA takes with respect to Federal Implementation Plans (FIPs) that apply 40 CFR 52.21 in states that have not adopted PSD permitting requirements into their SIP. Under these alternative approaches, regulated entities and the public can be certain that any changes to the SIP resulting from automatic updating will simply reflect express changes to the federal requirements in 40 CFR 52.21, and that there will be no inconsistency between the SIP and federal permitting regulations.

Comment 11: Georgia EPD notes that EPA stated in its proposed action that disapproval of Georgia's proposed automatic rescission clause ''does not impose additional requirements beyond those imposed by state law'' and ''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.*).'' However, Georgia EPD believes that requiring PSD permitting requirements for facilities that a court has vacated and considered invalid or stayed does impose additional requirements beyond those imposed by state law and does have a significant economic impact on a substantial number of small entities.

Response 11: EPA disagrees with this comment. EPA's disapproval of Georgia's automatic rescission clause does not itself impose any additional requirement on any regulated entity beyond those requirements imposed by state law. In particular, the rescission clause is merely a procedural mechanism by which requirements that EPA previously approved into Georgia's SIP at Georgia's request would be automatically invalidated in the wake of a triggering action. As discussed above, EPA has determined that it cannot approve this procedural mechanism because it contravenes CAA and regulatory requirements governing SIP revisions. This action does not impair Georgia's existing ability to request a SIP revision in accordance with the procedures set forth in the CAA and federal regulations. Because EPA's disapproval of Georgia's automatic rescission clause does not impose any additional requirement on any regulated entity, this final action will not have a significant economic impact on a substantial number of small entities. Accordingly, EPA concludes pursuant to section 605 of the Regulatory Flexibility Act, 5 U.S.C. 605, that a regulatory flexibility analysis is unnecessary.

III. Final Action

EPA is taking final action to disapprove the provision in Georgia's January 13, 2011, SIP submittal (at Georgia Rule 391–3–1–.02(7)(a)(2)(iv)) that would automatically rescind permitting-related federal requirements in certain circumstances. Previously, EPA approved the remainder of Georgia's January 13, 2011, SIP revision, which related to PSD requirements for GHG-emitting sources and for the $PM_{2.5}$ NAAQS. *See* 76 FR 55572 (September, 8, 2011). This action does not change what EPA previously approved. EPA notes that this disapproval action does not obligate Georgia in any way to make a new SIP submittal and does not create any potential for sanctions because this provision is not a required element of the SIP.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *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. This action disapproves a state law as not 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 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 3, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 23, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

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 L—Georgia

■ 2. Amend § 52.572 by designating the existing undesignated paragraph as paragraph (a) and adding paragraph (b) to read as follows:

§ 52.572 Approval status.

* * * * *

(b) *Disapproval.* Submittal from the State of Georgia, through the Georgia's Department of Natural Resources Environmental Protection Division (EPD) on January 13, 2011, that would allow for the automatic rescission of federal permitting-related requirements in certain circumstances. EPA is disapproving a portion of the SIP submittal related to a provision (at 391–3–1–.02(7)(a)(2)(iv)) that would automatically rescind portions of Georgia's State Implementation Plan in the wake of certain court decisions or other triggering events (the automatic rescission clause).

[FR Doc. 2016–04746 Filed 3–3–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2014–0362; FRL–9943–29–Region 5]

Air Plan Approval; Ohio; Regional Haze Glatfelter BART SIP Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to extend the compliance date for the Best Available Retrofit Technology (BART) emission limits for sulfur dioxide (SO_2) at the P.H. Glatfelter Company (Glatfelter) facility submitted as part of its State Implementation Plan (SIP) Revision on April 14, 2014. Specifically, EPA is extending the compliance date for the SO_2 emission limits applicable to Boilers No. 7 and No. 8 at Glatfelter by 25 months, from December 31, 2014, to January 31, 2017. We have reviewed this SIP revision and concluded that it meets the requirements of the Clean Air Act and the regional haze rule and because BART requirements continue to be met.

DATES: This final rule is effective on April 4, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2014–0362. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (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 through *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 Gilberto Alvarez, Environmental Engineer, at (312) 886–6143 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Gilberto Alvarez, 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) 886–6143, *alvarez.gilberto@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 is the background for this action?
II. What action is EPA taking?
III. Final Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. What is the background for this action?

On July 2, 2012, EPA approved Ohio's Regional Haze SIP (77 FR 39177). Ohio's Regional Haze SIP included the applicability of BART to the State's only non-utility BART source, Glatfelter, in Chillicothe, Ohio. The BART requirement specified that two of the coal-fired boilers at this facility, No. 7 and No. 8, install control technology to limit the amount of SO_2 emissions from the boilers. The compliance date for BART emission reductions was scheduled to be December 31, 2014. The compliance date was aligned with Glatfelter's expected compliance date for the Industrial Boiler Maximum Achievable Control Technology (MACT) requirements finalized by EPA in May, 2011 (76 FR 28862).

On February 6, 2014, Ohio EPA received a request from Glatfelter to extend the original compliance date to January 31, 2017. The extension request

is based on the litigation, revision and new compliance date associated with the Industrial Boiler MACT. Under EPA regulations (40 CFR 51.308(3)(1)(iv)), BART is to be implemented ''as expeditiously as practicable, but in no event later than 5 years after approval of the implementation plan revision.'' The required compliance date is July 2, 2017.

This rulemaking addresses an April 14, 2014, submission supplemented on July 27, 2015, from the Ohio EPA to extend the compliance date from December 31, 2014, to January 31, 2017. One of the requests within the April 14, 2014, SIP revision includes ''the requirement that P.H. Glatfelter submit an application for modification of the federally enforceable permit (that will include a compliance date outlining, at a minimum, the specific, selected control technologies and methods of compliance) from December 31, 2013, to requiring the submittal provide for sufficient time for Ohio EPA to include these requirements, along with any appropriate monitoring, record keeping and reporting requirements, in the federally enforceable permit by no later than January 31, 2017.''

Ohio EPA supplemented its original submittal on July 27, 2015, with a revised federally enforceable permit for Glatfelter that included the new compliance date. Ohio EPA made the federally enforceable permit available for public comment on June 6, 2015, and comments were accepted through July 7, 2015. The Ohio EPA consulted the Federal Land Managers and included them in the public comment process. Two comments were received and those comments, along with Ohio EPA's responses were included in the July 27, 2015, submittal.

II. What action is EPA taking?

The CAA and the Regional Haze Rule require BART controls to be installed as expeditiously as practicable, but in no event later than five years after approval of the Regional Haze implementation plan revision. The proposed rulemaking associated with this final action was published on December 9, 2015 (236 FR 76403), and EPA received no comments during the comment period, which ended on January 8, 2016. EPA is therefore taking final action to approve, as proposed, Ohio's submission.

III. Final Action

EPA is approving a revision to the Ohio SIP submitted by the State of Ohio on April 14, 2014, supplemented on July 27, 2015, related to BART requirements for Glatfelter. Specifically, EPA is extending the compliance date for the SO_2 emission limits applicable to Boilers No. 7 and No. 8 at Glatfelter by 25 months from December 31, 2014, to January 31, 2017.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Ohio permit described in the amendments to 40 CFR part 52 set forth below. 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 CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 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 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 3, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

Dated: February 22, 2016.

Robert A. Kaplan,

Acting 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. In § 52.1870, the table in paragraph (d) is amended by revising the entry for ''P.H. Glatfelter Co.—Chillicothe'' to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED OHIO SOURCE-SPECIFIC PROVISIONS

Name of source	Number	Ohio effective date	EPA approval date	Comments
*	*	*	*	*
P.H. Glatfelter Co.—Chillicothe ...	P0118907	07/20/15	03/04/16, [Insert **Federal Register** citation].	Regional haze BART emissions limits.
*	*	*	*	*

* * * * *

[FR Doc. 2016–04730 Filed 3–3–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 435

Eligibility in the States, District of Columbia, the Northern Mariana Islands, and American Samoa

CFR Correction

In Title 42 of the Code of Federal Regulations, Parts 430 to 481, revised as of October 1, 2015, on page 161, in § 435.301, in paragraph (b)(2)(iii), remove the term ''425.330.320'' and add the term ''425.320'' in its place.

[FR Doc. 2016–04872 Filed 3–3–16; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 495

[CMS–3310 & 3311–F2]

RINs 0938–AS26 and AS58

Medicare and Medicaid Programs; Electronic Health Record Initiative Program—Stage 3 and Modifications to Meaningful Use in 2015 Through 2017; Corrections and Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; corrections and correcting amendment.

SUMMARY: This document corrects certain technical and typographical errors that appeared in the October 16, 2015 final rule with comment period titled ''Medicare and Medicaid Programs; Electronic Health Record Incentive Program—Stage 3 and Modifications to Meaningful Use in 2015 through 2017.''

DATES: This document is effective on March 4, 2016.

FOR FURTHER INFORMATION CONTACT: Kateisha Martin, (410) 786–4651.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2015–25595 of October 16, 2015 (80 FR 62762), in the final rule with comment period titled ''Medicare and Medicaid Programs; Electronic Health Record Incentive Program—Stage 3 and Modifications to Meaningful Use in 2015 through 2017'' (hereafter referred to as the ''2015 EHR Incentive Programs final rule with comment period''), there were a number of technical errors that are identified and corrected in this correcting amendment. The provisions in this document are treated as if they had been included in the 2015 EHR Incentive Programs final rule with comment period.

In the 2015 EHR Incentive Programs final rule with comment period, we specified the requirements that eligible professionals (EPs), eligible hospitals, and critical access hospitals (CAHs) must meet in order to participate in the Medicare and Medicaid EHR Incentive Programs and successfully demonstrate meaningful use of certified EHR technology. In addition, it changed the Medicare and Medicaid EHR Incentive Programs reporting period in 2015 to a 90-day period aligned with the calendar year. It also removed reporting requirements on measures that have become redundant, duplicative, or topped out from the Medicare and Medicaid EHR Incentive Programs. In addition, it established the requirements for Stage 3 of the program as optional in 2017 and required for all participants beginning in 2018. The final rule with comment period continues to encourage the electronic submission of clinical quality measure (CQM) data, establishes requirements to transition the program to a single stage, and aligns reporting for providers in the Medicare and Medicaid EHR Incentive Programs.

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 62767, in our discussion of certified EHR technology requirements for the EHR Incentive Program, we made a typographical error in the word ''use'' in the sentence specifying that providers may continue to use technology certified to the 2014 Edition until EHR technology certified to the 2015 Edition is required with an EHR reporting period beginning in 2018.

On page 62801, in our response to the public comment regarding ''Objective 4: Electronic Prescribing'' we made a typographical error in the word ''distinguish'' in the sentence specifying that we will no longer distinguish between prescriptions for controlled substances.

On page 62806, in our response to a public comment regarding ''Objective 4: Electronic Prescribing'' and the pathways acceptable for transmitting Summary of Care records, we inadvertently omitted the word ''have'' in the sentence specifying that to count in the numerator the sending provider must have reasonable certainty of receipt of the summary of care document. In addition, there is typographical error and the word ''obtain'' was omitted causing an incomplete sentence which reads ''Instead, r the referring provider must confirmation''. This sentence is

corrected to read ''Instead, the referring provider must obtain confirmation''.

On page 62819, we made a typographical error in our discussion regarding previous registrations with a public health agency or clinical data registry that occurred in a previous stage of meaningful use could count toward Active Engagement Option 1 for any of the EHR reporting periods in 2015, 2016 or 2017.

On page 62825, in Table 6—PUBLIC HEALTH REPORTING OBJECTIVE MEASURES FOR EPs, ELIGIBLE HOSPITALS, AND CAHs IN 2015 THROUGH 2017, we inadvertently included the phrase ''with a public health agency'' in the description of the Measure 3 Specialized Registry Reporting ''Measure Specification'' in error.

On page 62834, in our response to a public comment regarding the eventual progression toward universal inclusion of controlled substances in electronic prescribing as a desired goal, we made a grammatical error.

On page 62868, in our response to a public comment regarding reporting to specialized registries, we made a typographical error in the cross-reference for the section outlining the Specialized Registry Reporting measure for 2015 through 2017.

On page 62885, in Table 15—EP OBJECTIVES, MEASURES, AND CERTIFICATION CRITERIA FOR STAGE 3 IN 2018 AND SUBSEQUENT YEARS, we made technical errors in the descriptions of Measures 1 and 2 of Objective 6—Coordination of Care through Patient Engagement where the table text does not match the correct text in the preamble and regulation text for the correct year.

On page 62883, in TABLE 14—ELIGIBLE HOSPITAL/CAH OBJECTIVES, MEASURES, AND CERTIFICATION CRITERIA FOR STAGE 3 IN 2017, we made technical errors in the threshold description for Measures 1 and 2 of Objective 6 where the table text does not match the correct text in the preamble and regulation text for the correct year.

On page 62928, in Table 25—ESTIMATED ANNUAL INFORMATION COLLECTION BURDEN, we made typographical errors in the regulatory citations listed in the first column of the table.

B. Summary of Errors in the Regulations Text

On page 62945, in § 495.22(e)(3)(ii)(C)(*3*), we erroneously stated that the alternate exclusion applies for only measure 3 for EPs scheduled to be in Stage 1 in 2016 instead of stating that the exclusion applies for both measures 2 and 3 for EPs scheduled to be in Stage 1 in 2016.

On page 62948, in § 495.22(e)(10)(ii)(C)(*3*), we incorrectly referenced EPs instead of eligible hospitals or CAHs in specifying the exclusion for the immunization registry reporting measure.

On page 62951, in § 495.24(d)(7)(i)(B)(*3*), we erroneously stated that the provider must implement clinical information reconciliation for ''two of the following three'' clinical information sets instead of stating that the provider must implement clinical information reconciliation for ''the following three'' clinical information sets, which is consistent with the proposed regulation text (80 FR 16800) and the description in the final rule preamble (80 FR 62862).

On page 62952, in § 495.24(d)(7)(ii)(B)(*3*), we erroneously stated that the provider must implement clinical information reconciliation for ''two of the following three'' clinical information sets instead of stating that the provider must implement clinical information reconciliation for ''the following three'' clinical information sets, which is consistent with the proposed regulation text (80 FR 16801) and the description in the final rule preamble (80 FR 62862).

III. Waiver of Proposed Rulemaking, 60-Day Comment Period, and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support.

We believe that this document does not constitute a rulemaking that would be subject to these requirements. This document corrects technical and typographic errors in the preamble and regulation text included in the 2015 EHR Incentive Programs final rule with comment period. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies that were adopted subject to notice and comment procedures in the final rule with comment period. As a result, the corrections made through this document are intended to ensure that the 2015 EHR Incentive Programs final rule with comment period accurately reflects the policies adopted in that rule. In addition, even if this were a rulemaking to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule with comment period or delaying the effective date would be contrary to the public interest because it is in the public's interest for eligible professionals, eligible hospitals, and critical access hospitals to be advised, in a timely manner, of the meaningful use criteria and EHR reporting periods that they must meet in order to qualify for Medicare and Medicaid electronic health record incentive payments and avoid payment reductions under Medicare, and to ensure that the final rule with comment period accurately reflects our policies as of the date they take effect and are applicable. Furthermore, such procedures would be unnecessary, as we are not altering our policies; rather, we are simply implementing correctly the policies that we previously proposed, received comment on, and subsequently finalized. This correcting document is intended solely to ensure that the 2015 EHR Incentive Programs final rule with comment period accurately reflects these policies. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

IV. Correction of Errors

In FR Doc. 2015–25595 of October 16, 2015 (80 FR 62762), we are making the following corrections:

1. On page 62767, first column, first full paragraph, line 16, the phrase ''continue to usher'' is corrected to read ''continue to use''.

2. On page 62801, second column, first full paragraph, line 32, the phrase ''longer distinguishing between'' is corrected to read ''longer distinguish between''.

3. On page 62806, third column, first paragraph—

a. Lines 4 and 5, the phrase ''must reasonable certainty'' is corrected to read ''must have reasonable certainty''.

b. Line 9 and 10, the phrase ''Instead, r the referring provider must confirmation'' is corrected to read ''Instead, the referring provider must obtain confirmation''.

4. On page 62819, second column, last paragraph, line 12, the phrase ''a previous stages'' is corrected to read ''a previous stage''.

5. On page 62825, in TABLE 6—PUBLIC HEALTH REPORTING OBJECTIVE MEASURES FOR EPS, ELIGIBLE HOSPITALS, AND CAHS IN 2015 THROUGH 2017, second column (Measure specification column for Measure 3) lines 5 and 6, the phrase ''The EP, eligible hospital, or CAH is in active engagement with a public health agency to submit data to a specialized registry'' is corrected to read ''The EP, eligible hospital, or CAH is in active engagement to submit data to a specialized registry''.

6. On page 62834, first column, last paragraph, line 22, the phrase ''distinguishing between'' is corrected to read ''distinguish between''.

7. On page 62868, second column, first full paragraph, lines 39 and 40, the phrase ''section aII.B.2.b.x for further information'' is corrected to read ''Objective 10 in section II.B.2.a. of this final rule for further information''.

8. On page 62883, in Table 14—ELIGIBLE HOSPITAL/CAH OBJECTIVES, MEASURES, AND CERTIFICATION CRITERIA FOR STAGE 3 IN 2017—CONTINUED, second column—

a. Second set of paragraphs, second paragraph (Measure 1 of Objective 6), line 2, the phrase ''more than 10 percent'' is corrected to read ''more than 5 percent''.

b. Third set of paragraphs, last paragraph (Measure 2 of Objective 6) line 1, the phrase ''more than 25%'' is corrected to read ''more than 5%''.

9. On page 62885, in TABLE 15—EP OBJECTIVES, MEASURES, AND CERTIFICATION CRITERIA FOR STAGE 3 IN 2018 AND SUBSEQUENT YEARS, second column—

a. Line 17 from the bottom of the column (Measure 1 of Objective 6), the phrase ''Measure 1: For 2017, during the EHR reporting period'' is corrected to read ''Measure 1: During the EHR reporting period''.

b. Line 6 from the bottom of the column (Measure 2 of Objective 6), the phrase ''Measure 2: For 2017, more than 25%'' is corrected to read ''Measure 2: More than 25%''.

10. On page 62928, in TABLE 25—ESTIMATED ANNUAL INFORMATION COLLECTION BURDEN, the first column (Reg. Section)—

a. Line 1, the citation ''§ 495.x'' is corrected to read ''§ 495.24''

b. Line 3, the citation ''§ 495.6'' is corrected to read ''§ 495.22''.

List of Subjects in 42 CFR Part 495

Administrative practice and procedure, Electronic health records, Health facilities, Health professions, Health maintenance organizations (HMO), Medicaid, Medicare, Penalties, Privacy, Reporting and recordkeeping requirements.

As noted in section II.B. of this document, the Centers for Medicare & Medicaid Services is making the following correcting amendments to 42 CFR part 495:

PART 495—STANDARDS FOR THE ELECTRONIC HEALTH RECORD TECHNOLOGY INCENTIVE PROGRAM

■ 1. The authority citation for part 495 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 495.22 [Amended]

■ 2. Section 495.22 is amended as follows:

■ a. In paragraph (e)(3)(ii)(C)(*3*) by removing the phrase ''paragraph (e)(3)(ii)(A)(*3*) of this section in 2016'' and adding in its place the phrase ''paragraphs (e)(3)(ii)(A)(*2*) and (e)(3)(ii)(A)(*3*) of this section in 2016.''

■ b. In paragraph (e)(10)(ii)(C)(*3*) introductory text by removing the phrase ''if the EP:'' and adding in its place the phrase ''if the eligible hospital or CAH:''.

§ 495.24 [Amended]

■ 3. Section 495.24 is amended as follows:

■ a. In paragraph (d)(7)(i)(B)(*3*) introductory text by removing the phrase ''for two of the following three clinical information sets:'' and adding in its place the phrase ''for the following three clinical information sets:''.

■ b. In paragraph (d)(7)(ii)(B)(*3*) introductory text by removing the phrase ''for two of the following three clinical information sets:'' and adding in its place the phrase ''for the following three clinical information sets:''.

Dated: February 25, 2016.

Wilma Robinson,

Deputy Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2016–04785 Filed 3–3–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 510

[CMS–5516–F2]

RIN–0938–AS64

Medicare Program; Comprehensive Care for Joint Replacement Payment Model for Acute Care Hospitals Furnishing Lower Extremity Joint Replacement Services; Corrections and Correcting Amendments

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction and correcting amendments.

SUMMARY: In the November 24, 2015 **Federal Register** (80 FR 73274), we published a final rule to implement a new Medicare Part A and B payment model under section 1115A of the Social Security Act, called the Comprehensive Care for Joint Replacement (CJR) model, in which acute care hospitals in certain selected geographic areas will receive retrospective bundled payments for episodes of care for lower extremity joint replacement (LEJR) or reattachment of a lower extremity. The effective date was January 15, 2016. This correcting amendment corrects a limited number of technical and typographical errors identified in the November 24, 2015 final rule.

DATES: This correcting amendment is effective March 4, 2016.

FOR FURTHER INFORMATION CONTACT: Claire Schreiber, *cjr@cms.hhs.gov,* (410) 786–8939.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2015–29438 of November 24, 2015 (80 FR 73274), the final rule

entitled ''Comprehensive Care for Joint Replacement Payment Model for Acute Care Hospitals Furnishing Lower Extremity Joint Replacement Services'' there were a number of technical and typographical errors that are identified and corrected in this correcting amendment. The provisions in this correcting amendment are effective as if they had been included in the final rule appearing in the November 24, 2015 **Federal Register**.

II. Summary of Errors

A. Summary of Errors in the Preamble

On pages 73274 and 73282, we made an error in identifying the acronym ''MS–DRG''.

On pages 73289, 73335, 73412, 73526, and 73528, we made inadvertent typographical errors which included the omission and addition of words, symbols, and lines of text.

On pages 73324, 73381, and 73535, we made typographical errors in the Medicare Severity Diagnosis Related Group (MS–DRG) and National Quality Forum (NQF) numbers.

On page 73324, we made typographical and grammatical errors when specifying several regulatory citations.

On pages 73338, 73355, 73357, and 73358, in our discussion of the ''Episode Price Setting Methodology'', we implied that the calculation of prospective target prices will incorporate the effective discount percentage determined by quality performance under the model. We clarify that target prices will be determined prospectively using a 3 percent discount percentage, and hospitals may experience a different effective discount percentage at reconciliation due to quality.

On page 73362, in our discussion of the ''Methodology To Determine Performance on the Quality Measures'', we made an error in the data submission requirements for the percentage of the eligible elective primary THA/TKA patients needed.

B. Summary of Errors in the Regulations Text

On page 73543, in the regulations text for § 510.300, we erroneously included a paragraph regarding adjustments for quality performance (paragraph (a)(4)). We note that as specified in the final rule, target prices will be determined prospectively using a 3 percent discount percentage, and hospitals may experience a different effective discount percentage at reconciliation due to quality. To correct this error, we have removed paragraph (a)(4) and renumbered the subsequent paragraph (that is, the current paragraph (a)(5)) .

On page 73544, in the regulation text at § 510.300(c)(2) (Determination of episode target prices) we inadvertently omitted the discount factor for repayment amounts in program years (PYs) 4 and 5. To correct this error, we have added a paragraph (c)(2)(iii).

On page 73549, in the regulation text at § 510.305, we made a cross-referencing error.

The corrections to the errors summarized in this section appear in the regulations text of this correcting amendment.

III. Waiver of Proposed Rulemaking, 60-Day Comment Period, and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and the agency includes a statement of support.

We believe that this document does not constitute a rulemaking that would be subject to these requirements. This document corrects technical and typographic errors in the preamble and regulation text included in the Medicare Program; Comprehensive Care for Joint Replacement Payment Model for Acute Care Hospitals Furnishing Lower Extremity Joint Replacement Services (80 FR 73274). The corrections contained in this document are consistent with, and do not make substantive changes to, the policies that were adopted subject to notice and comment procedures in the final rule. As a result, the corrections made through this document are intended to ensure that the Medicare Program; Comprehensive Care for Joint Replacement Payment Model for Acute Care Hospitals Furnishing Lower Extremity Joint Replacement Services final rule accurately reflects the policies adopted in that rule. In addition, even if this were a rulemaking to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest because it is in the public's interest for the CJR model final rule to accurately reflect our policies as of the date they take effect and are applicable. Furthermore, such procedures would be unnecessary, as we are not altering our policies; rather, we are simply implementing correctly the policies that we previously proposed, received comment on, and subsequently finalized. This correcting document is intended solely to ensure that the Medicare Program; Comprehensive Care for Joint Replacement Payment Model for Acute Care Hospitals Furnishing Lower Extremity Joint Replacement Services final rule accurately reflects these policies. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

IV. Correction of Errors in the Preamble

In FR Doc. 2015–29438 of November 24, 2015 (80 FR 73274), make the following corrections:

1. On page 73274, third column, line 18, the phrase ''MS–DRG Medical Severity Diagnosis-'' is corrected to read ''MS–DRG Medicare Severity Diagnosis-''.

2. On page 73282, third column, last paragraph, lines 6 and 7, the phrase ''Medical Severity Diagnosis-Related Group (MS–DRG)'' is corrected to read ''Medicare Severity Diagnosis-Related Group (MS–DRG)''.

3. On page 73289, third column, sixth full paragraph, line 2, the phrase ''that that'' is corrected to read ''that''.

4. On page 73324—

a. Second column, first full paragraph, lines 26 and 27, the phrase ''MS–DRG 569'' is corrected to read ''MS–DRG 469''.

b. Third column—

(1) First partial paragraph, line 2, the phrase ''§ 510.210(a)'' is corrected to read ''§ 510.210(a).''.

(2) First full paragraph, line 3, the phrase ''§ 510.2 and'' is corrected to read ''§ 510.210.''

(3) After the first full paragraph, the reference ''§ 510.210(a).'' is corrected by removing the reference.

5. On page 73335, first column, first paragraph, lines 4 and 5, the phrase ''this final,'' is corrected to read ''this final rule,''.

6. On page 73338—

a. First column, last partial paragraph, lines 23 and 24, the phrase ''will have 8 potential target prices'' is corrected to read ''will have potential target prices at reconciliation''.

b. Second column, first partial paragraph,

(1) Lines 3 through 5, the phrase ''and between January 1 and September 30 vs. between October 1 and December 31 for performance years 2 through 5)'' is corrected to read ''and between January 1 and September 30 vs. between October 1 and December 31 for performance years 2 through 5), as well as different potential effective discount factors at reconciliation, which reflects quality performance, as discussed in section III.C.5.''.

(2) Lines 6 through 16, the phrase ''Each participant hospital in performance years 2 and 3 will have 16 target prices for the same combinations in performance years 1, 4, and 5, but with one group of 8 potential target prices for purposes of calculating reconciliation payments and another group of 8 potential target prices for purposes of determining hospital's responsibility for excess episode spending.'' is corrected to read ''Each participant hospital in performance years 2 and 3 will have target prices for the same combinations as in performance years 1, 4, and 5, but with the potential for additional effective discount factors at reconciliation that reflect the reduced discount percentage for purposes of determining a hospital's responsibility for excess episode spending.''

7. On page 73355—

a. First column, third full paragraph, lines 6 and 7, the phrase ''used to calculate its target prices.'' is corrected to read ''experienced at reconciliation''.

b. Third column, first full paragraph, lines 32 and 33, the phrase ''discount factor for participant hospitals with'' is corrected to read ''effective discount factor at reconciliation for participant hospitals with''.

8. On page 73357, third column, last bulleted paragraph, lines 4 through 7 and page 73358, first column, first partial paragraph, lines 1 through 4, the phrase '' the appropriate effective discount factor that incorporates any quality incentive payment, as briefly described in section III.C.4.b.(9) of this final rule and more specifically detailed in the response to comments in section III.C.5. of this final rule and Tables 19, 20, and 21.'' is corrected to read ''a 3-percent discount factor, as described in section III.C.4.b.(9). of this final rule.''.

9. On page 73381, second column, first full paragraph, line 38, the reference ''(NQF #0116)'' is corrected to read ''(NQF #0166)''.

10. On page 73412, third column, first full paragraph, line 29, the phrase ''only be only'' is corrected to read ''only be''.

11. On page 73526, third column, first full paragraph, lines 27 and 28, the phrase ''as well as- on other methods'' is corrected to read ''as well as other methods''.

12. On page 73528, first column, second paragraph, line 1, the acronym ''CJR'' is corrected by removing the acronym.

13. On page 73535, first column, fourth paragraph, line 14, the reference ''(NQF #0116)'' is corrected to read ''(NQF #0166)''.

List of Subjects for 42 CFR Part 510

Administrative practice and procedure, Health facilities, Medicare, Reporting and recordkeeping requirements.

Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendments to part 510:

PART 510—COMPREHENSIVE CARE FOR JOINT REPLACEMENT MODEL

■ 1. The authority citation for part 510 continues to read as follows:

Authority: Secs. 1102, 1115A, and 1871 of the Social Security Act (42 U.S.C. 1302, 1315(a), and 1395hh).

■ 2. Section 510.300 is amended by—

■ a. Removing paragraph (a)(4).

■ b. Redesignating paragraph (a)(5) as new paragraph (a)(4).

■ c. Adding paragraph (c)(2)(iii).

The addition reads as follows:

§ 510.300 Determination of episode target prices.

* * * * *

(c) * * *

(2) * * *

(iii) In performance years 4 and 5, 3.0 percent.

* * * * *

§ 510.305 [Amended]

■ 3. In § 510.305, paragraph (f)(1)(iii) is amended by removing the cross-reference ''§ 510.410(b)(5)'' and adding in its place the cross-reference ''§ 510.410(b)''.

Dated: February 24, 2016.

Wilma Robinson,

Deputy Executive, Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2016–04786 Filed 3–3–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 101206604–1758–02]

RIN 0648–XE480

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Increase

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

ACTION: Temporary rule; inseason trip limit increase.

SUMMARY: NMFS increases the trip limit in the commercial sector for king mackerel in the Florida east coast subzone to 75 fish per day in or from the exclusive economic zone (EEZ). This trip limit increase is necessary to maximize the socioeconomic benefits associated with harvesting the king mackerel commercial quota.

DATES: This rule is effective 12:01 a.m., local time, March 1, 2016, through March 31, 2016.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *susan.gerhart@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, and cobia) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On January 30, 2012 (76 FR 82058, December 29, 2011), NMFS implemented a commercial quota of

1,102,896 lb (500,265 kg) for Gulf migratory group king mackerel in the Florida east coast subzone (50 CFR 622.384(b)(1)(i)(A)). From November 1 through March 31, the Florida east coast subzone encompasses an area of the EEZ south of a line extending due east of the boundary between Flagler and Volusia Counties, FL, and north of a line extending due east of the boundary between Miami-Dade and Monroe Counties, FL. From November 1 through the end of February, king mackerel in or from the subzone may be possessed on board or landed from a permitted vessel in amounts not exceeding 50 fish per day (50 CFR 622.385(a)(2)(i)(A)).

However, beginning on March 1, if less than 70 percent of the Florida east coast subzone king mackerel commercial quota has been harvested by that date, king mackerel in or from that subzone may be possessed on board or landed from a permitted vessel in amounts not exceeding 75 fish per day (50 CFR 622.385(a)(2)(i)(B)(*2*)).

NMFS has determined that less than 70 percent of the quota for Gulf migratory group king mackerel in the Florida east coast subzone will be harvested by March 1, 2016. Accordingly, a 75-fish trip limit applies to vessels fishing for king mackerel in or from the EEZ in the Florida east coast subzone effective 12:01 a.m., local time, March 1, 2016. The 75-fish trip limit will remain in effect until the commercial quota is reached and the subzone closes, or until the end of the subzone's current fishing year on March 31, 2016.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf migratory group king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.385(a)(2)(i)(B)(*2*) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this commercial trip limit increase constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary rule is unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the trip limits has already been subject to notice and comment, and all that remains is to notify the public of the trip limit increase. Such procedures are contrary to the public interest, because prior notice and opportunity for public comment would require time, thus delaying fishermen's ability to catch more king mackerel than the present trip limit allows and preventing fishermen from reaping the socioeconomic benefits associated with this increased trip limit.

As this action allows fishermen to increase their harvest of king mackerel from 50 fish to 75 fish per day in or from the EEZ of the Florida east coast subzone, the AA finds it relieves a restriction and may go into effect without a 30-day delay in effectiveness, pursuant to 5 U.S.C. 553(d)(1).

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

Dated: March 1, 2016.

Emily H. Menashes,

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

[FR Doc. 2016–04798 Filed 3–1–16; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 140918791–4999–02]

RIN 0648–XE482

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Jig Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels using jig gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2016 Pacific cod total allowable catch apportioned to vessels using jig gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 1, 2016, through 1200 hours, A.l.t., June 10, 2016.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2016 Pacific cod total allowable catch (TAC) apportioned to vessels using jig gear in the Central Regulatory Area of the GOA is 222 metric tons (mt), as established by the final 2015 and 2016 harvest specifications for groundfish of the GOA (80 FR 10250, February 25, 2015) and inseason adjustment (81 FR 188, January 5, 2016).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2016 Pacific cod TAC apportioned to vessels using jig gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 217 mt and is setting aside the remaining 5 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using jig gear in the Central Regulatory Area of the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is

impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod for vessels using jig gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 29, 2016.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 1, 2016.

Emily H. Menashes,

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

[FR Doc. 2016–04809 Filed 3–1–16; 4:15 pm]

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Proposed Rules

Federal Register
Vol. 81, No. 43
Friday, March 4, 2016

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

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2011–BT–DET–0072]

RIN 1904–AC66 and 1904–AC51

Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Supplemental Proposed Determination of Miscellaneous Refrigeration Products as Covered Products

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

ACTION: Notice of proposed rulemaking; supplemental notice of proposed determination.

SUMMARY: The U.S. Department of Energy (DOE) is proposing to treat certain miscellaneous refrigeration products (MREFs), which include coolers and combination cooler refrigeration products, as covered products under Part A of Title III of the Energy Policy and Conservation Act (EPCA), as amended. This supplemental proposed determination would modify DOE's initial proposed scope of those products that would be considered MREFs presented in its earlier proposed determinations. As part of this supplemental proposed determination, DOE is also proposing specific definitions of the product categories that would fall within the MREF product type. In addition, DOE is proposing to amend its current definitions for refrigerators, refrigerator-freezers, and freezers to help clarify the distinctions between the proposed covered product definitions for MREFs. The proposed amendments to these definitions (for refrigerators, refrigerator-freezers, and freezers) would not alter the scope or intent of the current definitions, other than for those products that would newly be covered as combination cooler refrigeration products.

DATES: DOE will accept written comments, data, and information on this document, but no later than April 4, 2016.

The coverage and definitions proposed in this document would be effective 30 days after publication of any final coverage determination in the **Federal Register**. After that date, products within the scope of MREF coverage would be subject to any applicable test procedures and energy conservation standards established for MREFs.

ADDRESSES: This rulemaking can be identified by docket number EERE–2011–BT–DET–0072 and/or Regulatory Information Number (RIN) 1904–AC66 and 1904–AC51.

Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number, EERE–2011–BT–DET–0072 by any of the following methods:

- *Email:* to *Non-CompressorResRefrigProd-2011-DET-0072@ee.doe.gov.* Include EERE–2011–BT–DET–0072 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585– 0121. Phone: (202) 586–2945. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. Phone: (202) 586–2945. Please submit one signed paper original.

All submissions received must include the agency name and docket number or RIN for this rulemaking.

Docket: For access to the docket to read background documents or comments received, go to the U.S. Department of Energy, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024, (202) 586–2945, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at (202) 586–2945 for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Hagerman, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *Joseph.Hagerman@ee.doe.gov.*

In the Office of General Counsel, contact Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@doe.gov.*

For further information on how to review public comments, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

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I. Statutory Authority

Title III of the Energy Policy and Conservation Act (EPCA or the Act), as amended (42 U.S.C. 6291 *et seq.*), sets forth various provisions designed to improve energy efficiency. Part A of Title III of EPCA (42 U.S.C. 6291–6309) established the ''Energy Conservation Program for Consumer Products Other Than Automobiles,'' which covers consumer products and certain commercial products (hereafter referred to as ''covered products'').[1]

EPCA specifies a list of covered consumer products that includes refrigerators, refrigerator-freezers, and freezers. Although EPCA did not define any of these products, it specified that the extent of DOE's coverage would apply to those refrigerator, refrigerator-freezers, and freezers that can be operated by alternating current (AC) electricity, are not designed to be used without doors, and include a compressor and condenser as an integral part of the cabinet assembly. (42 U.S.C. 6292(a)(1)) EPCA did not preclude or otherwise foreclose the possibility that other consumer refrigeration products, such as those consumer refrigeration products addressed in this notice, could also be covered if they satisfy certain prerequisites. Those prerequisites, when met, permit the Secretary of Energy to classify additional types of consumer products as covered products. For a given product to be classified as a covered product, the Secretary must determine that:

(1) Classifying the product as a covered product is necessary for the purposes of EPCA; and

(2) the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours per year (kWh/yr). (42 U.S.C. 6292(b)(1))

When attempting to cover additional product types, DOE must first determine whether these criteria from 42 U.S.C. 6292(b)(1) are met. Once they have been satisfied, the Secretary may set standards for these additional products, subject to the provisions in 42 U.S.C. 6295(o) and (p), provided that DOE determines the four criteria of 42 U.S.C. 6295(l) have been met. First, the average per household energy use within the United States by the products of such type (or class) exceeded 150 kilowatt-hours (kWh) (or its British thermal unit (Btu) equivalent) for any 12-month period ending before such determination. Second, the aggregate household energy use within the United States by products of such type (or class) exceeded 4,200,000,000 kWh (or its Btu equivalent) for any such 12-month period. Third, a substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible. And fourth, the application of a labeling rule under 42 U.S.C. 6294 to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) that achieve the maximum energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(l)(1)) This determination would be made prior to DOE's setting of energy conservation standards for the product at issue.

In addition, if DOE issues a final determination that a given product—such as a miscellaneous refrigeration product or ''MREF''—is a covered product, DOE will consider adopting test procedures to measure its energy efficiency and determine if the required criteria of 42 U.S.C. 6295(l)(1) are met prior to setting any energy conservation standards for that product. DOE has already started the rulemaking processes for both the test procedures and the standards for MREFs.[2]

II. Current Rulemaking Process

On November 8, 2011, DOE published a notice of proposed determination of coverage (NOPD) to address the potential coverage of consumer refrigeration products without compressors in anticipation of a rulemaking to address these and related consumer refrigeration products. 76 FR 69147.

On February 23, 2012, DOE began a scoping process to set potential energy conservation standards and test procedures for wine chillers, consumer refrigeration products that operate without compressors, and consumer ice makers by publishing a notice of public meeting, and providing a framework document that addressed potential standards and test procedure rulemakings for these products. 77 FR 7547.

On October 31, 2013, DOE published in the **Federal Register** a supplemental notice of proposed determination of coverage (''SNOPD'') in which it tentatively determined that MREFs, which at the time included wine chillers, non-compressor refrigeration products, hybrid products (*i.e.* refrigeration products that combine a wine chiller with a refrigerator and/or freezer), and consumer ice makers, would satisfy the provisions of 42 U.S.C. 6292(b)(1). 78 FR 65223.

DOE published a notice of public meeting that also announced the availability of a preliminary technical support document (''TSD'') for MREFs on December 3, 2014 (''Preliminary Analysis''). 79 FR 71705. This preliminary analysis considered potential standards for the products proposed for coverage as MREFs in the SNOPD. DOE held a public meeting to discuss and receive comments on the preliminary analysis, which covered the analytical framework, models, and tools that DOE used to evaluate potential standards; the results of preliminary analyses performed by DOE for these products; the potential energy conservation standard levels derived from these analyses that DOE had been considering consistent with its obligations under EPCA; and all other issues raised issues that relevant to the development of energy conservation standards for the different classes of MREFs.

DOE also published a test procedure notice of proposed rulemaking (NOPR) on December 16, 2014 (''Test Procedure NOPR''), that proposed establishing definitions and test procedures for MREFs, including the product categories proposed for coverage in the SNOPD. The proposed test procedures to be included at Title 10 of the Code of Federal Regulations (CFR), part 430, subpart B, appendix A (''appendix A'') would measure the energy efficiency, energy use, and estimated annual operating cost of MREFs during a representative average use period and would not be unduly burdensome to conduct, as required under 42 U.S.C. 6293(b)(3)). 79 FR 74894.

After reviewing the comments received in response to both the Preliminary Analysis and the Test Procedure NOPR, DOE ultimately determined that its efforts at developing test procedures and potential energy conservation standards for these products would benefit from the direct and comprehensive input provided through the negotiated rulemaking process. On April 1, 2015, DOE published a notice of intent to establish a Working Group under the Appliance Standards and Rulemaking Federal Advisory Committee (''ASRAC'') that would use the negotiated rulemaking process to discuss and, if possible, reach consensus on the scope of coverage, definitions, test procedures, and proposed energy conservation standards for MREFs. 80 FR 17355. Subsequently, DOE formed a Miscellaneous Refrigeration Products Working Group

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[2] On *www.regulations.gov,* see docket ID EERE–2011–BT–STD–0043 for information regarding the energy conservation standards rulemaking and docket ID EERE–2013–BT–TP–0029 for information regarding the test procedure rulemaking.

(''MREF Working Group'' or, in context, ''the Working Group'') to address these issues. The Working Group consisted of 15 members, including two members from ASRAC and one DOE representative. The MREF Working Group met in-person during six sets of meetings held on May 4–5, June 11–12, July 15–16, August 11–12, September 16–17, and October 20.

On August 11, 2015, the MREF Working Group reached consensus on a term sheet that recommended the relevant scope of coverage, definitions, and test procedures for MREFs. See public docket EERE–2011–BT–STD–0043–0113 (''Term Sheet #1''). On October 20, 2015, the MREF Working Group reached consensus on a term sheet to recommend energy conservation standards for coolers and combination cooler refrigeration products. See public docket EERE–2011–BT–STD–0043–0111 (''Term Sheet #2''). ASRAC approved the term sheets during open meetings on December 18, 2015, and January 20, 2016, and sent them to the Secretary of Energy.

III. Scope of Coverage

As discussed in the previous section, DOE's Test Procedure NOPR and Preliminary Analysis for MREFs were consistent with the scope of coverage outlined in the SNOPD.

In response to the feedback received from interested parties on the Preliminary Analysis and Test Procedure NOPR, the MREF Working Group was tasked with recommending a scope of coverage for MREFs. To this end, the Working Group's Term Sheet recommended that DOE drop two product categories that DOE had initially included in its scope—non-compressor refrigerators and ice makers. For non-compressor refrigerators, the Working Group members were unaware of the existence of such products and concluded that the non-compressor products that do exist would be considered coolers (formerly ''cooled cabinets'') under the definitions recommended by the MREF Working Group. Accordingly, it recommended dropping the non-compressor refrigerator product category since they would already be covered as coolers. For ice makers, the Working Group made two observations. First, the Working Group noted that ice makers are fundamentally different from the other product categories considered as MREFs, as emphasized by DOE's proposal to create a separate test procedure for them. Second, the Working Group noted that ice makers are currently covered as commercial equipment and there is no clear differentiation between consumer and commercial ice makers. See Term Sheet #1.

Based on feedback from interested parties and recommendations from the MREF Working Group, DOE is proposing that MREF coverage would apply only to coolers (formerly cooled cabinets) and combination cooler refrigeration products (formerly hybrid refrigeration products). DOE is also proposing definitions for these product categories.

IV. Evaluation of Miscellaneous Refrigeration Products as Covered Products

Determining whether to treat MREFs as a covered product requires satisfying certain statutory criteria. As stated in section I of this notice, DOE may classify a consumer product as a covered product if (1) classifying products of such type as covered products is necessary and appropriate to carry out the purposes of EPCA; and (2) the average annual per household energy use by products of such type is likely to exceed 100 kWh (or its Btu equivalent) per year. (42 U.S.C. 6292(b)(1)) Additionally, to set standards for any newly covered product, the average per household energy use must exceed 150 kWh (or its British thermal unit (Btu) equivalent) for any 12-month period, and the aggregate household energy use must exceed 4.2 terawatt-hours (TWh) (or its Btu equivalent) for any such 12-month period. (42 U.S.C. 6295(l)(1))

A. Coverage Necessary or Appropriate To Carry Out Purposes of EPCA

In this document, DOE has tentatively determined that the coverage of MREFs is both necessary and appropriate to carry out the purposes of EPCA. MREFs, which comprise a small but significant and growing sector of the consumer refrigeration market, consume energy generated from limited energy supplies and regulating their energy efficiency would be likely to help conserve these limited energy supplies. Accordingly, establishing standards for these products falls squarely within EPCA's purposes to: (1) Conserve energy supplies through energy conservation programs; and (2) provide for improved energy efficiency of major appliances and certain other consumer products. (42 U.S.C. 6201)

B. Energy Use Estimates

DOE estimated the average household energy use for MREFs—coolers and combination cooler refrigeration products—to determine if the average annual per-household energy use of these products exceeds the 100 kWh/yr required for coverage under EPCA. For this analysis, DOE used the SNOPD analysis as a starting point and made improvements based on more recent or newly gathered data.

1. Coolers

DOE used market data, engineering models, and feedback from manufacturers received under non-disclosure agreements and during the MREF Working Group meetings to improve the estimates of average household energy use for coolers as determined in the SNOPD.

While the SNOPD considered different product categories based on both compartment temperatures (*e.g.,* cooler, refrigerator, or freezer) and refrigeration type (*e.g.,* vapor-compression, thermoelectric, *etc.*), DOE has reorganized the analysis for consistency with the scope of coverage and product definitions recommended by the MREF Working Group, as described in sections III and VI of this notice, respectively. For coolers, the definition would incorporate products regardless of refrigeration system under the same product definition. However, to better account for the energy use characteristics of these products, the updated analysis separates coolers into four product categories based on refrigerated volume and installation type.

DOE has updated several components of its energy use estimates since the SNOPD. DOE surveyed product owners to improve its estimate of market saturation rates.[3] DOE has also revised its estimates of product lifetimes based on recommendations from the MREF Working Group. Finally, DOE updated its estimates of energy consumption per unit through feedback from manufacturers, the MREF Working Group, the Association of Home Appliance Manufacturers,[4] as well as product information available on manufacturer and retailer Web sites.

Table IV.1 shows the estimated annual energy use for each type of cooler. DOE found that across all cooler product types, coolers have an average lifetime of over 10 years, and an average annual energy consumption of 440 kWh per household.

[3] See J. B. Greenblatt et al. U.S. Residential Miscellaneous Refrigeration Products: Results from Amazon Mechanical Turk Surveys. 2014. Lawrence Berkeley National Laboratory: Berkeley, CA. (Report No. LBNL–6537E) and S. M. Donovan, S. J. Young and J. B. Greenblatt. Ice-Making in the U.S.: Results from an Amazon Mechanical Turk Survey. 2015. Lawrence Berkeley National Laboratory: Berkeley, CA. (Report No. LBNL–183899).

[4] See Docket No. EERE–2011–BT–STD–0043–0106.

TABLE IV.1—COOLERS ESTIMATED ANNUAL ENERGY USE

	Units	Product type				Totals or averages
		Compact FS *	Compact BI *	FS *	BI *	
Average Energy Consumption (per unit).	kWh/year	450	250	370	340	440
Stock	Units, 2014	14,500,000	55,000	610,000	120,000	15,300,000
National Energy Consumption.	TWh/year	6.5	0.014	0.23	0.042	6.8
Average Lifetime	years	10.3	10.3	17.4	17.4	10.6
Annual Sales	Units, 2014	1,400,000	5,400	35,000	7,100	1,460,000
Saturation	%	12.6	0.05	0.5	0.1	

* FS = Freestanding, BI = Built-in.

2. Combination Cooler Refrigeration Products

DOE used market data, engineering models, and feedback from manufacturers received under non-disclosure agreements and during the MREF Working Group meetings to improve the estimates of average household energy use for combination cooler refrigeration products as determined in the SNOPD.

Similar to the updated coolers analysis in this notice, DOE revised its combination cooler refrigeration product analysis consistent with the scope of coverage and product definitions recommended by the MREF Working Group, as described in sections III and VI of this notice, respectively. The updated combination cooler refrigeration product definition removes the 50-percent cooler compartment volume requirement that was needed for a product to be considered a combination cooler refrigeration product in the SNOPD. The updated analysis reflects additional products being included under the ''combination cooler refrigeration products'' definition.

DOE has updated several components of its combination cooler refrigeration product energy use estimates since publication of the SNOPD. DOE updated its estimate of annual shipments based on manufacturer feedback. DOE has also revised its estimates of product lifetimes based on recommendations from the MREF Working Group. Finally, DOE updated its estimates of energy consumption per unit through manufacturer and MREF Working Group-member feedback and an examination of more recent product information available on manufacturer and retailer Web sites.

Table IV.2 shows the estimated annual energy use for each type of combination cooler refrigeration product. DOE found that across product types, these products have an average lifetime of about 12.6 years, and an average annual energy consumption of 222 kWh per household.

TABLE IV.2—COMBINATION COOLER REFRIGERATION PRODUCTS ANNUAL ENERGY USE

	Units	Product type *				Totals or averages
		C3A–BI	C9–BI	C13A	C13A–BI	
Average Energy Consumption (per unit).	kWh/year	210	280	210	220	220
Stock	Units, 2014	70,000	70,000	160,000	120,000	430,000
National Energy Consumption.	TWh/year	0.015	0.019	0.035	0.027	0.095
Average Lifetime	years	17.4	17.4	10.3	10.3	12.6
Annual Sales	Units, 2014	4,000	4,000	16,000	12,000	36,000
Saturation		0.06%	0.06%	0.14%	0.11%	

Product types for combination cooler refrigeration products are based on the product class of refrigerator, refrigerator-freezer, or freezer that the product would be categorized under if it did not have a cooler compartment.

3. Conclusions

Based upon its evaluations of coolers and combination cooler refrigeration products, DOE has developed estimates of their annual energy use. These estimates indicate that these products, on average, consume significantly more than 100 kWh annually. Therefore, DOE has tentatively determined that the average annual per household energy use for MREFs is likely to exceed the 100 kWh/yr threshold set by EPCA needed to classify a product as covered. Moreover, DOE has determined that MREFs on average consume more than 150 kWh/yr, and that the aggregate annual national energy use of these products is 6.9 TWh, which exceeds the 4.2 TWh minimum threshold. Accordingly, these data indicate that MREFs appear to satisfy at least two of the four criteria required by EPCA in order to establish energy conservation standards for a product that the Secretary chooses to add for regulatory coverage. See 42 U.S.C. 6295(l)(1)(A)–(D).

V. Product Definitions

Consistent with the SNOPD, the Test Procedure NOPR laid out potential definitions for the following four product categories that DOE indicated would be considered as MREFs: Cooled cabinets, non-compressor refrigerators, hybrid refrigerators, and ice makers. DOE proposed to define ''cooled cabinets'' as products that maintain internal temperatures warmer than refrigerators; ''non-compressor refrigerators'' as products that otherwise meet the existing refrigerator definition, but do not use vapor-compression refrigeration; ''hybrid refrigeration products'' as products with a warm-temperature (*i.e.* a temperature lower than the ambient, but warmer than that which is used to safely store fresh food) compartment (*e.g.,* a wine chiller) combined with a fresh food and/or

freezer compartment, with the warm-temperature compartment comprising at least 50 percent of the product's total refrigerated volume; and ''ice makers'' as consumer products designed to automatically produce and harvest ice that would not be considered any of the other consumer refrigeration products (*e.g.,* refrigerator-freezer or freezer). DOE also proposed amending the existing ''refrigerator,'' ''refrigerator-freezer,'' and ''freezer'' product definitions for consistency and to improve their clarity when viewed in conjunction with the proposed MREF definitions. 79 FR 74894, 74899–74904 (Dec. 16, 2014).

The MREF Working Group subsequently discussed how and whether to define the various terms related to MREFs. The Working Group ultimately reached a consensus that is reflected in Term Sheet #1's recommendations, which included dropping DOE's proposed definitions for non-compressor refrigerators and ice makers, updating the terms used to describe the covered MREF product categories based on the discussions and analyses conducted during the Working Group meetings, revising the proposed MREF product definitions, and amending the existing definitions for refrigerators, refrigerator-freezers, and freezers to ensure consistency with the recommended MREF definitions. See Term Sheet #1.

Consistent with these recommendations, DOE is proposing new or amended definitions for the relevant product definitions that would be added to the Code of Federal Regulations (CFR) at 10 CFR 430.2. DOE is proposing new definitions for MREFs to clearly delineate which products would fall within the scope of coverage for MREFs and within which MREF product categories. DOE is also proposing similar conforming amendments to the existing definitions for refrigerators, refrigerator-freezers, and freezers for consistency with the proposed MREF definitions. The proposed amendments are intended to eliminate confusion with the proposed MREF definitions, and would not affect the scope of coverage under the existing refrigerator, refrigerator-freezer, and freezer definitions, other than for those products that would be covered under DOE's proposed determination as combination cooler refrigeration products.

A. Coolers

In the Test Procedure NOPR, DOE proposed to define a ''cooled cabinet'' as a product operating using only electric energy input but is not a ''refrigerator'' because its compartment temperatures are warmer than the 39 degrees Fahrenheit (°F) threshold established for refrigerators, as determined in a 72 °F ambient temperature. 79 FR 74894, 74901–74902 (Dec. 16, 2014). This proposal was based on the premise that such a product would adequately capture items such as beverage centers and wine coolers, which typically operate above these temperatures.

The MREF Working Group term sheet (*i.e.,* Term Sheet #1) contained a recommendation that DOE revise this term from ''cooled cabinet'' to ''cooler'' and incorporate a number of other changes to the proposed definition. The Working Group recommended that compartment temperatures be determined during operation in a 90 °F ambient temperature to maintain consistency with the test conditions used for other refrigeration products. The Working Group also recommended excluding products designed to be used without doors, consistent with the exclusions DOE had proposed for the refrigerator, refrigerator-freezer, and freezer definitions in the Test Procedure NOPR. See 79 FR 74894 at 74900 (Dec. 16, 2014). The purpose of the exclusion would be to differentiate between consumer products and commercial equipment (*i.e.,* products designed for use without doors are commercial equipment rather than consumer products, consistent with the statutory coverage of refrigerators, refrigerator-freezers, and freezers). The Working Group further recommended the requirement that coolers operate on single-phase, alternating current rather than simply specifying operation with electric energy input. This approach would exclude those products designed for direct current or 3-phase power supplies, which would likely apply to products intended for use in mobile or commercial applications, respectively. See Term Sheet #1.

Consistent with this approach, DOE is proposing to define cooler using the definition for cooled cabinet proposed in the Test Procedure NOPR—but updated to reflect the Working Group's recommendations.

In response to the definitions proposed in the Test Procedure NOPR, Felix Storch, Inc. (''FSI'') commented that it is not aware of any non-compressor freezers, but it is aware of non-compressor refrigerators that are able to have a very small portion of their volume at a temperature cold enough to freeze ice cubes. (FSI, No. 15 at p. 1) [5] FSI also commented that the proposed category for non-compressor refrigerators was overly-broad. It stressed that there are two main purposes for non-compressor units: One is to serve as a low-price compact wine cellar or dormitory cooler, and the other is for use in special markets such as camping or truck refrigerators. It noted that these units should not have the same regulations as currently in effect for compressor units and instead, any thermoelectric product with a volume less than 1 cubic foot should be exempt from regulation so that these products can continue to be marketed. Also, FSI stated that DOE should exempt units without permanently attached power cords for 110-volt operation—such as car or truck refrigerators—that use a 12-volt default power cord. (FSI, No. 15 at pp. 4–5)

As described in section III of this document, DOE is not proposing separate coverage for non-compressor freezers or non-compressor refrigerators as MREFs. DOE does not agree with FSI's characterization above. Further, DOE is unaware of any non-compressor products capable of maintaining refrigerator or freezer compartment temperatures as proposed in this document (*i.e.,* the compartment temperatures determined during operation in a 90 °F ambient temperature as measured by appendix A). DOE expects that the products FSI identified as capable of freezing ice cubes do so either during operation at lower ambient temperatures or in a localized portion of the refrigerated compartment while the overall average compartment temperature would be higher than the range required to be considered a refrigerator. If true, DOE expects these products to fall under the cooler definition as proposed in this document instead of the refrigerator or freezer definitions because those products would need to be capable of achieving the compartment temperatures as measured by appendix A.

Rather, all non-compressor products would be considered coolers under the proposed definitions in this document. Further, DOE is proposing that the cooler definition include the Working Group's recommended requirement that coolers operate on single-phase, alternating current, which would exclude products designed for direct current power supplies, such as those mobile products equipped with a 12-

[5] A notation in the form ''FSI, No. 15 at p. 1'' identifies a written comment: (1) Made by Felix Storch, Inc. (FSI); (2) recorded in document number 15 that is filed in the docket of the test procedure rulemaking for miscellaneous refrigeration products (Docket No. EERE–2013– BT–TP–0029) and available for review at *www.regulations.gov*; and (3) which appears on page 1 of document number 15.

volt power cord. DOE also notes that non-compressor refrigeration products would not be subject to the current energy conservation standards in place for refrigerators, refrigerator-freezers, or freezers because the coverage of those products applies to products equipped with a compressor and condenser-based refrigeration system.

In addition, FSI argued that absorption refrigerators should not be regulated. In its view, regulating these products may make them too expensive for hotels to afford them and leave them with no viable option. FSI also argued that the absorption refrigeration product market is so small that DOE should conduct an additional DOE survey to determine if these products have a market large enough to warrant regulation. (FSI, No. 15 at p. 5) Because DOE is no longer proposing a separate definition for non-compressor refrigerators, absorption refrigerators would not be separately regulated as non-compressor refrigerators under the proposed MREF coverage. However, they likely would fall under the proposed cooler definition, and, if so, would be subject to any future energy conservation standards established for coolers.

In addition to the cooler definition recommended in Term Sheet #1, the MREF Working Group recommended that DOE establish definitions within the cooler product category based on total refrigerated volume and installation type. The Working Group recommended a ''compact'' designation for products with total refrigerated volumes of less than 7.75 cubic feet. The Working Group also recommended that DOE differentiate ''built-in'' from ''freestanding products'' by using definitions based on those already in place for built-in refrigerators, refrigerator-freezers, and freezers. See Term Sheet #1.

Consistent with these recommendations, DOE is proposing definitions within the cooler definition based on refrigerated volume and configuration, consistent with the same requirements and definitions currently in place for refrigerators, refrigerator-freezers, and freezers.

B. Combination Cooler Refrigeration Products

In the Test Procedure NOPR, DOE proposed that the term ''hybrid refrigeration product'' would refer to products equipped with a warm-temperature compartment (*e.g.,* a wine chiller), making up at least 50 percent of a product's volume, combined with a fresh food and/or freezer compartment. 79 FR 74894, 74903–74904 (Dec. 16, 2014).

The MREF Working Group discussed the proposed definition and recommended that DOE revise the term from ''hybrid refrigeration product'' to ''combination cooler refrigeration product,'' noting that this term more clearly describes the product category. The Working Group also recommended that DOE refer to the warmer compartment within combination cooler refrigeration products as a ''cooler compartment,'' defined by the same temperature ranges as recommended for coolers described in section V.A of this document. The MREF Working Group recommended that DOE remove its proposed approach, which followed DOE's guidance that cooler compartments must make up at least 50 percent of a combination cooler refrigeration product's total volume. The Working Group noted that all products with cooler compartments would likely be used in the same way, and that the 50-percent threshold was an arbitrary cutoff. The Working Group further recommended that DOE exclude products designed for use without doors from the combination cooler refrigeration product definitions for the same reasons discussed for coolers (*i.e.,* differentiating between commercial equipment and consumer products). See Term Sheet #1.

DOE agrees with the MREF Working Group recommendations and the Working Group's reasoning behind each of them and is proposing to incorporate the suggested changes into the combination cooler refrigeration product definitions.

In response to the Test Procedure NOPR, FSI commented on the proposed definition of a hybrid product, stating that for compact units, if there is no freezer or ice cube section, then the entire product should be treated as a wine cellar. (FSI, No. 15 at p. 3) DOE notes that a product with a single compartment that is not a freezer would be classified as either a cooler or refrigerator, depending on what compartment temperatures the product maintains, rather than a combination cooler refrigeration product based on the definitions proposed in this document.

In addition to the general combination cooler refrigeration product requirements, the MREF Working Group recommended that DOE define four product categories of combination cooler refrigeration products, including: ''cooler-refrigerator,'' ''cooler-refrigerator-freezer,'' and ''cooler-freezer.'' The Working Group recommended definitions for these products that are consistent with the non-combination cooler product definitions (*e.g.,* refrigerator, refrigerator-freezer, *etc.*) with the additional requirement that they include multiple compartments, at least one of which is a cooler compartment. The Working Group also recommended that the combination cooler refrigeration product definitions not exclude non-compressor products. See Term Sheet #1.

DOE agrees with the recommendations made by the MREF Working Group, since the four product categories offer specific and unique consumer utility. In contrast, in DOE's view, refrigeration technology (compressor-based or non-compressor) alone does not appear to offer any special utility to consumers that would affect their interaction with the product when using it for its intended purpose (*e.g.,* cool storage of beverages). Therefore, DOE is proposing definitions for ''combination cooler refrigeration product,'' ''cooler-refrigerator,'' ''cooler-refrigerator-freezer,'' and ''cooler-freezer'' consistent with the definitions recommended in the Working Group's term sheet. Although DOE is not currently aware of any non-compressor combination cooler refrigeration products currently available on the market, DOE is proposing that non-compressor products would be covered under the combination cooler refrigeration product definitions to ensure that if any become available on the market in the future, they would be considered covered products, consistent with the Working Group's recommendation.

In this document, DOE also refers to the term ''cooler compartment.'' DOE intends to define this term as part of the separate MREF test procedure rulemaking.

C. Refrigerators, Refrigerator Freezers, and Freezers

As discussed in the Test Procedure NOPR, DOE proposed amendments to the refrigerator, refrigerator-freezer, and freezer product definitions to create a consistent structure with the proposed MREF definitions and to improve the clarity of the distinctions among the different definitions. 79 FR 74894, 74899–74901 (Dec. 16, 2014). DOE did not propose to redefine the scope of coverage for refrigerators, refrigerator-freezers, and freezers, or to amend the definitions in a manner that would affect how a currently covered product would be classified (other than for coverage of combination cooler refrigeration products as MREFs). The proposed amendments to the definitions

for these products would establish consistency with the proposed MREF definitions and were intended to improve the definitions' clarity and ensure no potential overlap between the definitions of these products and MREFs.

In response to the Test Procedure NOPR, FSI commented that it would remove confusion to categorize all-refrigerators with absolutely no freezer compartments as cooled cabinets. (FSI, No. 15 at pp. 2–3) Based on the proposed definitions for coolers discussed in section V.A of this notice, and the proposed definition of refrigerator described below, DOE notes that a product without a freezer compartment would be classified as either a cooler or refrigerator based on its compartment operating temperature. Because refrigerators and coolers offer different product utilities (*i.e.,* different storage temperatures) that affect energy consumption, DOE believes separate product definitions and coverage are appropriate.

FSI also commented that the definition for a refrigerator should be changed to ''all-refrigerator'' to specify that the product has no freezer compartment and the definition for refrigerator-freezer should be ''any cabinet that has a separate compartment for fresh food (39 °F or colder) and frozen food or ice, whether or not there is a single door or multiple doors.'' (FSI, No. 15 at pp.4–5) As described earlier in this section, the proposed amendments to the refrigerator, refrigerator-freezer, and freezer definitions were not intended to change the scope of coverage for those products, other than for combination cooler refrigeration products, but were intended to improve clarity. The recommended amendment would have the potential to change the classification of certain other products currently covered as refrigerators.

The MREF Working Group generally agreed with the revisions proposed in the Test Procedure NOPR, but recommended that compartment temperatures be determined during operation in a 90 °F ambient instead of 72 °F, as discussed for coolers in section V.A of this notice. The Working Group also recommended that DOE remove the proposed exclusion for products certified to American National Standards Institute (ANSI)/NSF International (NSF) 7–2009 *International Standard for Food Equipment—Commercial Refrigerators and Freezers* or ANSI/UL LLC (UL) 471–2006 *Standard for Commercial Refrigerators and Freezers,* noting that these certifications do not necessarily provide a clear distinction between consumer and commercial products. See Term Sheet #1.

After further examining this issue, DOE is proposing the following changes to the existing definitions for refrigerator, refrigerator-freezer, and freezer.

First, DOE is proposing to revise the current definitions for ''refrigerator'' and ''refrigerator-freezer'' and to eliminate the redundant terms ''electric refrigerator'' and ''electric refrigerator-freezer'' from 10 CFR 430.2.

Second, DOE is proposing to remove the phrase, ''designed to be capable of achieving [the specified temperature],'' with ''capable of maintaining compartment temperatures at [the specified temperature],'' and that this temperature condition would be based on operation in a 90 °F ambient temperature. As described in the Test Procedure NOPR, this change would help ensure that product classification would be definitively determined through testing and would rely on the product's actual capability to serve its intended purpose rather than relying on the design intent of the manufacturer.

Third, DOE is proposing to remove the current reference to the ''storage of food'' and ''freezing and storage of food'' from the product definitions to ensure accurate product classification and more effective enforcement of energy conservation standards. Similarly, and consistent with the proposed change described in the previous paragraph, DOE is proposing to amend the references to freezer compartments within the refrigerator and refrigerator-freezer definitions. The current definitions describe a freezer compartment as a compartment designed for the freezing and storage of food at temperatures below 8 °F which may be adjusted by the user to a temperature of 0 °F or below. DOE is proposing to amend the definitions to refer only to a compartment capable of maintaining compartment temperatures of 0 °F or below to limit any ambiguity regarding what would be considered a freezer compartment. DOE notes that the MREF Working Group's definitions recommended in Term Sheet #1 included the reference to 8 °F; however, DOE expects that its proposal to eliminate this reference is consistent with the Working Group's intent for the product definitions.

Fourth, DOE is proposing to treat products designed to be used without doors, and/or that do not include a compressor and condenser unit as an integral part of the cabinet assembly, as commercial equipment and, therefore, would be excluded from these product definitions. As discussed in section V.A of this notice for coolers, the exclusion for products designed to be used without doors is intended to differentiate between consumer products and commercial equipment (*i.e.,* products designed to be used without doors would be commercial). DOE's proposed approach would clarify that products without a compressor and condenser unit would be excluded from the refrigerator, refrigerator-freezer, and freezer definitions because this exclusion is included in the EPCA provisions that establish coverage for these products. (42 U.S.C. 6292(a)(1))

Finally, DOE notes that the definition for refrigerator-freezer requires that at least one compartment has attributes consistent with a fresh food compartment and that at least one compartment has attributes consistent with a freezer compartment. DOE is proposing to clarify that the same compartment could not satisfy both of these requirements in a refrigerator-freezer.

Similar to the intent of the Test Procedure NOPR, with the exception of those products that would be covered as combination cooler refrigeration products under this proposal, DOE is not proposing to redefine the scope of coverage for refrigerators, refrigerator-freezers, and freezers, or to amend the definitions in a manner that would affect how a currently covered product would be classified. The proposed amendments to the definitions for these products would establish a similar structure with the proposed MREF definitions. The proposed definitions are intended to improve clarity and ensure no potential overlap between the definitions of refrigerators, refrigerator-freezers, and freezers, and MREFs.

D. General Terms for the Groups of Products Addressed in This Document

In the Test Procedure NOPR, DOE proposed to define ''miscellaneous refrigeration product'' as a consumer refrigeration product other than a refrigerator, refrigerator-freezer, or freezer, which includes hybrid refrigeration products, cooled cabinets, non-compressor refrigerators, and ice makers. DOE also proposed to define ''consumer refrigeration product'' as a refrigerator, refrigerator-freezer, freezer, or miscellaneous refrigeration product. 79 FR 74894, 74904 (Dec. 16, 2014).

FSI stated that DOE could easily clarify a consumer refrigeration product based on the norms it can easily verify, such as the fact 90 percent of the refrigerator-freezers sold in the U.S. have a volume of 14 cubic feet or more, with the remainder mostly made up of dormitory (5 percent) or apartment (4

percent) sizes. It stated that a simple definition would allow DOE to cover 98 to 99 percent of the market and allow special markets to have suitable products. (FSI, No. 15 at p. 1)

DOE notes that its definitions are intended to provide clear differentiation while avoiding subjective determinations for what would be covered. Although the product types mentioned in the FSI comment make up most of the consumer refrigeration market, there are no established definitions for each subset of products that would fall under the proposed consumer refrigeration product definition, leaving DOE in the position of developing more specific definitions. DOE has already established detailed definitions to address refrigerators, refrigerator-freezers, and freezers, and is proposing additional definitions for coolers and combination cooler refrigeration products. DOE is proposing to refer to these products collectively as consumer refrigeration products.

The MREF Working Group recommended that DOE maintain the definitions for miscellaneous refrigeration product and consumer refrigeration product, but to update them to reflect the more current product terminology and to remove references to non-compressor refrigerators and ice makers. See Term Sheet #1.

DOE is proposing to define the terms ''miscellaneous refrigeration product'' and ''consumer refrigeration product'' consistent with the recommended updates from the MREF Working Group. In DOE's view, these proposed changes will better reflect the recommended approach detailed in the Working Group's recommendations to help ensure their clarity with respect to the other proposed definitions discussed in this document.

VI. Procedural Issues and Regulatory Review

DOE has reviewed its supplemental proposed determination of coverage for MREFs under the following executive orders and acts.

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that coverage determination rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Additionally, the definitions proposed in this document would clarify the definitions of certain specific products already regulated by DOE and those products that are under consideration for potential regulatory coverage. No new requirements would result from the proposals contained in this document. Accordingly, this proposed action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996) requires preparation of a regulatory flexibility analysis for any rule that, by law, must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis examines the impact of the rule on small entities and considers alternative ways of reducing negative effects. Also, as required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003 to ensure that the potential impact of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990 (Feb. 19, 2003). DOE makes its procedures and policies available on the Office of the General Counsel's Web site at *http://energy.gov/gc/office-general-counsel.*

DOE reviewed this proposed determination and proposal under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. If adopted, this proposed determination and proposal would set no standards; it would only positively determine that future standards may be warranted and should be explored in an energy conservation standards and test procedure rulemaking. Economic impacts on small entities would be considered in the context of such rulemakings. On the basis of the foregoing, DOE certifies that the proposed determination, if adopted, has no significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this proposed determination and proposal. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

This proposed determination that MREFs meet the criteria for a covered product for which the Secretary may prescribe an energy conservation standard, pursuant to 42 U.S.C. 6295(o) and (p), imposes no new information or record-keeping requirements. Neither would any aspect of the proposal impose such requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

In this notice, DOE proposes to positively determine that MREFs (as proposed to be defined in this document) meet the criteria for classification as covered products and that future energy conservation standards may be warranted to regulate their energy usage. Should DOE pursue that option, the relevant environmental impacts would be explored as part of that rulemaking. As a result, DOE has determined that this proposed action falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed action would establish a class of products (MREFs) for which energy conservation standards would be appropriate. However, this proposed action would not establish energy conservation standards, and, therefore, would not result in any environmental impacts. Thus, this action is covered by Categorical Exclusion A6 ''Procedural rulemakings'' under 10 CFR part 1021, subpart D. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order (E.O.) 13132, ''Federalism'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to assess carefully the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in developing

regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process that it will follow in developing such regulations. 65 FR 13735 (Mar. 14, 2000). DOE has examined this proposed determination and proposal. On the basis of this examination, DOE concludes that the action proposed in this document would not preempt State law or have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the product that is the subject of this proposed determination and proposal. States can petition DOE for exemption from such preemption to the extent permitted, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the duty to: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation specifies the following: (1) The preemptive effect, if any; (2) any effect on existing Federal law or regulation; (3) a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) the retroactive effect, if any; (5) definitions of key terms; and (6) other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether these standards are met, or whether it is unreasonable to meet one or more of them. DOE completed the required review and determined that, to the extent permitted by law, this proposed determination and proposal meet the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, codified at 2 U.S.C. 1501 *et seq.*) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. For regulatory actions likely to result in a rule that may cause expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any 1 year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a) and (b)) UMRA requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' UMRA also requires an agency plan for giving notice and opportunity for timely input to small governments that may be potentially affected before establishing any requirement that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820 (Mar. 18, 1997). (This policy also is available at *http://energy.gov/gc/office-general-counsel*). DOE reviewed this proposed determination pursuant to these existing authorities and its policy statement and determined that the proposed determination and proposal contain neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year, so the UMRA requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed determination and proposal would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (Mar. 15, 1988), DOE determined that this proposed determination and proposal would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act of 2001

The Treasury and General Government Appropriation Act of 2001 (44 U.S.C. 3516, note) requires agencies to review most disseminations of information they make to the public under guidelines established by each agency pursuant to general guidelines issued by the OMB. The OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposed determination and proposal under the OMB and DOE guidelines and has concluded that they are consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates a final rule or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under E.O. 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of the Office of Information and Regulatory Affairs (OIRA) as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the proposal is implemented, and of reasonable alternatives to the proposed action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that this regulatory action proposing to establish or amend certain definitions and to determine that MREFs meet the criteria for a covered product for which the Secretary may prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p) would not have a significant adverse effect on the supply, distribution, or use of energy. This action is also not a significant regulatory action for purposes of E.O.

12866, and the OIRA Administrator has not designated this determination as a significant energy action under E.O. 12866 or any successor order. Therefore, this proposed determination and proposal do not comprise a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government's scientific information. DOE has determined that the analyses conducted for the regulatory action discussed in this document do not constitute ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions.'' 70 FR 2667 (Jan. 14, 2005). The analyses were subject to pre-dissemination review prior to issuance of this rulemaking.

DOE will determine the appropriate level of review that would apply to any future rulemaking to establish energy conservation standards for MREFs.

VII. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this notice of proposed determination no later than the date provided at the beginning of this notice. After the close of the comment period, DOE will review the comments received and determine whether miscellaneous refrigeration products are covered products under EPCA.

Comments, data, and information submitted to DOE's email address for this proposed determination should be provided in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format. Submissions should avoid the use of special characters or any form of encryption, and wherever possible comments should include the electronic signature of the author. No telefacsimiles (faxes) will be accepted.

According to 10 CFR part 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document should have all the information believed to be confidential deleted. DOE will make its own determination as to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known or available from public sources; (4) whether the information has previously been made available to others without obligations concerning its confidentiality; (5) an explanation of the competitive injury to the submitting persons which would result from public disclosure; (6) a date after which such information might no longer be considered confidential; and (7) why disclosure of the information would be contrary to the public interest.

B. Issues on Which DOE Seeks Comments

DOE welcomes comments on all aspects of this proposed determination. DOE is particularly interested in receiving comments from interested parties on the following issues related to the proposed determination for MREFs detailed in this document:

(1) The proposed scope of coverage for MREFs;

(2) The proposed definitions for MREFs and the various individual product categories;

(3) The calculations and accompanying values for household and national energy consumption of the products that would be covered on which DOE is relying in determining coverage; and

(4) The availability or lack of availability of technologies for improving the energy efficiency of MREFs as DOE is proposing to define them.

The Department is interested in receiving views concerning other relevant issues that participants believe would affect DOE's ability to establish test procedures and energy conservation standards for miscellaneous refrigeration products. The Department invites all interested parties to submit in writing by April 4, 2016, comments and information on matters addressed in this notice and on other matters relevant to consideration of a determination for miscellaneous refrigeration products.

After the expiration of the period for submitting written statements, the Department will consider all comments and additional information that is obtained from interested parties or through further analyses, and it will prepare a final determination. If DOE determines that MREFs qualify as covered products, DOE will consider the development of a test procedure and energy conservation standards for MREFs. In this regard, DOE notes that it has already proposed a test procedure that would address these products and completed a substantial amount of work related to potential energy conservation standards for them. Members of the public will be given an opportunity to submit written and oral comments on any proposed test procedure and standards.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

Issued in Washington, DC, on February 26, 2016.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE proposes to amend part 430 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Amend § 430.2 by:

■ a. Adding, in alphabetical order, definitions for ''built-in compact cooler,'' ''built-in cooler,'' ''combination cooler refrigeration product,'' ''consumer refrigeration product,'' ''cooler,'' ''cooler-freezer,'' ''cooler-refrigerator,'' ''cooler-refrigerator-freezer,'' ''freestanding compact cooler,'' ''freestanding cooler,'' and ''miscellaneous refrigeration product'';

■ b. Revising the definitions for ''freezer,'' ''refrigerator,'' and ''refrigerator-freezer''; and

■ c. Removing the definitions for ''electric refrigerator'' and ''electric refrigerator-freezer.''

The additions and revisions read as follows:

§ 430.2 Definitions.

* * * * *

Built-in compact cooler means any cooler with a total refrigerated volume less than 7.75 cubic feet and no more than 24 inches in depth, excluding doors, handles, and custom front panels, that is designed, intended, and marketed exclusively to be:

(1) Installed totally encased by cabinetry or panels that are attached during installation;

(2) Securely fastened to adjacent cabinetry, walls or floor,

(3) Equipped with unfinished sides that are not visible after installation, and

(4) Equipped with an integral factory-finished face or built to accept a custom front panel.

Built-in cooler means any cooler with a total refrigerated volume of 7.75 cubic feet or greater and no more than 24 inches in depth, excluding doors, handles, and custom front panels; that is designed, intended, and marketed exclusively to be:

(1) Installed totally encased by cabinetry or panels that are attached during installation;

(2) Securely fastened to adjacent cabinetry, walls or floor;

(3) Equipped with unfinished sides that are not visible after installation; and

(4) Equipped with an integral factory-finished face or built to accept a custom front panel.

* * * * *

Combination cooler refrigeration product means any cooler-refrigerator, cooler-refrigerator-freezer, or cooler-freezer.

* * * * *

Consumer refrigeration product means a refrigerator, refrigerator-freezer, freezer, or miscellaneous refrigeration product.

* * * * *

Cooler means a cabinet, used with one or more doors, that has a source of refrigeration capable of operating on single-phase, alternating current and is capable of maintaining compartment temperatures either:

(1) No lower than 39 °F (3.9 °C), or

(2) In a range that extends no lower than 37 °F (2.8 °C) but at least as high as 60 °F (15.6 °C) as determined according to the applicable provisions in § 429.61(d)(2) [proposed at 79 FR 74894 (December 16, 2014)].

Cooler-freezer is a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only, and consists of two or more compartments, including at least one cooler compartment as defined in appendix A of subpart B of this part, where the remaining compartment(s) are capable of maintaining compartment temperatures at 0 °F (–17.8 °C) or below as determined according to the provisions in § 429.61(d)(2) [proposed at 79 FR 74894 (December 16, 2014)].

Cooler-refrigerator is a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only, and consists of two or more compartments, including at least one cooler compartment as defined in appendix A of subpart B of this part, where:

(1) At least one of the remaining compartments is capable of maintaining compartment temperatures above 32 °F (0 °C) and below 39 °F (3.9 °C) as determined according to § 429.61(d)(2) [proposed at 79 FR 74894 (December 16, 2014)];

(2) The cabinet may also include a compartment capable of maintaining compartment temperatures below 32 °F (0 °C) as determined according to § 429.61(d)(2) [proposed at 79 FR 74894 (December 16, 2014)]; but

(3) The cabinet does not provide a separate low temperature compartment capable of maintaining compartment temperatures below 0 °F (−13.3 °C) as determined according to § 429.61(d)(2) [proposed at 79 FR 74894 (December 16, 2014)].

Cooler-refrigerator-freezer is a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only, and consists of three or more compartments, including at least one cooler compartment as defined in appendix A of subpart B of this part, where:

(1) At least one of the remaining compartments is capable of maintaining compartment temperatures above 32 °F (0 °C) and below 39 °F (3.9 °C) as determined according § 429.61(d)(2) [proposed at 79 FR 74894 (December 16, 2014)], and

(2) At least one other compartment is capable of maintaining compartment temperatures of 0 °F (−17.8 °C) or below as determined according to § 429.61(d)(2) [proposed at 79 FR 74894 (December 16, 2014)].

* * * * *

Freestanding compact cooler means any cooler, excluding built-in compact coolers, with a total refrigerated volume less than 7.75 cubic feet.

Freestanding cooler means any cooler, excluding built-in coolers, with a total refrigerated volume of 7.75 cubic feet or greater.

Freezer means a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only and is capable of maintaining compartment temperatures of 0 °F (−17.8 °C) or below as determined according to the provisions in § 429.14(d)(2) [proposed at 79 FR 74894 (December 16, 2014)]. It does not include any refrigerated cabinet that consists solely of an automatic ice maker and an ice storage bin arranged so that operation of the automatic icemaker fills the bin to its capacity. However, the term does not include any product that does not include a compressor and condenser unit as an integral part of the cabinet assembly.

* * * * *

Miscellaneous refrigeration product means a consumer refrigeration product other than a refrigerator, refrigerator-freezer, or freezer, which includes coolers and combination cooler refrigeration products.

* * * * *

Refrigerator means a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only and is capable of maintaining compartment temperatures above 32 °F (0 °C) and below 39 °F (3.9 °C) as determined according to § 429.14(d)(2) [proposed at 79 FR 74894 (December 16, 2014)]. A refrigerator may include a compartment capable of maintaining compartment temperatures below 32 °F (0 °C), but does not provide a separate low temperature compartment capable of maintaining compartment temperatures below 0 °F (−13.3 °C) as determined according to § 429.14(d)(2) [proposed at 79 FR 74894 (December 16, 2014)]. However, the term does not include any product that does not include a compressor and condenser unit as an integral part of the cabinet assembly.

Refrigerator-freezer means a cabinet, used with one or more doors, that has a source of refrigeration that requires single-phase, alternating current electric energy input only and consists of two or more compartments where at least one of the compartments is capable of maintaining compartment temperatures above 32 °F (0 °C) and below 39 °F (3.9 °C) as determined according to § 429.14(d)(2) [proposed at 79 FR 74894 (December 16, 2014)], and at least one other compartment is capable of maintaining compartment temperatures of 0 °F (−17.8 °C) or below as determined according to § 429.14(d)(2) [proposed at 79 FR 74894 (December 16, 2014)]. However, the term does not include any cabinet that does not include a compressor and condenser

unit as an integral part of the cabinet assembly.

* * * * *

[FR Doc. 2016–04874 Filed 3–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–4230; Directorate Identifier 2015–CE–041–AD]

RIN 2120–AA64

Airworthiness Directives; EVECTOR, spol. s.r.o. Gliders

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for EVECTOR, spol. s.r.o. Models L 13 SEH VIVAT and L 13 SDM VIVAT gliders (type certificate previously held by AEROTECHNIK s.r.o.) that would supersede AD 2000–20–12. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as insufficient material strength of the tail-fuselage attachment fitting. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by April 18, 2016.

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

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

For service information identified in this proposed AD, contact EVEKTOR, spol. s.r.o, Letecka 1008, 686 04 Kunovice, Czech Republic; phone: +420 572 537 428; email: *evektor@evektor.cz;* Internet: *http://www.evektor.cz/en/sales-and-support.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4230; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

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–2016–4230; Directorate Identifier 2015–CE–041–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://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 September 28, 2000, we issued AD 2000–20–12, Amendment 39–11923 (65 FR 61262; October 17, 2000) (''AD 2000–20–12''). That AD required actions intended to address an unsafe condition on EVECTOR, spol. s.r.o. Model L 13 SEH VIVAT gliders and was based on mandatory continuing airworthiness information (MCAI) originated by the Civil Aviation Authority, which is the aviation authority for the Czech Republic. That MCAI (AD CAA–AD–T–112/1999R1, dated November 23, 1999), was issued to correct an unsafe condition for EVECTOR, spol. s.r.o. Models L 13 SEH VIVAT and L 13 SDM VIVAT gliders and BLANIK LIMITED Models L–13 Blanik and L–13 AC Blanik gliders. The MCAI states:

> To prevent destruction of tail-fuselage attachment fitting which can lead to loss of control of the sailplane. This destruction could be caused due to lower strength of the material used during production.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4230.

A review of records since issuance of AD 2000–20–12 revealed that the FAA inadvertently did not address this MCAI for the EVECTOR, spol. s.r.o. Model L 13 SDM VIVAT gliders and the BLANIK LIMITED Model L–13 AC Blanik gliders. This proposed AD would supersede AD 2000–20–12 to add the EVECTOR, spol. s.r.o. Model L 13 SDM VIVAT gliders to the applicability of the AD.

The FAA will address the BLANIK LIMITED Model L–13 AC Blanik gliders in another AD action.

Related Service Information Under 1 CFR Part 51

AEROTECHNIK CZ s.r.o. issued Mandatory Service Bulletin SEH 13–005a, dated November 18, 1999. The service information describes procedures for testing the material strength of attachment fitting part number A 102 021N and instructions for contacting the manufacturer for replacement information 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 and Requirements of the Proposed AD

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

develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 9 products of U.S. registry. We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $340 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $3,060, or $340 per product.

In addition, we estimate that any necessary follow-on actions would take about 16 work-hours and require parts costing $500, for a cost of $1,860 per product. We have no way of determining the number of products that may need these actions.

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 removing Amendment 39–11923 (65 FR 61262; October 17, 2000), and adding the following new AD:

EVECTOR, spol. S.r.o.: Docket No. FAA–2016–4230; Directorate Identifier 2015–CE–041–AD.

(a) Comments Due Date

We must receive comments by April 18, 2016.

(b) Affected ADs

This AD replaces AD 2000–20–12, Amendment 39–11923 (65 FR 61262; October 17, 2000) (''AD 2000–20–12'').

(c) Applicability

This AD applies to EVECTOR, spol. s.r.o. Models L 13 SEH VIVAT and L 13 SDM VIVAT gliders (type certificate previously held by AEROTECHNIK s.r.o.), all serial numbers, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as insufficient material strength of the tail-fuselage attachment fitting. We are issuing this proposed AD to detect and correct tail-fuselage fittings with insufficient material strength, which if left uncorrected could result in detachment of the tail from the fuselage with consequent loss of control.

(f) Actions and Compliance

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

(1) *Model L 13 SEH VIVAT gliders:*

(i) Within the next 60 days after November 27, 2000 (the effective date retained from AD 2000–20–12), inspect the tail-fuselage attachment fitting, part number (P/N) A 102 021N, for damage and material hardness following the procedures in AEROTECHNIK CZ s.r.o. Mandatory Service Bulletin SEH 13–005a, dated November 18, 1999.

(ii) If you find the tail-fuselage attachment fitting is damaged or the material does not meet the hardness requirements specified in the service bulletin during the inspection required in paragraph (f)(1)(i) of this AD, before further flight, you must contact the manufacturer to obtain an FAA-approved replacement part for P/N A 102 021N and FAA-approved installation instructions and install the replacement part. Use the contact information found in paragraph (h) to contact the manufacturer.

(iii) As of November 27, 2000 (the effective date retained from AD 2000–20–12), do not install, on any glider, a P/N A 102 021N attachment fitting that has not passed the inspection required in paragraph (f)(1)(i) of this AD.

(2) *Model L 13 SDM VIVAT gliders:*

(i) Within the next 60 days after the effective date of this AD, inspect the tail-fuselage attachment fitting, part number (P/N) A 102 021N, for damage and material hardness following the procedures in AEROTECHNIK CZ s.r.o. Mandatory Service Bulletin SEH 13–005a, dated November 18, 1999.

(ii) If you find the tail-fuselage attachment fitting is damaged or the material does not meet the hardness requirements specified in the service bulletin during the inspection required in paragraph (f)(2)(i) of this AD, before further flight, you must contact the manufacturer to obtain an FAA-approved replacement part for P/N A 102 021N and FAA-approved installation instructions and install the replacement part. Use the contact information found in paragraph (h) to contact the manufacturer.

(iii) As of the effective date of this AD, do not install, on any glider, a P/N A 102 021N attachment fitting that has not passed the inspection required in paragraph (f)(2)(i) of this AD.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before

using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to MCAI Civil Aviation Authority AD CAA–AD–T–112/1999R1, dated November 23, 1999, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4230. For service information related to this AD, contact EVEKTOR, spol. s.r.o, Letecka 1008, 686 04 Kunovice, Czech Republic; phone: +420 572 537 428; email: *evektor@evektor.cz;* Internet: *http://www.evektor.cz/en/sales-and-support.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on February 24, 2016.

Robert P. Busto,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–04543 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3990; Directorate Identifier 2015–NM–153–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes. This proposed AD was prompted by two in-service incidents reported on Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes regarding a loss of all air data information in the flight deck. This proposed AD would require revision of the airplane flight manual (AFM) to provide procedures to guide the crew to stabilize the airplane's airspeed and attitude for continued safe flight. We are proposing this AD to prevent loss of air data information that may affect continued safe flight.

DATES: We must receive comments on this proposed AD by April 18, 2016.

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 NPRM, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* Internet: *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3990; 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 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: Assata Dessaline, Aerospace Engineer, Avionics and Services Branch, ANE–172, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7301; fax: 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–3990; Directorate Identifier 2015–NM–153–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2015–08, dated April 28, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes. The MCAI states:

> Two in-service incidents have been reported on CL–600–2C10 aeroplanes regarding a loss of all air data information in the cockpit. The air data information was recovered as the aeroplane descended to lower altitudes. An investigation determined that the root cause in both events was high altitude icing (ice crystal contamination). If not addressed, this condition may affect continued safe flight.
>
> Due to similarities in the air data systems, such events could happen on all Bombardier CRJ models, CL–600–2B19, CL–600–2C10, CL–600–2D15, CL–600–2D24 and CL–600–2E25. Therefore, the corrective actions for these models will be mandated once their respective Airplane Flight Manual (AFM) revisions become available.
>
> This [Canadian] AD mandates the incorporation of AFM procedures to guide the crew to stabilize the aeroplanes airspeed and attitude for continued safe flight.

Required actions in this NPRM apply only to Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes; we may consider issuing further rulemaking on the other Bombardier airplane models identified previously. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3990.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc. has issued Emergency Procedure 1; Unreliable Airspeed, of Section 03–19, Emergency Procedures—Unreliable Airspeed, of Chapter 3, Emergency Procedures, in Volume 1 of the Bombardier CRJ Series Regional Jet Model CL–600–2D15 and CL–600–2D24 Airplane Flight Manual CSP C–012, Revision 11A, dated May 25, 2015. The service information describes procedures to guide the crew to stabilize the airplane's airspeed and attitude for continued safe flight. 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.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 230 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $19,550, or $85 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2016–3990; Directorate Identifier 2015–NM–153–AD.

(a) Comments Due Date

We must receive comments by April 18, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Reason

This AD was prompted by reports of two in-service incidents on Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes regarding a loss of all air data information in the flight deck. We are issuing this AD to prevent air data information loss that may affect continued safe flight.

(f) Compliance

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

(g) Airplane Flight Manual Revision

Within 30 days after the effective date of this AD, revise Emergency Procedure Section 03–19–1 of the airplane flight manual (AFM) to include the information in Emergency Procedure 1; Unreliable Airspeed, of Section 03–19, Emergency Procedures—Unreliable Airspeed, of Chapter 3, Emergency Procedures, in Volume 1 of the Bombardier CRJ Series Regional Jet Model CL–600–2D15 and CL–600–2D24 Airplane Flight Manual CSP C–012, Revision 11A, dated May 25, 2015.

(h) 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: Assata Dessaline, Aerospace Engineer, Avionics and Services Branch, ANE 172, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: 516–228–7301; 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, Engine and Propeller Directorate, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2015–08, dated 28 April, 2015, 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–2016–3990.

(2) 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 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 February 23, 2016.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–04680 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–4256; Directorate Identifier 2016–CE–002–AD]

RIN 2120–AA64

Airworthiness Directives; M7 Aerospace LLC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all M7 Aerospace LLC Models SA226–AT, SA226–T, SA226–T(B), SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), and SA227–TT airplanes. This proposed AD was prompted by reports of failed elevator control rod ends due to corrosion and lack of lubrication. This proposed AD would require initial and repetitive inspections and lubrication of the elevator control rod ends and bearings with replacement as necessary. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by April 18, 2016.

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 M7 Aerospace LLC, 10823 NE Entrance Road, San Antonio, Texas 78216; phone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.elbitsystems-us.com;* email: *MetroTech@M7Aerospace.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4256; 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: Andrew McAnaul, Aerospace Engineer, FAA, ASW–143 (c/o San Antonio MIDO), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308–3365; fax: (210) 308–3370; email: *andrew.mcanaul@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–2016–4256; Directorate Identifier 2016–CE–002–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

The FAA received reports of broken elevator control rod link assemblies between the elevator torque tube and the elevator quadrant due to corrosion and lack of lubrication on M7 Aerospace SA26, SA226, and SA227 airplanes.

This condition, if not corrected, could result in increased friction and partial or complete loss of elevator control resulting in loss of pitch control.

Relevant Service Information Under 1 CFR Part 51

We reviewed M7 Aerospace LLC Service Bulletin (SB) 226–27–080 R1, M7 Aerospace LLC SB 227–27–060 R1, and M7 Aerospace LLC SB CC7–27–032 R1, all Issued: November 5, 2015 and Revised: February 23, 2016. The service information describes procedures for inspection of the elevator control link assemblies between the elevator torque tubes and the elevator quadrant for frozen (stiff, hard to move) bearings or broken/cracked links (rod ends) with instructions for lubrication and replacement if necessary. All of the related 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 initial and repetitive inspections of the elevator control rod ends and bearings with replacement as necessary.

Costs of Compliance

We estimate that this proposed AD affects 350 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and lubrication	2 work-hours × $85 per hour = $170	*NA	$170	$59,500

* Not applicable

We estimate the following costs to do any necessary repairs/replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that might need these repairs/replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace Rod End	4 work-hours × $85 per hour = $340	$30	$370

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:

M7 Aerospace LLC: Docket No. FAA–2016–4256; Directorate Identifier 2016–CE–002–AD.

(a) Comments Due Date

We must receive comments by April 18, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to M7 Aerospace LLC Models SA226–AT, SA226–T, SA226–T(B), SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), and SA227–TT airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 2730, Elevator Control System.

(e) Unsafe Condition

This AD was prompted by reports of failed elevator control rod ends due to corrosion and lack of lubrication. We are issuing this AD to require initial and repetitive inspections and lubrication of the elevator control rod ends and bearings with replacement as necessary. We are proposing this AD to correct the unsafe condition on these products.

(f) Compliance

Comply with paragraphs (g)(1) through (g)(5) of this AD using the following service bulletins within the compliance times specified, unless already done:

(1) *For Models SA226–AT, SA226–T, SA226–T(B), and SA226–TC:* M7 Aerospace LLC Service Bulletin (SB) 226–27–080 R1, Issued: November 5, 2015 and Revised: February 23, 2016;

(2) *For Models SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), and SA227–TT:* M7 Aerospace LLC SB 227–27–060 R1, Issued: November 5, 2015 and Revised: February 23, 2016; or

(3) *For Models SA227–CC and SA227–DC (C–26B):* M7 Aerospace LLC SB CC7–27–032 R1, Issued: November 5, 2015 and Revised: February 23, 2016.

(g) Actions

(1) If abnormally high resistance is reported when operating the elevators, before further flight after the effective date of this AD, inspect and lubricate installed elevator control links following paragraph 2.A. of the Accomplishment Instructions of the service bulletins identified in paragraphs (f)(1), (f)(2), or (f)(3) of this AD, as applicable.

(2) Remove the elevator control links and inspect following paragraph 2.B. (and 2.C. when applicable) and lubricate the bearings following paragraph 2.E. of the Accomplishment Instructions of the service bulletins identified in paragraphs (f)(1), (f)(2), or (f)(3) of this AD, as applicable, at whichever of the following occurs first:

(i) At the next Zone related Phase or Letter Check inspection after the effective date of this AD or within the next 600 hours time-in-service after the effective date of this AD, whichever occurs later; or

(ii) Within the next 6 months after the effective date of this AD.

(3) Repetitively remove and inspect the elevator control links not to exceed every 12 months following any inspection required in paragraph (g)(1) or (g)(2) of this AD following paragraph 2.B. (and 2.C. when applicable) and lubricate the bearings following paragraph 2.E. of the Accomplishment Instructions of the service bulletins identified in paragraphs (f)(1), (f)(2), or (f)(3) of this AD, as applicable.

(4) If during any inspection required in paragraphs (g)(1), (g)(2) or (g)(3) of this AD, any link assemblies between the elevator torque tubes and the elevator quadrant are found to have frozen (stiff, hard to move) bearings or broken/cracked links (rod ends), before further flight, replace the rod ends following paragraph 2.D. and lubricate the bearings following with paragraph 2.E. of the Accomplishment Instructions of the service bulletins identified in paragraphs (f)(1), (f)(2), or (f)(3) of this AD, as applicable.

(5) Repetitively lubricate the rod end bearings (male and female) on both elevator control link assemblies following the time limits in paragraph 1.D.4) of the applicable SB, but not to exceed every 6 months, and following the procedures in paragraph 2.E. of the Accomplishment Instructions of the service bulletins identified in paragraphs (f)(1), (f)(2), or (f)(3) of this AD, as applicable.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Fort Worth Airplane Certification Office, 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 (i) of this AD.

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

(i) Related Information

(1) For more information about this AD, contact Andrew McAnaul, Aerospace Engineer, FAA, ASW–143 (c/o San Antonio MIDO), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308–3365; fax: (210) 308–3370; email: *andrew.mcanaul@faa.gov.*

(2) For service information identified in this AD, contact M7 Aerospace LLC, 10823 NE Entrance Road, San Antonio, Texas 78216; phone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.elbitsystems-us.com;* email: *MetroTech@M7Aerospace.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

Issued in Kansas City, Missouri, on February 25, 2016.

Robert P. Busto,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–04677 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3989; Directorate Identifier 2014–NM–220–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model BD–700–1A10 and BD–700–1A11 airplanes. This proposed AD was prompted by in-service reports of passenger door tensator spring failures, and qualification testing that determined that non-conforming tensator springs could be susceptible to failure prior to reaching their safe-life limit. This proposed AD would require revising the maintenance or inspection program to incorporate certain temporary revisions, and replacing the passenger door tensator springs with new springs. We are proposing this AD to prevent tensator spring failure, resulting in the inability to open the main passenger door, which could impede evacuation in the event of an emergency.

DATES: We must receive comments on this proposed AD by April 18, 2016.

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 NPRM, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3989; 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 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: Fabio Buttitta, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7303; fax: 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–3989; Directorate Identifier 2014–NM–220–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–39,

dated November 4, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model BD–700–1A10 and BD–700–1A11 airplanes. The MCAI states:

Following the issuance of [Canadian] AD CF–2010–14 [*http://wwwapps3.tc.gc.ca/Saf-Sec-Sur/2/cawis-swimn/awd-display-cs2101-wnd.asp?rand=&vMode=0&showPdf=False&ovid=CF_CF–2010–14_0*], additional qualification testing of the passenger door tensator spring, Part Number (P/N) GS321–0580–1, determined that the tensator springs could be susceptible to failure prior to reaching the life limit mandated by [Canadian] AD CF–2010–14.

In addition, there have been in-service reports of passenger door tensator spring failures. Investigation determined that the material used to manufacture the tensator springs [was] improperly heat treated.

The passenger door assembly is installed with four tensator springs that assist the door actuator in opening and closing the door. In-service experience has shown that a failed tensator spring could uncoil and foul up the rotating tensator spools, resulting in the inability to open the main passenger door. The inability to open the main passenger door could impede evacuation in the event of an emergency.

This [Canadian] AD mandates the revision to the approved maintenance schedule to reduce the repetitive discard task interval and mandates the replacement of non-conforming tensator springs.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3989.

Related Service Information Under 1 CFR Part 51

We reviewed the following Bombardier, Inc. service information:

- Bombardier Global 5000 Service Bulletin 700–1A11–52–023, dated October 4, 2013.
- Bombardier Global Express/Global Express XRS Service Bulletin 700–52–046, dated October 4, 2013.
- Temporary Revision (TR) 5–2–7, dated June 4, 2014, to Part 2, Section 5–10–11, of Bombardier Global Express XRS BD–700 Time Limits/Maintenance Checks.
- TR 5–2–10, dated September 9, 2014, to Part 2, Section 5–10–11, of Bombardier Global 6000 GL 6000 Time Limits/Maintenance Checks.
- TR 5–2–13, dated June 4, 2014, to Part 2, Section 5–10–11, of Bombardier Global 5000 BD–700 Time Limits/Maintenance Checks.
- TR 5–2–44, dated June 4, 2014, to Part 2, Section 5–10–11, of Bombardier Global Express BD–700 Time Limits/Maintenance Checks.

The service information describes procedures for replacing passenger door tensator springs with new springs. 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.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 60 airplanes of U.S. registry.

We also estimate that it would take about 40 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $204,000, or $3,400 per product.

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):

Bombardier, Inc.: Docket No. FAA–2016–3989; Directorate Identifier 2014–NM–220–AD.

(a) Comments Due Date

We must receive comments by April 18, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category, serial numbers 9002 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This AD was prompted by in-service reports of passenger door tensator spring failures, and qualification testing that determined that incorrect tensator springs could be susceptible to failure prior to reaching their safe-life limit. We are issuing this AD to prevent tensator spring failure, resulting in the inability to open the main passenger door, which could impede evacuation in the event of an emergency.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the task specified in the Temporary Revisions (TRs) identified in paragraphs (g)(1) through (g)(4) of this AD. The compliance time for doing the initial replacement of the passenger door tensator springs with new springs is at the times specified in the applicable TR specified in paragraphs (g)(1) through (g)(4) of this AD, or within 30 days after the effective date of this AD, whichever occurs later.

(1) TR 5–2–7, dated June 4, 2014, to Part 2, Section 5–10–11, of Bombardier Global Express XRS BD–700 Time Limits/Maintenance Checks (for Model BD–700–1A10 airplanes).

(2) TR 5–2–10, dated September 9, 2014, to Part 2, Section 5–10–11, of Bombardier Global 6000 GL 6000 Time Limits/Maintenance Checks (for Model BD–700–1A11 airplanes).

(3) TR 5–2–13, dated June 4, 2014, to Part 2, Section 5–10–11, of Bombardier Global 5000 BD–700 Time Limits/Maintenance Checks (for Model BD–700–1A11 airplanes).

(4) TR 5–2–44, dated June 4, 2014, to Part 2, Section 5–10–11, of Bombardier Global Express BD–700 Time Limits/Maintenance Checks (for Model BD–700–1A10 airplanes).

(h) No Alternative Actions and Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) and intervals may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD.

(i) Replacement

For airplanes identified in section 1.A. ''Effectivity,'' of Bombardier Global 5000 Service Bulletin 700–1A11–52–023, dated October 4, 2013; or Bombardier Global Express/Global Express XRS Service Bulletin 700–52–046, dated October 4, 2013; except as provided by paragraph (j)(1) or (j)(2) of this AD: Within 15 months after the effective date of this AD, but not exceeding the applicable life limit of the passenger tensator spring, replace the passenger door tensator springs having part number (P/N) GS321–0580–1, with new springs, in accordance with the Accomplishment Instructions of Bombardier Global 5000 Service Bulletin 700–1A11–52–023, dated October 4, 2013; or Bombardier Global Express/Global Express XRS Service Bulletin 700–52–046, dated October 4, 2013; as applicable.

(j) Acceptable Alternative Actions for Paragraph (i) of This AD

(1) For airplanes having serial numbers (S/N) 9278 through 9360 inclusive: Replacement of the passenger door tensator springs having P/N GS321–0580–1 with new springs before the effective date of this AD is acceptable for compliance with the requirements of paragraph (i) of this AD. Refer to the task specified in the applicable TRs identified in paragraphs (g)(1) through (g)(4) of this AD for subsequent spring replacements.

(2) For airplanes with serial numbers not identified in paragraph (j)(1) of this AD: Accomplishment after the effective date of this AD of the ''Time Limits/Maintenance Checks'' discard task identified in the applicable service information specified in paragraphs (g)(1) through (g)(4) of this AD is acceptable for compliance with the requirements of paragraph (i) of this AD.

(k) 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 New York 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 Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2014–39, dated November 4, 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 Docket No. FAA–2016–3989.

(2) 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 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 February 19, 2016.

Dorr M. Anderson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–04561 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–4233; Directorate Identifier 2016–CE–003–AD]

RIN 2120–AA64

Airworthiness Directives; Blanik Limited Gliders

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Blanik Limited Models L–13 Blanik and L–13 AC Blanik gliders (type certificate previously by LET Aeronautical Works) that would supersede AD 99–19–33. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as lack of distinct color marking of the elevator drive. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by April 18, 2016.

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

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

and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Blanik Limited, 2nd Floor Beaux Lane House, Mercer Street Lower, Dublin 2, Republic of Ireland; phone: +420 733 662 194; email: *info@blanik.aero;* Internet: *http://www.blanik.aero/%EF%BB%BFcustomer_support.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4233; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

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–2016–4233; Directorate Identifier 2016–CE–003–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://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 November 8, 1999, we issued AD 99–19–33, Amendment 39–11320 (64 FR 50440; September 17, 1999) (''99–19–33''). That AD required actions intended to address an unsafe condition on BLANIK LIMITED Models L–13 Blanik gliders and was based on mandatory continuing airworthiness information (MCAI) originated by the Civil Aviation Authority, which is the aviation authority for the Czech Republic. That MCAI (AD CAA–AD–4–099/98, dated December 30, 1998) was issued to correct an unsafe condition for EVECTOR, spol. s.r.o. Models L 13 SEH VIVAT and L 13 SDM VIVAT gliders and BLANIK LIMITED Models L–13 Blanik and L–13 AC Blanik gliders. The MCAI states:

> Colour marking of elevator drive is not inspected or re-painted during sailplane operation. The elevator drive is asymmetrical and improper installation causes significant elevator deflection changes.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4233.

A review of records since issuance of AD 99–19–33 revealed that the FAA inadvertently did not address this MCAI for the EVECTOR, spol. s.r.o. Models L 13 SEH VIVAT and L 13 SDM VIVAT gliders and the BLANIK LIMITED Model L–13 AC Blanik gliders. This proposed AD would supersede AD 99–19–13 to add the BLANIK LIMITED Model L–13 AC Blanik gliders to the applicability of the AD.

The FAA will address the EVECTOR, spol. s.r.o. Models L 13 SEH VIVAT and L 13 SDM VIVAT gliders in another AD action.

Related Service Information Under 1 CFR Part 51

LET Aeronautical Works has issued LET Mandatory Bulletin MB No.: L13/082a, dated December 10, 1998. The service information describes procedures for painting the left arm of the elevator drive. 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 and Requirements of the Proposed AD

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

Costs of Compliance

We estimate that this proposed AD will affect 124 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $10 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $11,780, or $95 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 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 removing Amendment 39–11320 (64 FR 50440; September 17, 1999), and adding the following new AD:

Blanik Limited: Docket No. FAA–2016–4233; Directorate Identifier 2016–CE–003–AD.

(a) Comments Due Date

We must receive comments by April 18, 2016.

(b) Affected ADs

This AD replaces AD 99–19–33, Amendment 39–11320 (64 FR 50440; September 17, 1999) (''AD 99–19–33'').

(c) Applicability

This AD applies to BLANIK LIMITED Models L–13 Blanik and L–13 AC Blanik gliders (type certificate previously by LET Aeronautical Works), all serial numbers, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as lack of distinct color marking of the elevator drive. We are issuing this AD to prevent inadvertent backward installation of the elevator drive, which could cause significant elevator deflection changes and lead to loss of control.

(f) Actions and Compliance

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

(1) *Model L–13 Blanik gliders:*

(i) Within the next 3 calendar months after November 8, 1999 (the effective date retained from AD 99–19–33), paint the elevator drive mechanism using a contrasting color (such as red) following the procedures in LET Mandatory Bulletin MB No.: L13/082a, dated December 10, 1998.

(ii) As of November 8, 1999 (the effective date retained from AD 99–19–33), only install an elevator bellcrank that has been painted as specified in paragraph (f)(1)(i) of this AD and that has been properly oriented to make sure it is not being installed backward.

(2) *Model L–13 AC Blanik gliders:*

(i) Within the next 3 calendar months after the effective date of this AD, paint the elevator drive mechanism using a contrasting color (such as red) following the procedures in LET Mandatory Bulletin MB No.: L13/082a, dated December 10, 1998.

(ii) As of the effective date of this AD, only install an elevator bellcrank that has been painted as specified in paragraph (f)(2)(i) of this AD and that has been properly oriented to make sure it is not being installed backward.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(h) Related Information

Refer to MCAI Civil Aviation Authority AD CAA–AD–4–099/98, dated December 30, 1998, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4233. For service information related to this AD, contact Blanik Limited, 2nd Floor Beaux Lane House, Mercer Street Lower, Dublin 2, Republic of Ireland; phone: +420 733 662 194; email: *info@blanik.aero;* Internet: *http://www.blanik.aero/%EF%BB%BFcustomer_support.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on February 24, 2016.

Robert P. Busto,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–04542 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–4232; Directorate Identifier 2015–CE–043–AD]

RIN 2120–AA64

Airworthiness Directives; EVECTOR, spol. s.r.o. Gliders

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for EVECTOR, spol. s.r.o. Model L 13 SEH VIVAT and L 13 SDM VIVAT gliders (type certificate previously held by AEROTECHNIK s.r.o.). This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as lack of distinct color marking of the elevator drive. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by April 18, 2016.

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

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

For service information identified in this proposed AD, contact EVEKTOR, spol. s.r.o, Letecka 1008, 686 04 Kunovice, Czech Republic; phone: +420

572 537 428; email: *evektor@evektor.cz;* Internet: *http://www.evektor.cz/en/sales-and-support.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4232; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

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–2016–4232; Directorate Identifier 2015–CE–043–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://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

The Civil Aviation Authority, which is the aviation authority for the Czech Republic, has issued AD CAA–AD–4–099/98, dated December 30, 1998 (referred to after this as ''the MCAI''), to correct an unsafe condition for EVECTOR, spol. s.r.o. Models L 13 SEH VIVAT and L 13 SDM VIVAT gliders and BLANIK LIMITED Models L–13 Blanik and L–13 AC Blanik gliders and was based on mandatory continuing airworthiness information originated by an aviation authority of another country. The MCAI states:

> Colour marking of elevator drive is not inspected or re-painted during sailplane operation. The elevator drive is asymmetrical and improper installation causes significant elevator deflection changes.

A review of records revealed that the FAA inadvertently did not address this MCAI for the EVECTOR, spol. s.r.o. Models L 13 SEH VIVAT and L 13 SDM VIVAT gliders and the BLANIK LIMITED Model L–13 AC Blanik gliders. This proposed AD would address this MCAI for the EVECTOR, spol. s.r.o. Models L 13 SEH VIVAT and L 13 SDM VIVAT gliders and would require painting or re-painting the elevator drive mechanism a contrasting color to prevent the backward installation of the elevator drive bellcrank. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4232.

The FAA will address the BLANIK LIMITED Model L–13 AC Blanik gliders in another AD action.

Related Service Information Under 1 CFR Part 51

AEROTECHNIK CZ s.r.o. issued Mandatory Service Bulletin SEH 13–003a, dated December 15, 1998. The service information describes procedures for painting the left arm of the elevator drive. 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 and Requirements of the Proposed AD

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

Costs of Compliance

We estimate that this proposed AD will affect 9 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $10 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $855, or $95 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 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 AD:

EVECTOR, spol. s.r.o.: Docket No. FAA–2016–4232; Directorate Identifier 2015–CE–043–AD.

(a) Comments Due Date

We must receive comments by April 18, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to EVECTOR, spol. s.r.o. L 13 SEH VIVAT and L 13 SDM VIVAT gliders (type certificate previously held by AEROTECHNIK s.r.o.), all serial numbers, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as lack of distinct color marking of the elevator drive. We are issuing this AD to prevent inadvertent backward installation of the elevator drive, which could cause significant elevator deflection changes and lead to loss of control.

(f) Actions and Compliance

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

(1) Within the next 3 calendar months after the effective date of this AD, paint the elevator drive mechanism using a contrasting color (such as red) following the procedures in AEROTECHNIK CZ s.r.o. issued Mandatory Service Bulletin SEH 13–003a, dated December 15, 1998.

(2) As of the effective date of this AD, only install an elevator bellcrank that has been painted as specified in paragraph (f)(1) of this AD and that has been properly oriented to make sure it is not being installed backward.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(h) Related Information

Refer to MCAI Civil Aviation Authority AD CAA–AD–4–099/98, dated December 30, 1998, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–4232. For service information related to this AD, contact EVEKTOR, spol. s.r.o, Letecka 1008, 686 04 Kunovice, Czech Republic; phone: +420 572 537 428; email: *evektor@evektor.cz;* Internet: *http://www.evektor.cz/en/sales-and-support.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on February 24, 2016.

Robert P. Busto,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–04573 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 820

[Docket No. FDA–2016–N–0436]

Refurbishing, Reconditioning, Rebuilding, Remarketing, Remanufacturing, and Servicing of Medical Devices Performed by Third-Party Entities and Original Equipment Manufacturers; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; request for comments.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the establishment of a docket to receive information and comments on the medical device industry and healthcare community that refurbish, recondition, rebuild, remarket, remanufacture, service, and repair medical devices (hereafter termed ''third-party entity or entities''), including radiation-emitting devices subject to the electronic product radiation control (EPRC) provisions of the Federal Food, Drug, and Cosmetic Act (the FD&C Act). FDA is taking this action, in part, because various stakeholders have expressed concerns about the quality, safety, and continued effectiveness of medical devices that have been subject to one or more of these activities that are performed by both original equipment manufacturers (OEM) and third parties, including health care establishments. We are seeking comments from the widest range of interested persons, including those who are engaged in one or more of the activities noted previously or who utilize refurbished, reconditioned, rebuilt, remarketed, remanufactured, or third-party serviced and repaired medical devices.

DATES: Submit either electronic or written comments by May 3, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food

and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–N–0436 for ''Refurbishing, Reconditioning, Rebuilding, Remarketing, Remanufacturing, and Servicing of Medical Devices Performed by Third-Party Entities and Original Equipment Manufacturers; Request for Comments.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, 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:

Valerie Flournoy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–5495.

SUPPLEMENTARY INFORMATION:

I. Background

Over the past 20 years, the Center for Devices and Radiological Health has sought to clarify our regulatory requirements and expectations, under part 820 (21 CFR part 820), to entities servicing, refurbishing, rebuilding, reconditioning, remarketing, and remanufacturing medical devices. In addition, FDA medical device regulations include requirements that device manufacturers establish and maintain instructions and procedures for servicing. However, in the **Federal Register** on December 4, 1998 (63 FR 67076), refurbishers and servicers of medical devices were excluded from the requirement to comply with the 1997 Quality System Regulation under part 820.

Moreover, EPRC requirements of the FD&C Act (Pub. L. 90–602, amended by Pub. L. 103–80), include provisions specific to manufacturers and assemblers of certified x-ray components. Under § 1020.30(c) (21 CFR 1020.30(c)), manufacturers of diagnostic x-ray systems are responsible for providing assembly instructions adequate to assure compliance of their components with the applicable performance standards when installed properly. Furthermore, under § 1020.30(d), assemblers are then required to assemble, install, adjust, and test the certified components according to the instructions of their respective manufacturers.

FDA has previously issued guidance on these topics, including an Assembler's Guide to Diagnostic X-ray Equipment (Ref. 1) and Information Disclosure by Manufacturers to Assemblers for Diagnostic X-ray Systems (Ref. 2). Under the EPRC provision in 21 CFR 1040.10(h)(1)(i), manufacturers of laser products are required to provide instructions for assembly, operation, and maintenance, including warnings and precautions on how to avoid exposure, and maintenance schedules to ensure product complies with requirements in the standard.

Stakeholders have expressed concerns that some third-party entities who refurbish, recondition, rebuild, remarket, remanufacture, service, and repair medical devices may use unqualified personnel to perform service, maintenance, refurbishment, and device alterations on their equipment and that the work performed may not be adequately documented. Possible public health issues arising from these activities include ineffective recalls, disabled device safety features, and improper or unexpected device operation. OEMs have also requested clarification of their responsibilities when their devices have been altered by a third-party entity. Federal Agencies other than FDA address service and maintenance activities as well.

FDA is interested in comments concerning the service, maintenance, refurbishment, and alteration of medical devices, including endoscopes (Ref. 3), by third-party entities. In addition, we want to know more about the challenges third-party entities face in maintaining or restoring devices to their original or current specifications. This docket is not intended to address the reprocessing of single-use or reusable medical devices.

FDA intends to hold a public meeting later in 2016 to further engage this segment of the device industry and healthcare community. The comments submitted to this docket will help inform the content of the public meeting.

II. Issues for Consideration

A. Proposed Definitions of Third-Party and OEM Activities

FDA is asking for assistance in defining the following terms specific to this document. These terms, while not an exhaustive list, should capture and encompass most of the activities performed on medical devices. While we suggest language for each term, we are inviting interested persons to suggest revisions and any additional terms that may help define third-party and OEM activities including additional activities that are not encompassed by the following suggested terms and all-encompassing terms that can include some or all of the activities discussed in this section II.A.

1. *Recondition:* Restores and/or refurbishes a medical device to the OEM's original specifications. Under limited circumstances the medical device may be restored and/or refurbished to current specifications.

2. *Service:* Maintenance or repair of a finished device after distribution for purposes of returning it to the safety and performance specifications established by the OEM and to meet its original

intended use. Servicing *cannot* change the intended use(s) of the device from its original purpose(s).

3. *Repair:* Return the device or component to original specifications including replacing non-working components or parts outside of routine or periodic upkeep for the current owner of the device.

4. *Refurbish:* Restore device to a condition of safety and effectiveness that is comparable to when new. This includes reconditioning, repair, installation of certain software/hardware updates that do not change the intended use of the original device, and replacement of worn parts.

5. *Remanufacture:* Process, condition, renovate, repackage, restore, or any other act done to a finished device that significantly changes the finished device's performance, safety specifications, or intended use.

6. *Remarket:* The act of facilitating the transfer of a previously owned device from one party to another by sale, donation, gift, or lease.

B. Evaluation of Risk Associated With These Third-Party and OEM Activities

In addition to obtaining comments that define the key terms applicable to this issue, FDA believes that a need exists for interested persons to comment on the benefits and risks related to the previously defined activities. We invite interested persons to comment on the following questions:

1. Who are the different stakeholders involved with the medical device activities listed previously? What are their respective roles?

2. What evidence exists regarding actual problems with the safety and/or performance of devices that result from these activities? Specific examples should be submitted.

3. What are the potential risks (patients/users) and failure modes (devices) introduced as a result of performing the previously defined activities on medical devices? Please speak to issues common to all devices as well as specific risks with specific devices.

4. These activities are performed by OEMs and various third-party entities, including hospitals and humanitarian organizations. Are the risks different depending on who performs the previously mentioned activities?

5. We are interested in knowing if these activities are more difficult or riskier to perform on certain devices versus others. Please cite specific examples in your response, along with an explanation of the source of this particular complexity.

6. What information do third-party entities need in order to perform these activities in a way that results in safe and effective operation of the medical device? Please provide specific examples.

7. What additional challenges do stakeholders encounter with devices that result from these activities?

III. Paperwork Reduction Act of 1995

This document refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; the collections of information in 21 CFR parts 1020 and 1040 have been approved under OMB control number 0910–0025.

IV. References

The following references are on display in the Division of Dockets Management (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *http://www.regulations.gov.* FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. Guidance for Industry and Food and Drug Administration Staff on Assembler's Guide to Diagnostic X-Ray Equipment. Available at *http://www.fda.gov/downloads/MedicalDevices/.../UCM257783.pdf.*
2. Guidance for Industry and FDA Staff on Information Disclosure by Manufacturers to Assemblers for Diagnostic X-ray Systems. Available at *http://www.fda.gov/downloads/Radiation-EmittingProducts/ElectronicProductRadiationControlProgram/IndustryGuidance/UCM136731.pdf.*
3. *FDA Executive Summary: Effective Reprocessing of Endoscopes Used in Endoscopic Retrograde Cholangiopancreatography (ERCP) Procedures,* FDA. Available at *http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/Gastroenterology-UrologyDevicesPanel/UCM445592.pdf.*

Dated: February 26, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04700 Filed 3–3–16; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–436]

Schedules of Controlled Substances: Placement of 10 Synthetic Cathinones Into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration proposes placing 10 synthetic cathinones: 4-methyl-*N*-ethylcathinone (4-MEC); 4-methyl-*alpha*-pyrrolidinopropiophenone (4-MePPP); alpha-pyrrolidinopentiophenone (α-PVP); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone); 2-(methylamino)-1-phenylpentan-1-one (pentedrone); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone); 4-fluoro-*N*-methylcathinone (4-FMC); 3-fluoro-*N*-methylcathinone (3-FMC); 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone); alpha-pyrrolidinobutiophenone (α-PBP) and their optical, positional, and geometric isomers, salts and salts of isomers into schedule I of the Controlled Substances Act. This proposed scheduling action is pursuant to the Controlled Substances Act which requires that such actions be made on the record after opportunity for a hearing through formal rulemaking. If finalized, this action would impose the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, or α-PBP.

DATES: Interested persons may file written comments on this proposal in accordance with 21 CFR 1308.43(g). Comments must be submitted electronically or postmarked on or before April 4, 2016. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

Interested persons, defined at 21 CFR 1300.01 as those ''adversely affected or aggrieved by any rule or proposed rule issuable pursuant to section 201 of the Act (21 U.S.C. 811),'' may file a request

for hearing or waiver of hearing pursuant to 21 CFR 1308.44 and in accordance with 21 CFR 1316.45 and/or 1316.47, as applicable. Requests for hearing and waivers of an opportunity for a hearing or to participate in a hearing must be received on or before April 4, 2016.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–436'' on all correspondence, including any attachments.

• *Electronic comments:* The Drug Enforcement Administration encourages that all comments be submitted electronically through the Federal eRulemaking Portal which provides the ability to type short comments directly into the comment field on the Web page or to attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on Regulations.gov. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

• *Paper comments:* Paper comments that duplicate the electronic submission are not necessary. Should you wish to mail a paper comment *in lieu of* an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

• *Hearing requests:* All requests for hearing and waivers of participation must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing and waivers of participation should also be sent to: Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Barbara J. Boockholdt, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received in response to this docket are considered part of the public record. They will, unless reasonable cause is given, be made available by the Drug Enforcement Administration (DEA) for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act (FOIA) applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be made publicly available, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all of the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment.

Comments containing personal identifying information and confidential business information identified as directed above will generally be made publicly available in redacted form. If a comment has so much confidential business information or personal identifying information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to *http://www.regulations.gov* may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this document and supplemental information to this proposed rule are available at *http://www.regulations.gov* for easy reference.

Request for Hearing or Waiver of Participation in a Hearing

Pursuant to 21 U.S.C. 811(a), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act (APA), 5 U.S.C. 551–559. 21 CFR 1308.41–1308.45; 21 CFR part 1316, subpart D. In accordance with 21 CFR 1308.44 (a)–(c), requests for hearing, notices of appearance, and waivers of an opportunity for a hearing or to participate in a hearing may be submitted only by interested persons, defined as those ''adversely affected or aggrieved by any rule or proposed rule issuable pursuant to section 201 of the Act (21 U.S.C. 811).'' 21 CFR 1300.01. Such requests or notices must conform to the requirements of 21 CFR 1308.44 (a) or (b), and 1316.47 or 1316.48, as applicable, and include a statement of interest of the person in the proceeding and the objections or issues, if any, concerning which the person desires to be heard. Any waiver must conform to the requirements of 21 CFR 1308.44(c) and may include a written statement regarding the interested person's position on the matters of fact and law involved in any hearing.

Please note that pursuant to 21 U.S.C. 811(a), the purpose and subject matter of a hearing held in relation to this rulemaking are restricted to: ''(A) find[ing] that such drug or other substance has a potential for abuse, and (B) mak[ing] with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed . . .'' All requests for hearing and waivers of participation must be sent to the DEA using the address information provided above.

Legal Authority

The DEA implements and enforces Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, and are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for the purposes of this action. 21 U.S.C. 801–971. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while providing for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, controlled substances are classified into one of five schedules

based upon their potential for abuse, their currently accepted medical use in treatment in the United States, and the degree of dependence the substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of scheduled substances is published at 21 CFR part 1308.

Pursuant to 21 U.S.C. 811(a)(1), the Attorney General may, by rule, ''add to such a schedule or transfer between such schedules any drug or other substance if he (A) finds that such drug or other substance has a potential for abuse, and (B) makes with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed . . .'' The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

The CSA provides that proceedings for the issuance, amendment, or repeal of the scheduling of any drug or other substance may be initiated by the Attorney General (1) on her own motion; (2) at the request of the Secretary of the Department of Health and Human Services (HHS); [1] or (3) on the petition of any interested party. 21 U.S.C. 811(a). This proposed action is supported by a recommendation from the Assistant Secretary of the HHS and an evaluation of all other relevant data by the DEA. If finalized, this action would impose the regulatory controls and administrative, civil, and criminal sanctions of schedule I controlled substances on any person who handles or proposes to handle 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-;FMC, 3-FMC, naphyrone, or α-PBP.

Background

On March 7, 2014, the DEA published a final order in the **Federal Register** amending 21 CFR 1308.11(h) to temporarily place 4-methyl-*N*-ethylcathinone (4-MEC); 4-methyl-*alpha*-pyrrolidinopropiophenone (4-MePPP); alpha-pyrrolidinopentiophenone (α-PVP); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone); 2-(methylamino)-1-phenylpentan-1-one (pentedrone); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone); 4-fluoro-*N*-methylcathinone (4-FMC); 3-fluoro-*N*-methylcathinone (3-FMC); 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone); and alpha-pyrrolidinobutiophenone (α-PBP) into schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). 79 FR 12938. That final order, which became effective on the date of publication, was based on findings by the Deputy Administrator of the DEA that the temporary scheduling of these 10 synthetic cathinones was necessary to avoid an imminent hazard to public safety pursuant to 21 U.S.C. 811(h)(1). At the time the final order took effect, section 201(h)(2) of the CSA (21 U.S.C. 811(h)(2)), required that the temporary scheduling of a substance expire at the end of two years from the date of issuance of the scheduling order, and it provided that, during the pendency of proceedings under 21 U.S.C. 811(a)(1) with respect to the substance, temporary scheduling of that substance could be extended for up to 1 year. Pursuant to 21 U.S.C. 811(h)(2), the temporary scheduling of 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP expires on March 6, 2016, unless extended. An extension of the temporary order is being ordered by the DEA Administrator in a separate action.

As described in the final order published on March 7, 2014, 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP are structurally and pharmacologically similar to amphetamine, 3,4-methylenedioxymethamphetamine (MDMA), cathinone, and other related substances. While 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP have been used as research chemicals and/or studied due to their misuse and abuse, based on the review of the scientific literature, there are no known currently accepted medical uses for these substances. The Assistant Secretary of Health for the U.S. Department of Health and Human Services (HHS) has advised that there are no exemptions or approvals in effect for 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, or α-PBP under section 505 (21 U.S.C. 355) of the Federal Food, Drug and Cosmetic Act. As stated by the HHS, 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP have no known accepted medical use. They are not the subject of any approved new drug applications (NDAs) or investigational new drug applications (INDs), and are not currently marketed as approved drug products. The HHS recommends that 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP and their salts be placed into schedule I of the Controlled Substances Act (CSA).

Proposed Determination To Schedule 4-MEC, 4-MePPP, α-PVP, Butylone, Pentedrone, Pentylone, 4-FMC, 3-FMC, Naphyrone, and α-PBP

Pursuant to 21 U.S.C. 811(a)(1), proceedings to add a drug or substance to those controlled under the CSA may be initiated by the Attorney General, or her delegate, the DEA Administrator. On December 30, 2014, the DEA requested scientific and medical evaluations and scheduling recommendations from the Assistant Secretary of Health for the HHS for 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP pursuant to 21 U.S.C. 811(b). Upon receipt of the scientific and medical evaluation and scheduling recommendations from the HHS on March 2, 2016, the DEA reviewed the documents and all other relevant data, and conducted its own eight-factor analysis of the abuse potential of 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP pursuant to 21 U.S.C. 811(c). Included below is a brief summary of each of the eight factors as analyzed by the HHS and the DEA, and as considered by the DEA in its proposed scheduling action. Please note that both the DEA 8-Factor and the HHS 8-Factor analyses are available in their entirety under the tab ''Supporting Documents'' of the public docket for this action at *http://www.regulations.gov* under Docket Number ''DEA–436.''

1. *The Drug's Actual or Relative Potential for Abuse:* The term ''abuse'' is not defined in the CSA. However, the legislative history of the CSA suggests that the DEA consider the following criteria when determining whether a particular drug or substance has a potential for abuse: [2]

(a) There is evidence that individuals are taking the drug or drugs containing such a substance in amounts sufficient to create a hazard to their health or to the safety of other individuals or of the community; or

[1] As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

[2] Comprehensive Drug Abuse Prevention and Control Act of 1970, H.R. Rep. No. 91–1444, 91st Cong., Sess. 1 (1970); *reprinted in* 1970 U.S.C.C.A.N. 4566, 4603.

(b) There is significant diversion of the drug or drugs containing such a substance from legitimate drug channels; or

(c) Individuals are taking the drug or drugs containing such a substance on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such drugs in the course of his professional practice; or

(d) The drug or drugs containing such a substance are new drugs so related in their action to a drug or drugs already listed as having a potential for abuse to make it likely that the drug will have the same potentiality for abuse as such drugs, thus making it reasonable to assume that there may be significant diversions from legitimate channels, significant use contrary to or without medical advice, or that it has a substantial capability of creating hazards to the health of the user or to the safety of the community.

As described by the HHS, the abuse potentials of 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP are associated with their abilities to produce psychoactive effects that are similar to those produced by mephedrone, methylone, MDPV, and other schedule I and II substances such as amphetamine, methamphetamine, cocaine, methcathinone, and MDMA that have a high potential for abuse.

The substances 4–MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP have no approved medical uses in the United States and they have been encountered on the illicit market with adverse outcomes on the public health and safety. Because these substances are not approved drug products, a practitioner may not legally prescribe them, and they cannot be dispensed to an individual. Therefore, the use of these substances is without medical advice, leading to the conclusion that the 10 synthetic cathinones are being abused for their psychoactive properties. There are no legitimate drug channels for these synthetic cathinones as marketed drugs but the DEA notes that the 10 synthetic cathinones have use in scientific research. However, despite the limited legitimate use of these substances, reports from public health and law enforcement communicate that these substances are being abused and taken in amounts sufficient to create a hazard to an individual's health. This misuse is evidenced by emergency department admissions and deaths, representing a significant safety issue for those in the community. Papers published in the medical literature (*e.g.,* case reports) related to 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, or α-PBP describe the effects of these substances to be similar to those of the schedule I cathinone substances MDPV, mephedrone, and methylone and other stimulant and hallucinogenic substances to include methamphetamine, cocaine and MDMA. In particular, the responses in humans to the 10 synthetic cathinones are stimulant-like and include paranoia, agitation, palpitations, tachycardia, hypertension, hyperthermia, and seizures. Data from forensic databases are used as indicators of illicit activity with drugs and abuse [3] within the United States and include data from the System to Retrieve Information from Drug Evidence (STRIDE),[4] STARLiMS, and the National Forensic Laboratory Information System (NFLIS).[5] From January 2010 through December 2015 (query dates: February 10 & 11, 2016), STRIDE, STARLiMS and NFLIS databases registered a total of 20,090 reports pertaining to the 10 synthetic cathinones (4–MEC—2,820 reports; 4-MePPP—438 reports; α-PVP—13,295 reports; butylone—789 reports; pentedrone—1,645 reports; pentylone—411 reports; FMC—375 reports; naphyrone—84 reports; α-PBP—233 reports). These drug reports represent all of the 10 synthetic cathinones reported to these databases by participating DEA, State, local, and other forensic laboratories. Consequently, the data indicate that these substances are being abused, and they present safety hazards to the health of individuals who consume them due to their stimulant properties, making them a hazard to the safety of the community.

2. *Scientific Evidence of the Drug's Pharmacological Effects, if Known:* Studies show that 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP produce pharmacological effects that are similar to those produced by schedule I and II substances such as methamphetamine, cocaine, MDMA, mephedrone, MDPV, and methylone. Similar to schedule I and II stimulants, the 10 synthetic cathinone substances affect monoamine transmission. The 10 synthetic cathinones, similar to methamphetamine, cocaine, MDMA, mephedrone, MDPV, methylone, and other related schedule I and II substances, bind to transporters for the dopamine, serotonin, and/or norephinephrine neurotransmitters and are uptake inhibitors of these neurotransmitters. Additionally, behavioral studies in animals demonstrate that the 10 synthetic cathinones produce locomotor behavior and discriminative stimulus effects that are similar to those of the schedule I and II substances methamphetamine and cocaine. Furthermore, the 10 synthetic cathinone produce rewarding properties as demonstrated in self-administration and conditioned place preference (CPP) studies. Drugs that have rewarding effects in animals are likely to produce rewarding effects in humans, which is indicative of abuse potential. Overall, these data indicate that the 10 synthetic cathinones produce pharmacological effects and stimulant-like behaviors that are similar to those of the schedule I substances (MDMA, mephedrone, MDPV, methylone), as well as the schedule II stimulants (methamphetamine and cocaine).

3. *The State of Current Scientific Knowledge Regarding the Drug or Other Substance:* 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP are synthetic cathinones (β-keto-phenethylamines) of the larger phenethylamine structural class (amphetamines, cathinones, 2C compounds, aminoindanes, etc.). These substances share the core phenethylamine structure with a keto functional group [carbonyl (C=O)] at the β-position and substitutions at the α-position and on the phenyl ring and nitrogen atom. Available data demonstrate that 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP are β-ketophenethylamines (*i.e.,* synthetic cathinones) and are structurally and pharmacologically similar to amphetamine, MDMA, cathinone, mephedrone, methylone, MDPV, and other related substances. Metabolism studies demonstrate that humans metabolize synthetic cathinones to their corresponding amphetamines followed by reduction of the beta-keto group to the corresponding alcohol. According to the HHS, 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone,

[3] While law enforcement data is not direct evidence of abuse, it can lead to an inference that a drug has been diverted and abused. *See* 76 FR 77330, 77332, Dec. 12, 2011.

[4] STRIDE was a database that collected analyses of results from drug evidence sent to DEA laboratories. Evidence was submitted by the DEA, other Federal agencies, and select local law enforcement agencies. On October 1, 2014, STARLiMS replaced STRIDE as the DEA system of record for forensic laboratory drug evidence data.

[5] NFLIS is a DEA program and a national forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by state and local forensic laboratories in the United States. The NFLIS database also contains Federal data from U.S. Customs and Border Protection (CBP). NFLIS only includes drug chemistry results from completed analyses.

and α-PBP have no known accepted medical use. They are not the subject of any approved new drug applications (NDAs) or investigational new drug applications (INDs), and are not currently marketed as approved drug products in the U.S or in any other country. The HHS also states that there are no reported clinical trials with the 10 synthetic cathinones. Accordingly, the DEA is not aware of any accepted medical use for 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP in the United States. In addition, although the chemistry of 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP is known and has been reproduced, no studies have been undertaken to evaluate the efficacy, toxicology, and safety of these substances in humans.

4. *Its History and Current Pattern of Abuse:* 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP are synthetic cathinones that emerged on the U.S. illicit drug market around the time of the scheduling of mephedrone, methylone, and MDPV on October 21, 2011. These synthetic cathinone substances, like the schedule I synthetic cathinones (mephedrone, methylone, and MDPV), are promoted as being 'legal' alternatives to cocaine, methamphetamine, and MDMA. As reported in the medical literature, synthetic cathinones can induce stimulant effects, especially under high dose conditions, including tachycardia, palpitations, hypertension, tremor, seizures, hallucinations, paranoia, delusions, hyperthermia, sweating, headache, hyponatremia, and rhabdomyolysis. Products that contain 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP are falsely marketed as ''research chemicals,'' ''jewelry cleaner,'' ''stain remover,'' ''plant food or fertilizer,'' ''insect repellants,'' or ''bath salts'' and are sold at smoke shops, head shops, convenience stores, adult book stores, and gas stations. They can also be purchased on the Internet under a variety of product names (*e.g.,* ''White Dove,'' ''Explosion,'' ''Tranquility''). They are commonly encountered in the form of powders, crystals, resins, tablets, and capsules. The packages of these commercial products usually contain the warning ''not for human consumption.'' Information from published scientific studies indicate that the most common routes of administration for synthetic cathinone substances is ingestion by swallowing capsules or tablets, or nasal insufflation by snorting the powder tablets. Evidence from poison centers and published reports suggest that the main users of methylone are young adults. There is evidence that these synthetic cathinone substances are ingested with other substances including other synthetic cathinones, common cutting agents, or other recreational substances.

5. *The Scope, Duration, and Significance of Abuse:* 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP, like mephedrone, methylone, and MDPV, are popular recreational drugs. Evidence that these synthetic cathinone substances are being abused and trafficked is confirmed by law enforcement encounters of these substances and reports from national databases. Forensic laboratories have analyzed drug exhibits received from state, local, or Federal law enforcement agencies that were found to contain 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, or α-PBP. NFLIS registered over 17,000 reports from State, local, and other forensic laboratories identifying these substances in drug-related reports for the period from January 2010 to December 2015 from 47 states. STRIDE & STARLiMS registered over 2,000 reports from DEA forensic laboratories from January 2010 to December 2015. Encounters of 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP by law enforcement have occurred in several states. Additionally, large seizures of these substances have occurred by the U.S. Customs and Border Protection (CBP). Concerns over the abuse of these synthetic cathinone substances have prompted many States to regulate them. These data demonstrate that 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP have a scope, duration, and significance of abuse that supports scheduling under the CSA.

6. *What, if Any, Risk There is to the Public Health:* Available evidence on the overall public health risks associated with the use of synthetic cathinones indicates that 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP can cause acute health problems leading to emergency department (ED) admissions, violent behaviors causing harm to self or others, or death. Law enforcement, forensic laboratories, case reports, and public health officials have reported toxic exposure to some of the 10 synthetic cathinones that demonstrate the public health risks associated with these substances. Serious adverse effects have resulted in documented hospital ED admissions from the ingestion of butylone, 4-FMC, or naphyrone. Individuals under the influence of 4-MEC or α-PVP have acted violently and unpredictably causing harm, or even death, to themselves or others. Butylone has been directly implicated in two fatalities reported in the medical literature. Other synthetic cathinones, such as α-PVP, pentedrone, and pentylone, have also been implicated in the deaths of individuals. Acute effects of these substances are those typical of a sympathomimeticagent (*e.g.,* cocaine, methamphetamine, amphetamine) and include among other effects tachycardia, headache, palpitations, agitation, anxiety, mydriasis, tremor, fever or sweating, and hypertension. Other effects, with possible public health risk implications, that have been reported from the use of synthetic cathinone substances include psychological effects such as psychosis, paranoia, hallucinations, and agitation. Finally, the possibility of death for individuals abusing 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP also indicates that these substances pose a serious public health threat. In addition to the recognized harm from ingesting and abusing synthetic cathinones, abusers risk harm when they obtain these drugs through unknown sources. Products containing these synthetic cathinone substances often do not bear labeling information regarding their ingredients and if they do, they may not contain the expected active ingredients or identify the health risks and potential hazards associated with these products. Thus, the limited knowledge about product contents, its purity and lack of information about its effects may pose another level of risk to users.

7. *Its Psychic or Physiological Dependence Liability:* The DEA is unaware of any clinical studies that have evaluated the dependence potential of 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, or α-PBP; however, according to the HHS, synthetic cathinones have rewarding properties in rodents similar to those of schedule II stimulants. Generally, there is a strong correlation between drugs that serve as reinforcers in animals, and drugs associated with problems of addiction, dependence, or abuse by humans. In a self-administration study,

α-PVP and pentedrone were self-administered by rodents. In the intracranial self-stimulation (ICSS) assay, α-PVP and 4-MEC significantly reduced the ICSS threshold compared to vehicle control. In drug discrimination studies, all 10 synthetic cathinone substances fully generalize to the discriminative stimulus effects produced by the schedule II stimulants—cocaine and methamphetamine. In conditioned place preference (CPP) studies, α-PBP, α-PVP, and pentedrone produce CPP in rodents. Thus, these data indicate that 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP have behavioral and rewarding properties in rodents similar to those of schedule II stimulants and, consequently, psychic dependence on these substances can develop and may contribute to the continued use among individuals who abuse them despite their adverse consequences.

8. *Whether the Substance is an Immediate Precursor of a Substance Already Controlled Under the CSA:* 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP are not considered immediate precursors of any controlled substance of the CSA.

Conclusion: After considering the scientific and medical evaluation conducted by the HHS, the HHS's recommendation, and the DEA's own eight-factor analysis, the DEA finds that the facts and all relevant data constitute substantial evidence of the potential for abuse of 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP. As such, the DEA hereby proposes to schedule 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4–FMC, 3-FMC, naphyrone, and α-PBP as controlled substances under the CSA.

Proposed Determination of Appropriate Schedule

The CSA establishes five schedules of controlled substances known as schedules I, II, III, IV, and V. The CSA also outlines the findings required to place a drug or other substance in any particular schedule. 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the Assistant Secretary for the HHS and review of all other available data, the Administrator of the DEA, pursuant to 21 U.S.C. 811(a) and 21 U.S.C. 812(b)(1), finds that:

1. 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP have a high potential for abuse that is comparable to other schedule I and schedule II substances such as mephedrone, methylone, MDPV, methcathinone, MDMA, amphetamine, methamphetamine, and cocaine;

2. 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP have no currently accepted medical use in treatment in the United States; and

3. There is a lack of accepted safety for use of 4-MEC, 4-MePPP, α-PVP, butylone, pentedrone, pentylone, 4-FMC, 3-FMC, naphyrone, and α-PBP under medical supervision.

Based on these findings, the Administrator of the DEA concludes that 4-methyl-*N*-ethylcathinone (4-MEC); 4-methyl-*alpha*-pyrrolidinopropiophenone (4-MePPP); alpha-pyrrolidinopentiophenone (α-PVP); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone); 2-(methylamino)-1-phenylpentan-1-one (pentedrone); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone); 4-fluoro-*N*-methylcathinone (4-FMC); 3-fluoro-*N*-methylcathinone (3-FMC); 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone); alpha-pyrrolidinobutiophenone (α-PBP) and their optical, positional, and geometric isomers, salts and salts of isomers, warrant control in schedule I of the CSA. 21 U.S.C. 812(b)(1).

Requirements for Handling 4–MEC, 4–MePPP, α–PVP, Butylone, Pentedrone, Pentylone, 4–FMC, 3–FMC, Naphyrone, and α–PBP

If this rule is finalized as proposed, 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α–PBP would continue [6] to be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, possession, importing, research, conduct of instructional activities, and exporting of schedule I controlled substances, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, dispenses, imports, exports, engages in research, conducts instructional activities or chemical analysis with, or possesses) 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α–PBP, or who desires to handle 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α–PBP would be required to be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312.

2. *Security.* 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α–PBP would be subject to schedule I security requirements and would need to be handled and stored pursuant to 21 U.S.C. 821 and 823, and in accordance with 21 CFR 1301.71–1301.93.

3. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α–PBP would need to be in compliance with 21 U.S.C. 825 and 958(e), and be in accordance with 21 CFR part 1302.

4. *Quota.* Only registered manufacturers would be permitted to manufacture 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α–PBP in accordance with a quota assigned pursuant to 21 U.S.C. 826, and in accordance with 21 CFR part 1303.

5. *Inventory.* Any person who becomes registered with the DEA on or after the effective date of the final rule must take an initial inventory of all stocks of controlled substances (including 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α–PBP) on hand on the date the registrant first engages in the handling of controlled substances pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

After the initial inventory, every DEA registrant must take a new inventory of all stocks of controlled substances (including 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α–PBP) on hand every two years pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records and Reports.* Every DEA registrant would be required to maintain records and submit reports with respect to 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and/ or α–PBP pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR parts 1304 and 1312.

7. Order Forms. Every DEA registrant who distributes 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α–PBP would be required to comply with the order form requirements, pursuant to 21 U.S.C. 828, and 21 CFR part 1305.

8. Importation and Exportation. All importation and exportation of 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC,

[6] 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α–PBP are currently subject to schedule I controls on a temporary basis, pursuant to 21 U.S.C. 811(h). 79 FR 12938, Mar. 7, 2014.

naphyrone, or α–PBP would need to be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

9. Liability. Any activity involving 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α–PBP not authorized by, or in violation of, the CSA or its implementing regulations would be unlawful, and could subject the person to administrative, civil, and/ or criminal sanctions.

Regulatory Analyses

Executive Orders 12866 and 13563

In accordance with 21 U.S.C. 811(a), this proposed scheduling action is subject to formal rulemaking procedures done ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563.

Executive Order 12988

This proposed regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132

This proposed rulemaking does not have federalism implications warranting the application of Executive Order 13132. The proposed rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This proposed rule does not have tribal implications warranting the application of Executive Order 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–602, has reviewed this proposed rule and by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities. On March 7, 2014, the DEA published a final order to temporarily place 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, and α–PBP into schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). The DEA estimates that all entities handling or planning to handle 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α–PBP are currently registered to handle these substances. There are currently 43 registrations authorized to handle 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α–PBP, as well as a number of registered analytical labs that are authorized to handle schedule I controlled substances generally. These 43 registrations represent 31 entities, of which 11 are small entities. Therefore, the DEA estimates that 11 small entities are affected by this proposed rule.

A review of the 43 registrations indicates that all entities that currently handle 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α–PBP also handle other schedule I controlled substances, and have established and implemented (or currently maintain) the systems and processes required to handle 4–MEC, 4–MePPP, α–PVP, butylone, pentedrone, pentylone, 4–FMC, 3–FMC, naphyrone, or α–PBP. Therefore, the DEA anticipates that this proposed rule will impose minimal or no economic impact on any affected entities; and thus, will not have a significant economic impact on any of the 11 affected small entities. Therefore, the DEA has concluded that this proposed rule will not have a significant effect on the small entities.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.,* the DEA has determined and certifies that this action would not result in 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 for inflation) in any one year . . .'' Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1308 is proposed to be amended to read as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. In § 1308.11:

■ a. Add paragraphs (d)(58) through (d)(67);

■ b. Remove paragraphs (h)(11) through (h)(20),

■ c. Redesignate paragraphs (h)(21) through (h)(25) as (h)(11) through (h)(15);

The additions to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(58) 4–methyl–*N*–ethylcathinone (4MEC) ..... (1249)

(59) 4–methyl–*alpha*–pyrrolidinopropiophenone (4–MePPP) ..... (7498)

(60) *alpha*–pyrrolidinopentiophenone (α–PVP) ..... (7545)

(61) 1–(1,3–benzodioxol–5–yl)–2–(methylamino)butan–1–one (butylone, bk–MB ..... (7541)

(62) 2–(methylamino)–1–phenylpentan–1–one (pentedrone) ..... (1246)

(63) 1–(1,3–benzodioxol–5–yl)–2–(methylamino)pentan–1–one (pentylone, bk–MBDP) ..... (7542)

(64) 4–fluoro–*N*–methylcathinone (4–FMC; flephedrone). ..... (1238)

(65) 3–fluoro–*N*–methylcathinone (3–FMC) ..... (1233)

(66) 1–(naphthalen–2–yl)–2–(pyrrolidin–1–yl)pentan–1–one (naphyrone). ..... (1258)

(67) *alpha*–pyrrolidinobutiophenone ..... (7546)

* * * * *

Dated: March 2, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–05002 Filed 3–3–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–127923–15]

RIN 1545–BM97

Consistent Basis Reporting Between Estate and Person Acquiring Property From Decedent

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking, and notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains proposed regulations that provide guidance regarding the requirement that a recipient's basis in certain property acquired from a decedent be consistent with the value of the property as finally determined for Federal estate tax purposes. In addition, these proposed regulations provide guidance on the reporting requirements for executors or other persons required to file Federal estate tax returns. Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** provide transition relief to executors and other persons required to file or furnish certain statements. The text of those temporary regulations (TD 9757) published in the Rules and Regulations section of this issue of the **Federal Register** also serves as the text of the proposed regulations regarding the transition relief. These proposed regulations as well as TD 9757 published elsewhere in the Rules and Regulations section of this issue of this **Federal Register** affect executors or other persons who file estate tax returns after July 31, 2015. The proposed regulations also affect beneficiaries who acquire certain property from these estates, and subsequent transferees to whom beneficiaries transfer the property in transactions that do not result in the recognition of gain or loss for Federal income tax purposes.

DATES: Written or electronic comments and requests for a public hearing must be received by June 2, 2016.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–127923–15), Internal Revenue Service, Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–127923–15), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224; or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS–REG–127923–15).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Theresa M. Melchiorre, at (202) 317–6859; concerning submissions of comments or, to request a hearing, Regina Johnson, at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by *May 3, 2016.*

Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service (IRS), including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The reporting requirements in these proposed regulations are in § 1.6035–1(a) and (d) and require executors and other persons required to file a return under section 6018 to furnish a statement to the IRS and to each beneficiary providing information regarding the value of the property the beneficiary acquires from the decedent. The IRS will use this information to determine whether the beneficiary (or transferee) reports a basis for that property that is consistent with the value of that property as finally determined for Federal estate tax purposes when the beneficiary (or transferee) depreciates the property, or sells, exchanges, or otherwise disposes of some or all of that property in transactions that result in the recognition of gain or loss for Federal income tax purposes.

The collection of information may vary depending on the property includible in the gross estate and the number of beneficiaries receiving the property. The following estimates are based on the information that is available to the IRS. A respondent may require more or less time, depending on the circumstances.

Estimated total annual reporting burden. The estimated total annual reporting burden per respondent is 5.31 hours.

Estimated annual number of respondents. The estimated annual number of respondents is 10,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

1. Overview

On July 31, 2015, the President of the United States signed into law H.R. 3236, the *Surface Transportation and Veterans Health Care Choice Improvement Act of 2015,* Public Law 114–41, 129 Stat. 443 (Act). Section 2004 of the Act enacted sections 1014(f), 6035, 6662(b)(8), 6662(k), 6724(d)(1)(D), and 6724(d)(2)(II) of the Internal Revenue Code (Code). This document contains proposed regulations that amend 26 CFR parts 1 and 301 under those Code provisions to achieve consistency between a recipient's basis in certain property acquired from a

decedent and the value of the property as finally determined for Federal estate tax purposes. This notice of proposed rulemaking also cross-references to temporary regulations (TD 9757) published in the Rules and Regulations section of this issue of the **Federal Register**, which provide transition relief to certain persons required to file or furnish statements under section 6035. This document also proposes to remove from 26 CFR part 1 regulations under former section 6035 as a result of the repeal of that Code provision in 2004.

2. Summary of New Statutory Framework

A. Section 1014(f)

Section 1014(f) imposes an obligation of consistency between the basis of certain inherited property and the value of that property for Federal estate tax purposes.

Section 1014(f)(1) provides that the basis of property acquired from a decedent cannot exceed that property's final value for purposes of the Federal estate tax imposed on the estate of the decedent, or, if the final value has not been determined, the value reported on a statement required by section 6035(a).

Section 1014(f)(2) provides that section 1014(f)(1) only applies to property the inclusion of which in the decedent's gross estate increased the estate's liability for the Federal estate tax (reduced by credits allowable against the tax).

Section 1014(f)(3) provides that, for purposes of section 1014(f)(1), the basis of property has been determined for Federal estate tax purposes if (A) the value of the property is shown on a return under section 6018 and that value is not contested by the Secretary before the expiration of the time for assessing the estate tax; (B) in a case not described in (A), the value is specified by the Secretary and that value is not timely contested by the executor of the estate; or (C) the value is determined by a court or pursuant to a settlement agreement with the Secretary.

B. Section 6035

Section 6035 requires the reporting, both to the IRS and the beneficiary, of the value of property included on a required Federal estate tax return.

Section 6035(a)(1) provides that the executor of any estate required to file a return under section 6018(a) must furnish, both to the Secretary and to the person acquiring any interest in property included in the estate, a statement identifying the value of each interest in the property as reported on the return and any other information as the Secretary may prescribe.

Section 6035(a)(2) provides that each person required to file a return under section 6018(b) must furnish to the Secretary and to each other person who holds a legal or beneficial interest in the property to which the return relates a statement identifying the information described in section 6035(a)(1).

Section 6035(a)(3)(A) provides that this statement is due no later than the earlier of (i) 30 days after the due date of the return under section 6018 (including extensions, if any) or (ii) 30 days after the date the return is filed. If there is an adjustment to the information required to be included on this statement, section 6035(a)(3)(B) requires the executor (or other person required to file the statement) to provide a supplemental statement to the Secretary and to each affected beneficiary no later than 30 days after the adjustment is made.

Section 6035(b) authorizes the Secretary to prescribe regulations to carry out section 6035, including regulations relating to (1) the application of this section to property to which no Federal estate tax return is required to be filed, and (2) situations in which the surviving joint tenant or other recipient may have better information than the executor regarding the basis or fair market value of the property.

C. Penalties Under Sections 6662, 6721, and 6722

Section 2004(c) of the Act added a new accuracy-related penalty for underpayments attributable to an inconsistent estate basis. See section 6662(b)(8).

Section 6662(k) provides that there is an inconsistent estate basis if the basis of property claimed on a return exceeds the basis as determined under section 1014(f).

Section 2004(c) of the Act adds statements under section 6035 to the list of information returns and payee statements subject to the penalties under section 6721 and section 6722, respectively. Specifically, the Act adds new paragraph (D) to section 6724(d)(1) to provide that the term *information return* means any statement required to be filed with the Secretary under section 6035. The Act also adds new paragraph (II) to section 6724(d)(2) to provide that the term *payee statement* means any statement required to be furnished under section 6035 (other than a statement described in section 6724(d)(1)(D)).

3. Notice 2015–57

On August 21, 2015, the Treasury Department and the IRS issued Notice 2015–57, 2015–36 IRB 294. That notice delayed until February 29, 2016, the due date for any statements required under section 6035(a)(3)(A) to be provided before February 29, 2016. The notice also stated that the Treasury Department and the IRS expect to issue additional guidance to assist taxpayers in complying with sections 1014(f) and 6035 and invited comments. The Treasury Department and the IRS received numerous comments in response to the notice and considered all comments in the drafting of the proposed regulations. The comments are discussed in more detail in this preamble.

4. Notice 2016–19

On February 11, 2016, the Treasury Department and the IRS issued Notice 2016–19, 2016–09 IRB 362. That notice provides that executors or other persons required to file or furnish a statement under section 6035(a)(1) or (a)(2) before March 31, 2016, need not do so until March 31, 2016.

Summary of Comments on Notice 2015–57 and Explanation of Provisions

1. Section 1014(f)(1)—Consistency of Basis With Estate Tax Return

The general rule of section 1014 is that the basis of property received from a decedent (or as a result of a decedent's death) is that property's fair market value on the decedent's date of death (or the alternate valuation date, if elected). Newly enacted section 1014(f)(1) provides that the basis of certain property acquired from a decedent cannot exceed that property's final value as determined for Federal estate tax purposes. If no final value has been determined when the taxpayer's basis in the property becomes relevant for Federal tax purposes, for example, to calculate depreciation or amortization, or to calculate gain or loss on the sale, exchange or disposition of the property, the taxpayer uses the value reported on the statement required by section 6035(a) (the fair market value reported on the Federal estate tax return) to determine the taxpayer's basis for Federal tax purposes.

Proposed § 1.1014–10(a)(1) provides that a taxpayer's initial basis in certain property acquired from a decedent may not exceed the *final value* of the property as that term is defined in § 1.1014–10(c). This limitation applies to the property whenever the taxpayer reports to the IRS a taxable event with respect to the property (for example, depreciation or amortization) and continues to apply until the property is sold, exchanged, or otherwise disposed of in one or more transactions that result

in the recognition of gain or loss for Federal income tax purposes. The property for this purpose includes any other property the basis of which is determined in whole or in part by reference to the basis of the property acquired from the estate or as a result of the death of the decedent (for example as the result of a like-kind exchange or involuntary conversion).

2. Effect of Other Provisions of the Code That Govern Basis

Section 6662(b)(8) imposes an accuracy-related penalty on the portion of any underpayment of tax required to be shown on a return that is attributable to an *inconsistent estate basis.* Under newly enacted section 6662(k), an inconsistent estate basis arises if the basis of property claimed on a return exceeds its final value as determined under section 1014(f).

Commenters have expressed concern that section 1014(f) and section 6662(k) appear to prohibit otherwise permissible adjustments to the basis of property as a result of post-death events. In response, proposed §§ 1.1014–10(a)(2) and 1.6662–8(b) clarify that sections 1014(f) and 6662(k) do not prohibit adjustments to the basis of property as a result of post-death events that are allowed under other sections of the Code, and provide that such basis adjustments will not cause a taxpayer to violate the provisions of section 1014(f) or section 6662(k) on the date of sale, exchange, or disposition. The proposed regulations interpret sections 1014(f) and 6662(k) to require only that the beneficiary's initial basis of the inherited property cannot exceed the final value of the property for Federal estate tax purposes. Adjustments to the basis of the inherited property permitted by other sections of the Code as a result of post-death events (for example, depreciation or amortization, or a sale, exchange, or disposition of the property) will not cause the taxpayer's basis in the property on the date of a taxable event with respect to the property to be treated as exceeding the final value of the property. As a result, there cannot be an underpayment attributable to an inconsistent estate basis arising from these basis adjustments, and the accuracy-related penalty under section 6662(b)(8) cannot apply solely as a result of these basis adjustments.

3. Section 1014(f)(2)—Property That Increases Estate Tax Liability

The consistent basis requirement of section 1014(f)(1) applies only to property the inclusion of which in the decedent's gross estate for Federal estate tax purposes increases the Federal estate tax liability payable by the decedent's estate. Proposed § 1.1014–10(b) defines this property as property includible in the gross estate under section 2031, as well as property subject to tax under section 2106, that generates a Federal estate tax liability in excess of allowable credits. The proposed regulations specifically exclude all property reported on a Federal estate tax return required to be filed by section 6018 if no Federal estate tax is imposed upon the estate due to allowable credits (other than a credit for a prepayment of that tax). In cases where Federal estate tax is imposed on the estate, the proposed regulations exclude property that qualifies for a charitable or marital deduction under section 2055, 2056, or 2056A because this property does not increase the Federal estate tax liability. In addition, the proposed regulations exclude any tangible personal property for which an appraisal is not required under § 20.2031–6(b) (relating to the valuation of certain household and personal effects) because of its value. Thus, if any Federal estate tax liability is incurred, all of the property in the gross estate (other than that described in the preceding two sentences) is deemed to increase the Federal estate tax liability and is subject to the consistency requirement of section 1014(f).

4. Section 1014(f)(3)—Final Value of Property Acquired From a Decedent

Section 1014(f)(3) provides that, for purposes of section 1014(f)(1), the *final value* of property has been determined for Federal estate tax purposes if: (A) The value is reported on a Federal estate tax return filed with the IRS and is not contested by the IRS before the period of limitation on assessment expires; (B) the value is specified by the IRS and is not timely contested by the executor of the estate; or (C) the value is determined by a court or pursuant to a settlement agreement with the IRS.

Proposed § 1.1014–10(c)(1) defines the *final value* of property that is reported on a Federal estate tax return filed with the IRS. That value is the value reported on the Federal estate tax return once the period of limitations on assessment for adjusting or contesting that value has expired. The IRS may specify a value for the property by determining a value in the course of carrying out its responsibilities under section 7803(a)(2). If the IRS determines a value different from the value reported, the final value is the value determined by the IRS once that value can no longer be contested by the estate. If the value determined or specified by the IRS is timely contested by the estate, the final value is the value determined in an agreement that is binding on all parties, or the value determined by a court once the court's determination is final.

Proposed § 1.1014–10(c)(2) provides that the recipient of property to which the consistency requirement applies may not claim a basis in excess of the value reported on the statement required to be furnished under section 6035(a) (the value shown on the Federal estate tax return) if the taxpayer's basis in the property is relevant for any purpose under the Internal Revenue Code before the final value of that property has been determined under proposed § 1.1014–10(c)(1). However, under section 1014(f)(1), basis cannot exceed the property's final value. Therefore, proposed § 1.1014–10(c)(2) provides that, if the final value is determined before the period of limitation on assessment expires for any Federal income tax return of the recipient on which the taxpayer's basis is relevant and the final value differs from the initial basis claimed with respect to that return, a deficiency and an underpayment may result.

5. After-Discovered or Omitted Property

Commenters requested that the regulations clarify how the consistent basis requirement applies to property that is discovered after the filing of the Federal estate tax return or is otherwise omitted from that return. If this property would have generated a Federal estate tax liability if it had been reported on the Federal estate tax return that was filed with IRS, proposed § 1.1014–10(c)(3)(i) provides two different results based upon whether the period of limitation on assessment has expired for the Federal estate tax imposed on the estate. Proposed § 1.1014–10(c)(3)(i)(A) provides that, if the executor reports the after-discovered or omitted property on an estate tax return filed before the expiration of the period of limitation on assessment of the estate tax, the final value of the property is determined under proposed § 1.1014–10(c)(1) or (2). Alternatively, proposed § 1.1014–10(c)(3)(i)(B) provides that, if the after-discovered or omitted property is not reported before the period of limitation on assessment expires, the final value of the after-discovered or omitted property is zero.

Finally, to address situations in which no Federal estate tax return was filed, proposed § 1.1014–10(c)(3)(ii) provides that the final value of all property includible in the gross estate subject to the consistent basis requirement is zero until the final value is determined under proposed § 1.1014–10(c)(1) or (2).

6. Definition of Executor for Purposes of Sections 1014(f) and 6035

The proposed regulations adopt the definition of the term *executor* found in section 2203 applicable for Federal estate tax purposes and expand it to include a person required to file a return under section 6018(b).

7. Requirement To Provide Information Return and Statement(s) Under Section 6035

The proposed regulations define the term *Information Return* as the Form 8971, Information Regarding Beneficiaries Acquiring Property from a Decedent, which includes a copy of a Schedule A (Statement) for each person who has received or will receive property from the estate or by reason of the decedent's death.

Proposed § 1.6035–1(a)(1) provides that an executor who is required to file a Federal estate tax return also is required to file an Information Return with the IRS to report the final value of certain property, the recipient of that property, and other information prescribed by the Information Return and the related instructions. The executor also is required to furnish a Statement to each beneficiary who has acquired (or will acquire) property from the decedent or by reason of the death of the decedent to report the property the beneficiary has acquired (or will acquire) and the final value of that property.

8. Circumstances Under Which No Information Return or Statement(s) Is Required Under Section 6035

Commenters expressed concern that the section 6035 filing requirements might extend to a return filed by an estate solely to make the portability election under section 2010(c)(5), or a generation-skipping transfer tax election or exemption allocation. The proposed regulations provide that the filing requirements of section 6035 do not apply to such returns because these returns are not required by section 6018.

9. Property To Be Reported on an Information Return and Statement(s)

Commenters requested that the regulations clarify the types of property to be reported on the Information Return and one or more Statements. In response, proposed § 1.6035–1(b) defines the property to be reported on an Information Return and Statement(s) as all property included in the gross estate for Federal estate tax purposes with four exceptions: Cash (other than coins or paper bills with numismatic value); income in respect of a decedent; those items of tangible personal property for which an appraisal is not required under § 20.2031–6(b); and property that is sold or otherwise disposed of by the estate (and therefore not distributed to a beneficiary) in a transaction in which capital gain or loss is recognized.

10. Beneficiaries

Proposed § 1.6035–1(c)(1) provides that each beneficiary (including a beneficiary who is also the executor of the estate) who receives property to be reported on the estate's Information Return must receive a copy of the Statement reporting the property distributable to that beneficiary. Proposed § 1.6035–1(c)(2) provides that, if the beneficiary is a trust, estate, or business entity instead of an individual, the executor is to furnish the entity's Statement to the trustee, executor, or to the business entity itself, and not to the beneficiaries of the trust or estate or to the owners of the business entity.

Commenters requested guidance on how to comply with the section 6035 reporting requirements when the executor cannot determine the exact distribution of the estate's property and thus the beneficiary of each property by the due date of the Information Return and the related Statements. This situation can arise, for example, when tangible personal property defined in § 20.2031–6 is to be distributed among a group of beneficiaries as that group determines, the residuary estate is distributable to multiple beneficiaries, or when multiple residuary trusts are to be funded. In response, proposed § 1.6035–1(c)(3) provides that, if by the due date the executor does not yet know what property will be used to satisfy the interest of each beneficiary, the executor is required to report on the Statement for each beneficiary all of the property that could be used to satisfy that beneficiary's interest. This results in the duplicate reporting of those assets on multiple Statements, but each beneficiary will have been advised of the final value of each property that may be received by that beneficiary and therefore will be able to comply with the basis consistency requirement, if applicable.

Proposed § 1.6035–1(c)(4) provides that, if the executor is unable to locate a beneficiary by the due date of the Information Return, the executor is required to report that on that Information Return and explain the efforts taken to locate the beneficiary. If the executor subsequently locates the beneficiary, the executor is required to furnish the beneficiary with a Statement and file a supplemental Information Return with the IRS within 30 days of locating the beneficiary. If the executor is unable to locate a beneficiary and distributes the property to a different beneficiary who was not identified in the Information Return as the recipient of that property, the executor is required to file a supplemental Information Return with the IRS and furnish the successor beneficiary with a Statement within 30 days after distributing the property.

11. Due Date for Information Return and Statements

Proposed § 1.6035–1(d)(1) provides that the executor is required to file the Information Return with the IRS, and is required to furnish each beneficiary with that beneficiary's Statement, on or before the earlier of the date that is 30 days after the due date of the Federal estate tax return (including extensions actually granted, if any), or the date that is 30 days after the date on which that return is filed with the IRS. In response to comments, proposed § 1.6035–1(d)(2) provides a transition rule for any Federal estate tax return that was due on or before July 31, 2015, but that is filed after July 31, 2015. In this case, the due date of the Information Return and all Statements is 30 days after the date on which the return is filed. Otherwise, as commenters noted, the due date for the Information Return and Statement(s) may be prior to the effective date of section 6035.

12. Supplemental Information Return and Statement(s)

Proposed § 1.6035–1(e)(1) and (2) generally requires a supplemental Information Return and corresponding supplemental Statement(s) upon a change to the information required to be reported on the Information Return or a Statement that causes the information as reported to be incorrect or incomplete. Such changes include, for example, the discovery of property that should have been, but was not, reported on the Federal estate tax return, a change in the value of property pursuant to an examination or litigation, or (except as provided by proposed § 1.6035–1(e)(3)(B)) a change in the identity of the beneficiary to whom the property is to be distributed (for example, pursuant to a death, disclaimer, bankruptcy, or otherwise).

Proposed § 1.6035–1(e)(3) provides that a supplemental Information Return and Statement(s) may be filed, but they are not required, to correct an inconsequential error or omission within the meaning of § 301.6722–1(b) or to specify the actual distribution of assets previously reported as being available to satisfy the interests of

multiple beneficiaries in the situation described in proposed § 1.6035–1(c)(3).

Proposed § 1.6035–1(e)(4) provides that the due date for the supplemental Information Return and each supplemental Statement is 30 days after: (i) The final value (within the meaning of proposed § 1.1014–10(c)(1)) of property is determined; (ii) the executor discovers that the information reported on the Information Return or Statement is otherwise incorrect or incomplete; or (iii) a supplemental Federal estate tax return is filed. However, at the suggestion of a commenter, if these events occur prior to the distribution to the beneficiary of probate property or of the property of a revocable trust, a supplemental Information Return or Statement is not due until 30 days after the property is distributed. This is likely to be approximately the same time when the executor would provide the beneficiary with information as to changes, if any, to the basis of the property that have occurred since the decedent's death and prior to the distribution. Because that basis adjustment information is not part of what is required to be reported under section 6035, however, if the executor chooses to provide that basis adjustment information on the Schedule A provided to the beneficiary, the basis adjustment information must be shown separately from the final value required to be reported on the beneficiary's Statement.

13. Subsequent Transfers

As discussed earlier in this preamble, section 6035(a)(2) imposes a reporting requirement on the executor of the decedent's estate and on any other person required to file a return under section 6018. The purpose of this reporting is to enable the IRS to monitor whether the basis claimed by an owner of the property is properly based on the final value of that property for estate tax purposes. The Treasury Department and the IRS are concerned, however, that opportunities may exist in some circumstances for the recipient of such reporting to circumvent the purpose of the statute (for example, by making a gift of the property to a complex trust for the benefit of the transferor's family).

Accordingly, pursuant to the regulatory authority granted in section 6035(b)(2), the proposed regulations require additional information reporting by certain subsequent transferors in limited circumstances. Specifically, proposed § 1.6035–1(f) provides that, with regard to property that previously was reported or is required to be reported on a Statement furnished to a recipient, when the recipient distributes or transfers (by gift or otherwise) all or any portion of that property to a related transferee, whether directly or indirectly, in a transaction in which the transferee's basis for Federal income tax purposes is determined in whole or in part with reference to the transferor's basis, the transferor is required to file and furnish with the IRS and the transferee, respectively, a supplemental Statement documenting the new ownership of this property. This proposed reporting requirement is imposed on each such recipient of the property. For purposes of this provision, a related transferee means any member of the transferor's family as defined in section 2704(c)(2), any controlled entity (a corporation or any other entity in which the transferor and members of the transferor's family, whether directly or indirectly, have control within the meaning of section 2701(b)(2)(A) or (B)), and any trust of which the transferor is a deemed owner for income tax purposes.

In the event such transfer occurs before a final value is determined within the meaning of proposed § 1.1014–10(c), the transferor must provide the executor with a copy of the supplemental Statement filed with the IRS and furnished to the transferee reporting the new ownership of the property. When a final value is determined, the executor will then provide a supplemental Statement to the new transferee instead of to the transferor. The supplemental Statements are due no later than 30 days after the transferor distributes or transfers all or a portion of the property to the transferee.

14. Surviving Joint Tenants or Other Recipients Under Section 6035(b)(2)

Section 6035(b)(2) authorizes the IRS to prescribe regulations relating to situations in which the surviving joint tenant or other recipient may have better information than the executor regarding the basis or fair market value of the property received by reason of the decedent's death. Section 6018(b) addresses these situations. Section 6018(b) generally requires that, if the executor is unable to make a complete return as to any part of the gross estate of the decedent, the executor must include on the return a description of that part of the gross estate and the name of every person holding a legal or beneficial interest in it. Upon notice from the Secretary, any such person must in like manner make a return as to this part of the gross estate. Section 6035(a)(2) and these proposed regulations require a person required to file a return under section 6018(b) to file an Information Return with the IRS and to furnish the Statement(s) to each beneficiary of that property. Therefore, the Treasury Department and the IRS have determined that no additional regulations applicable only to surviving joint tenants or other recipients are necessary for this purpose.

15. Removal of Regulations Under Former Section 6035

The *American Jobs Creation Act of 2004* (Pub. L. 108–357, 118 Stat. 1418) (Jobs Act) repealed former section 6035, effective for taxable years of foreign corporations beginning after December 31, 2004, and for taxable years of United States shareholders with or within which the tax years of foreign corporations end. Prior to repeal, former section 6035 set forth information reporting requirements for certain United States persons that were officers, directors, or 10-percent shareholders of a foreign personal holding company. Section 1.6035–1 (TD 8573), § 301.6035–1 (TD 6498), § 1.6035–2 (TD 8028), and § 1.6035–3 (TD 8028) (collectively, the FPHC regulations) provide guidance on the information reporting required under former section 6035, as in effect prior to amendment by the *Tax Equity and Fiscal Responsibility Act of 1982* (Pub. L. 97–248, 96 Stat. 328), and prior to its repeal by the Jobs Act.

This document proposes to withdraw the FPHC regulations. However, the FPHC regulations referenced above contained in 26 CFR parts 1 and 301, revised as of April 1, 2015, continue to apply for taxable years of foreign corporations beginning on or before December 31, 2004, and for taxable years of United States shareholders in which former section 6035 applies with or within which the tax years of foreign corporations end.

16. Request for New Process

One commenter requested the creation of a process to allow an estate beneficiary to challenge the value reported by the executor. There is no such process under the Federal law regarding returns described in section 6018. The beneficiary's rights with regard to the estate tax valuation of property are governed by applicable state law. Accordingly, the proposed regulations do not create a new Federal process for challenging the value reported by the executor.

Proposed Effective/Applicability Date

Upon the publication of the Treasury Decision adopting these rules as final in the **Federal Register**, these proposed regulations will apply to property acquired from a decedent or by reason

of the death of a decedent whose return required by section 6018 is filed after July 31, 2015. Persons may rely upon these rules before the date of publication of the Treasury Decision adopting these rules as final in the **Federal Register**.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings notices, notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by visiting the IRS Web site at *http://www.irs.gov.*

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that this rule primarily affects individuals (or their estates) and trusts, which are not small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). Although it is anticipated that there may be an incremental economic impact on executors that are small entities, including entities that provide tax and legal services that assist individuals in preparing tax returns, any impact would not be significant and would not affect a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. Comments are requested on all aspects of the proposed rules. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Theresa M. Melchiorre, Office of Associate Chief Counsel (Passthroughs and Special Industries). Other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

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

Section 1.1014–10 also issued under 26 U.S.C. 1014(f).

Section 1.6035–1 also issued under 26. U.S.C. 6035(a).

Section 1.6035–2 also issued under 26. U.S.C. 6035(a).

■ **Par. 2.** Section 1.1014–10 is added to read as follows:

§ 1.1014–10 Basis of property acquired from a decedent must be consistent with Federal estate tax return.

(a) *Consistent basis requirement*—(1) *In general.* The taxpayer's initial basis in property described in paragraph (b) of this section may not exceed the property's final value within the meaning of paragraph (c) of this section. This requirement applies whenever the taxpayer reports a taxable event with respect to the property to the Internal Revenue Service (IRS) (for example depreciation or amortization) and continues to apply until the property is sold, exchanged, or otherwise disposed of in one or more transactions that result in the recognition of gain or loss for Federal income tax purposes, regardless of whether the owner on the date of the sale, exchange, or disposition is the same taxpayer who acquired the property from the decedent or as a result of the decedent's death.

(2) *Subsequent basis adjustments.* The final value within the meaning of paragraph (c) of this section is the taxpayer's initial basis in the property. In computing at any time after the decedent's date of death the taxpayer's basis in property acquired from the decedent or as a result of the decedent's death, the taxpayer's initial basis in that property may be adjusted due to the operation of other provisions of the Internal Revenue Code (Code) governing basis without violating paragraph (a)(1) of this section. Such adjustments may include, for example, gain recognized by the decedent's estate or trust upon distribution of the property, post-death capital improvements and depreciation, and post-death adjustments to the basis of an interest in a partnership or S corporation. The existence of recourse or non-recourse debt secured by property at the time of the decedent's death does not affect the property's basis, whether the gross value of the property and the outstanding debt are reported separately on the estate tax return or the net value of the property is reported. Therefore, post-death payments on such debt do not result in an adjustment to the property's basis.

(b) *Property subject to consistency requirement*—(1) *In general.* Property subject to the consistency requirement in paragraph (a)(1) of this section is any property that is includable in the decedent's gross estate under section 2031,any property subject to tax under section 2106, and any other property the basis of which is determined in whole or in part by reference to the basis of such property (for example as the result of a like-kind exchange or involuntary conversion) that generates a tax liability under chapter 11 of subtitle B of the Code (chapter 11) on the decedent's estate in excess of allowable credits, except the credit for prepayment of tax under chapter 11.

(2) *Exclusions.* For purposes of paragraph (b)(1) of this section, property that qualifies for an estate tax charitable or marital deduction under section 2055, 2056, or 2056A, respectively, does not generate a tax liability under chapter 11 and therefore is excluded from the property subject to the consistency requirement in paragraph (a)(1) of this section. For purposes of paragraph (b)(1) of this section, tangible personal property for which an appraisal is not required under § 20.2031–6(b) is deemed not to generate a tax liability under chapter 11 and therefore also is excluded from the property subject to

the consistency requirement in paragraph (a)(1) of this section.

(3) *Application.* For purposes of paragraph (b)(1) of this section, if a liability under chapter 11 is payable after the application of all available credits (other than a credit for a prepayment of estate tax), the consistency requirement in paragraph (a)(1) of this section applies to the entire gross estate (other than property excluded under paragraph (b)(2) of this section) because all such property contributes to the liability under chapter 11 and therefore is treated as generating a tax liability under chapter 11. If, however, after the application of all such available credits, no tax under chapter 11 is payable, the entire gross estate is excluded from the application of the consistency requirement.

(c) *Final value*—(1) *Finality of estate tax value.* The *final value* of property reported on a return filed pursuant to section 6018 is its value as finally determined for purposes of the tax imposed by chapter 11. That value is—

(i) The value reported on a return filed with the Internal Revenue Service (IRS) pursuant to section 6018 once the period of limitations for assessment of the tax under chapter 11 has expired without that value having been timely adjusted or contested by the IRS,

(ii) If paragraph (c)(1)(i) of this section does not apply, the value determined or specified by the IRS once the periods of limitations for assessment and for claim for refund or credit of the tax under chapter 11 have expired without that value having been timely contested;

(iii) If paragraphs (c)(1)(i) and (ii) of this section do not apply, the value determined in an agreement, once that agreement is final and binding on all parties; or

(iv) If paragraphs (c)(1)(i), (ii), and (iii) of this section do not apply, the value determined by a court, once the court's determination is final.

(2) *No finality of estate tax value.* Prior to the determination, in accordance with paragraph (c)(1) of this section, of the final value of property described in paragraph (b) of this section, the recipient of that property may not claim an initial basis in that property in excess of the value reported on the statement required to be furnished under section 6035(a). If the final value of the property subsequently is determined under paragraph (c)(1) of this section and that value differs from the value reported on the statement required to be furnished under section 6035(a), then the taxpayer may not rely on the statement initially furnished under section 6035(a) for the value of the property and the taxpayer may have a deficiency and underpayment resulting from this difference.

(3) *After-discovered or omitted property*—(i) *Return under section 6018 filed.* In the event property described in paragraph (b)(1) of this section is discovered after the estate tax return under section 6018 has been filed or otherwise is omitted from that return (after-discovered or omitted property), the final value of that property is determined under section (c)(3)(i)(A) or (B) of this section.

(A) *Reporting prior to expiration of period of limitation on assessment.* The final value of the after-discovered or omitted property is determined in accordance with paragraph (c)(1) or (2) of this section if the executor, prior to the expiration of the period of limitation on assessment of the tax imposed on the estate by chapter 11, files with the IRS an initial or supplemental estate tax return under section 6018 reporting the property.

(B) *No reporting prior to expiration of period of limitation on assessment.* If the executor does not report the after-discovered or omitted property on an initial or supplemental Federal estate tax return filed prior to the expiration of the period of limitation on assessment of the tax imposed on the estate by chapter 11, the final value of that unreported property is zero. See *Example 3* of paragraph (e) of this section.

(ii) *No return under section 6018 filed.* If no return described in section 6018 has been filed, and if the inclusion in the decedent's gross estate of the after-discovered or omitted property would have generated or increased the estate's tax liability under chapter 11, the final value, for purposes of section 1014(f), of all property described in paragraph (b) of this section is zero until the final value is determined under paragraph (c)(1) or (2) of this section. Specifically, if the executor files a return pursuant to section 6018(a) or (b) that includes this property or the IRS determines a value for the property, the final value of all property described in paragraph (b) of this section includible in the gross estate then is determined under paragraph (c)(1) or (2) of this section.

(d) *Executor.* For purposes of this section, *executor* has the same meaning as in section 2203 and includes any other person required under section 6018(b) to file a return.

(e) *Examples.* The following examples illustrate the application of this section.

Example 1. (i) At D's death, D owned 50% of Partnership P, which owned a rental building with a fair market value of $10 million subject to nonrecourse debt of $2 million. D's sole beneficiary is C, D's child. P is valued at $8 million. D's interest in P is reported on the return required by section 6018(a) at $4 million. The IRS accepts the return as filed and the time for assessing the tax under chapter 11 expires. C sells the interest for $6 million in cash shortly thereafter.

(ii) Under these facts, the final value of D's interest is $4 million under paragraph (c)(1)(i) of this section. Under section 742 and § 1.742–1, C's basis in the interest in P at the time of its sale is $5 million (the final value of D's interest ($4 million) plus 50% of the $2 million nonrecourse debt). Following the sale of the interest, C reports taxable gain of $1 million. C has complied with the consistency requirement of paragraph (a)(1) of this section.

(iii) Assume instead that the IRS adjusts the value of the interest in P to $4.5 million, and that value is not contested before the expiration of the time for assessing the tax under chapter 11. The final value of D's interest in P is $4.5 million under paragraph (c)(1)(ii) of this section. Under section 742 and § 1.742–1, C claims a basis of $5.5 million at the time of sale and reports gain on the sale of $500,000. C has complied with the consistency requirement of paragraph (a)(1) of this section.

Example 2. (i) At D's death, D owned (among other assets) a private residence that was not encumbered. D's sole beneficiary is C. D's executor reports the value of the residence on the return required by section 6018(a) as $600,000 and pays the tax liability under chapter 11. The IRS timely contests the reported value and determines that the value of the residence is $725,000. The parties enter into a settlement agreement that provides that the value of the residence for purposes of the tax imposed by chapter 11 is $650,000. Pursuant to paragraph (c)(1)(iii) of this section, the final value of the residence is $650,000.

(ii) Several years later, C adds a master suite to the residence at a cost of $45,000. Pursuant to section 1016(a), C's basis in the residence is increased by $45,000 to $695,000. Subsequently, C sells the residence to an unrelated third party for $900,000. C claims a basis in the residence of $695,000 and reports a gain of $205,000 ($900,000 − $695,000). C has complied with the consistency requirement of paragraph (a)(1) of this section.

Example 3. (i) The facts are the same as in *Example 2* but, after the expiration of the period for assessing the tax imposed by chapter 11, the executor discovers property that had not been reported on the return required by section 6018(a) but which, if reported, would have generated additional chapter 11 tax on the entire value of the newly discovered property. Pursuant to paragraph (c)(3)(i)(B) of this section, C's basis in the residence of $695,000 does not change, but the final value of the additional unreported property is zero.

(ii) Alternatively, assume that no return was required to be filed under section 6018 before discovering the additional property (and none in fact was filed) but, after the application of the applicable credit amount, D's taxable estate including the unreported

property would have been $200,000. Pursuant to paragraph (c)(3)(ii) of this section, the final value of all property included in D's gross estate that is described in paragraph (b) of this section is zero until the executor files an estate tax return with the IRS pursuant to section 6018 or the IRS determines a value for the property. In either of those events, the final value of property described in paragraph (b) of this section reported on the return is determined in accordance with paragraph (c)(1) or (c)(2) of this section.

Example 4. (i) At D's death, D's gross estate includes a residence valued at $300,000 encumbered by nonrecourse debt in the amount of $100,000. Title to the residence is held jointly by D and C (D's daughter) with rights of survivorship. D provided all the consideration for the residence and the entire value of the residence was included in D's gross estate. The executor reports the value of the residence as $200,000 on the return required by section 6018 filed with the IRS for D's estate and claims no other deduction for the debt. The statement required by section 6035 reports the value of the residence as $300,000. C sells the residence before the final value is determined under paragraph (c)(1) of this section for $375,000 and claims a gain of $75,000 on C's Federal income tax return.

(ii) A court subsequently determines that the value of the residence was $290,000 and the time for contesting this value in any court expires before the expiration of the period for assessing C's income tax for the year of C's sale of the property. The final value of the residence is $290,000 pursuant to paragraphs (c)(1)(iv) and (c)(2) of this section. Because C claimed a basis in the residence that exceeds the final value, C may have a deficiency and underpayment.

(f) *Effective/applicability date.* Upon the publication of the Treasury Decision adopting these rules as final in the **Federal Register**, this section will apply to property acquired from a decedent or by reason of the death of a decedent whose return required by section 6018 is filed after July 31, 2015. Persons may rely upon these rules before the date of publication of the Treasury Decision adopting these rules as final in the **Federal Register**.

■ **Par. 3.** Section 1.6035–1 is revised to read as follows:

§ 1.6035–1 Basis information to persons acquiring property from decedent.

(a) *Required Information Return and Statement(s)*—(1) *In general.* An executor (defined in paragraph (g)(1) of this section) required to file a return under section 6018 for an estate must file an Information Return (defined in paragraph (g)(2) of this section) with the Internal Revenue Service (IRS) to report the value of certain property (described in paragraph (b)(1) of this section) included in the decedent's gross estate for purposes of the tax imposed by chapter 11 of subtitle B of the Internal Revenue Code (chapter 11) and other information prescribed by the Information Return and the instructions thereto. The value to be reported is the final value of the property as described in § 1.1014–10(c). This executor also must furnish a Statement (defined in paragraph (g)(3) of this section) to each beneficiary who has (or will) acquire, whether from the decedent or by reason of the death of the decedent, property reported on the Information Return to identify the property the beneficiary is to receive and to report the value of that property and other information prescribed by the Statement and instructions thereto. The Information Return and each Statement are required to be filed and furnished by the date provided in paragraph (d) of this section. If, after the Information Return and Statement are filed and furnished, there are certain changes in the final value and/or the recipient of property as described in paragraph (e) or (f) of this section, the executor must file a supplemental Information Return with the IRS and furnish a supplemental Statement to the beneficiary. Subsequent transfers of all or a portion of property previously reported (or required to be reported) on the Information Return required by paragraph (a) of this section, in transactions in which the transferee acquires the property with the transferor's basis, require additional reporting as described in paragraph (f) of this section.

(2) *Exception.* Paragraph (a)(1) of this section applies only to the executor of an estate required by section 6018 to file an estate tax return. Accordingly, notwithstanding § 20.2010–2(a)(1), the executor does not have to file or furnish the Information Return or Statement(s) referred to in paragraph (a)(1) of this section if the executor is not required by section 6018 to file an estate tax return for the estate, even if the executor does file such a return for other purposes, *e.g.,* to make a generation-skipping transfer tax exemption allocation or election, to make the portability election under section 2010(c)(5), or to make a protective filing to avoid any penalty if an asset value is later determined to cause a return to be required or otherwise.

(b) *Property for which reporting is required*—(1) *In general.* The property to which the reporting requirement under paragraph (a)(1) of this section applies is all property reported or required to be reported on a return under section 6018. This includes, for example, any other property whose basis is determined in whole or in part by reference to that property (for example as the result of a like-kind exchange or involuntary conversion). Of the property of a deceased nonresident non-citizen, this includes only the property that is subject to U.S. estate tax; similarly, this includes only the decedent's one-half of community property. Nevertheless, the following property is excepted from the reporting requirements—

(i) Cash (other than a coin collection or other coins or bills with numismatic value);

(ii) Income in respect of a decedent (as defined in section 691);

(iii) Tangible personal property for which an appraisal is not required under § 20.2031–6(b); and

(iv) Property sold, exchanged, or otherwise disposed of (and therefore not distributed to a beneficiary) by the estate in a transaction in which capital gain or loss is recognized.

(2) *Examples.* The following examples illustrate the provisions of paragraph (b)(1) of this section.

Example 1. Included in D's gross estate are the contents of his residence. Pursuant to § 20.2031–6(a), the executor attaches to the return required by section 6018 filed for D's estate a room by room itemization of household and personal effects. All articles are named specifically. In each room a number of articles, none of which has a value in excess of $100, are grouped. A value is provided for each named article. Included in the household and personal effects are a painting, a rug, and a clock, each of which has a value in excess of $3,000. Pursuant to § 20.2031–6(b), the executor obtains an appraisal from a disinterested, competent appraiser(s) of recognized standing and ability, or a disinterested dealer(s) in the class of personalty involved for the painting, rug, and clock. The executor attaches these appraisals to the estate tax return for D's estate. Pursuant to paragraph (b)(1)(iii) of this section, the reporting requirements of paragraph (a)(1) of this section apply only to the painting, rug, and clock.

Example 2. Included in D's estate are shares in C, a publicly traded company. Shortly after D's death but prior to the filing of the estate tax return for D's estate, C is acquired by T, also a publicly traded company. For the shares in C includible in D's estate, the estate receives new shares in T and cash in a fully taxable transaction. Pursuant to paragraph (b)(1)(iv) of this section, the reporting requirements of paragraph (a)(1) of this section do not apply to the new shares in T or the cash.

(c) *Beneficiaries*—(1) *In general.* As provided in paragraph (a)(1) of this section, the executor must furnish to each beneficiary (including a beneficiary who is also an executor) receiving property that must be reported on the Information Return filed with the IRS, the Statement containing the required information regarding that

beneficiary's property. For purposes of this provision, the beneficiary of a life estate is the life tenant, the beneficiary of a remainder interest is the remainderman(men) identified as if the life tenant were to die immediately after the decedent, and the beneficiary of a contingent interest is a beneficiary, unless the contingency has occurred prior to the filing of the Form 8971. If the contingency subsequently negates the inheritance of the beneficiary, the executor must do supplemental reporting in accordance with paragraph (e) of this section to report the change of beneficiary.

(2) *Beneficiary not an individual.* If the beneficiary is a trust or another estate, the executor must furnish the beneficiary's Statement to the trustee or executor of the trust or estate, rather than to the beneficiaries of that trust or estate. If the beneficiary is a business entity, the executor must furnish the Statement to the entity. However, see paragraph (f) of this section for additional reporting requirements in the event the trust, estate, or entity transfers all or a portion of the property in a transaction in which the transferee acquires the basis of the trust, estate, or entity.

(3) *Beneficiary not determined.* If, by the due date provided in paragraph (d) of this section, the executor has not determined what property will be used to satisfy the interest of each beneficiary, the executor must report on the Statement for each such beneficiary all of the property that the executor could use to satisfy that beneficiary's interest. Once the exact distribution has been determined, the executor may, but is not required to, file and furnish a supplemental Information Return and Statement as provided in paragraph (e)(3) of this section.

(4) *Beneficiary not located.* An executor must use reasonable due diligence to identify and locate all beneficiaries. If the executor is unable to locate a beneficiary by the due date of the Information Return provided in paragraph (d) of this section, the executor must so report on that Information Return and explain the efforts the executor has taken to locate the beneficiary and to satisfy the obligation of reasonable due diligence. If the executor subsequently locates the beneficiary, the executor must furnish the beneficiary with that beneficiary's Statement and file a supplemental Information Return with the IRS within 30 days of locating the beneficiary. A copy of the beneficiary's Statement must be attached to the supplemental Information Return. If the executor is unable to locate a beneficiary and distributes the property to a different beneficiary who was not identified in the Information Return as the recipient of that property, the executor must file a supplemental Information Return with the IRS and furnish the substitute beneficiary with that beneficiary's Statement within 30 days after the property is distributed. See paragraph (e)(1) of this section. A copy of the substitute beneficiary's Statement must be attached to the supplemental Information Return.

(d) *Due dates*—(1) *In general.* Except as provided in § 1.6035–2T, the executor must file the Information Return with the IRS, and must furnish to each beneficiary the Statement with regard to the property to be received by that beneficiary, on or before the earlier of—

(i) The date that is 30 days after the due date of the estate tax return required by section 6018 (including extensions, if any), or

(ii) The date that is 30 days after the date on which that return is filed with the IRS.

(2) *Transition rule.* If the due date of an estate tax return required to be filed by section 6018 is on or before July 31, 2015, but the executor does not file the return with the IRS until after July 31, 2015, then the Information Return and Statement(s) are due on or before the date that is 30 days after the date on which the estate tax return is filed, except as provided in § 1.6035–2T.

(e) *Duty to supplement.*—(1) *In general.* In the event of any adjustment to the information required to be reported on the Information Return or any Statement as described in paragraph (e)(2) of this section, the executor must file a supplemental Information Return with the IRS including all supplemental Statements and furnish a corresponding supplemental Statement to each affected beneficiary by the due date described in paragraph (e)(4) of this section.

(2) *Adjustments requiring supplement.* Except as provided in paragraph (e)(3) of this section, an adjustment to which the duty to supplement applies is any change to the information required to be reported on the Information Return or Statement that causes the information as reported to be incorrect or incomplete. Such changes include, for example, the discovery of property that should have been (but was not) reported on an estate tax return described in section 6018, a change in the value of property pursuant to an examination or litigation, or a change in the identity of the beneficiary to whom the property is to be distributed (pursuant to a death, disclaimer, bankruptcy, or otherwise). Such changes also include the executor's disposition of property acquired from the decedent or as a result of the death of the decedent in a transaction in which the basis of new property received by the estate is determined in whole or in part by reference to the property acquired from the decedent or as a result of the death of the decedent (for example as the result of a like-kind exchange or involuntary conversion). Changes requiring supplement pursuant to this paragraph (e)(2) are not inconsequential errors or omissions within the meaning of § 301.6722–1(b) of this chapter.

(3) *Adjustments not requiring supplement*—(i) *In general.* A supplemental Information Return and Statement may but they are not required to be filed or furnished-

(A) To correct an inconsequential error or omission within the meaning of § 301.6722–1(b) of this chapter, or

(B) To specify the actual distribution of property previously reported as being available to satisfy the interests of multiple beneficiaries in the situation described in paragraph (c)(3) of this section.

(ii) *Example.* Paragraph (e)(3)(i)(B) of this section is illustrated by the following example.

Example 1. D's Will provided for D's residuary estate to be distributed to D's three children (E, F, and G). D's residuary estate included stock in a publicly traded company (X), a personal residence, and three paintings. On the due date of the Information Return and Statement required by paragraph (a)(1) of this section, D's executor had not yet determined which property each child would receive from D's residuary estate in satisfaction of that child's bequest. In accordance with paragraph (c)(3) of this section, D's executor reported on the Information Return filed with the IRS and on each child's own Statement that E, F, and G each might receive an interest in the stock in X, the personal residence, and the three paintings. Several months later, the executor determined that E would receive the stock in X, F would receive the residence, and G would receive the paintings. Paragraph (e)(3)(i)(B) of this section provides that the executor may but is not required to file a supplemental Information Return with the IRS and furnish supplemental Statements to E, F, and G to accurately report which beneficiary received what property.

Example 2. D's Will provided that D's jewelry and household effects (personalty) are to be distributed among D's three children (E, F, and G) as determined by E, F, and G. In accordance with paragraph (c)(3) of this section, D's executor reports on the Information Return filed with the IRS and on each child's own Statement each item of personalty other than items described in paragraph (b)(1)(iii) of this section. Several months later, E, F, and G determine who is to receive each item of personalty. Paragraph (e)(3)(i)(B) of this section provides that the

executor may but is not required to file a supplemental Information Return with the IRS and furnish supplemental Statements to E, F, and G to accurately report which beneficiary received which item(s) of personalty.

(4) *Due date of supplemental reporting*—(i) *In general.* Except as provided in paragraph (e)(4)(ii) of this section, the supplemental Information Return must be filed and each supplemental Statement must be furnished on or before 30 days after—

(A) The final value within the meaning of § 1.1014–10(c)(1) is determined;

(B) The executor discovers that the information reported on the Information Return or Statement is otherwise incorrect or incomplete, except to the extent described in paragraph (e)(3)(i) of this section; or

(C) A supplemental estate tax return under section 6018 is filed reporting property not reported on a previously filed estate tax return pursuant to § 1.1014–10(c)(3)(i). In this case, a copy of the supplemental Statement provided to each beneficiary of an interest in this property must be attached to the supplemental Information Return.

(ii) *Probate property or property from decedent's revocable trust.* With respect to property in the probate estate or held by a revocable trust at the decedent's death, if an event described in paragraph (e)(4)(i)(A), (B), or (C) of this section occurs after the decedent's date of death but before or on the date the property is distributed to the beneficiary, the due date for the supplemental Information Return and corresponding supplemental Statement is the date that is 30 days after the date the property is distributed to the beneficiary. If the executor chooses to furnish to the beneficiary on the Statement information regarding any changes to the basis of the reported property as described in § 1.1014–10(a)(2) that occurred after the date of death but before or on the date of distribution, that basis adjustment information (which is not part of the requirement under section 6035) must be shown separately from the final value required to be reported on that Statement.

(f) *Subsequent transfers.* If all or any portion of property that previously was reported or is required to be reported on an Information Return (and thus on the recipient's Statement or supplemental Statement) is distributed or transferred (by gift or otherwise) by the recipient in a transaction in which a related transferee determines its basis, in whole or in part, by reference to the recipient/transferor's basis, the recipient/transferor must, no later than 30 days after the date of the distribution or other transfer, file with the IRS a supplemental Statement and furnish a copy of the same supplemental Statement to the transferee. The requirement to file a supplemental Statement and furnish a copy to the transferee similarly applies to the distribution or transfer of any other property the basis of which is determined in whole or in part by reference to that property (for example as the result of a like-kind exchange or involuntary conversion). In the case of a supplemental Statement filed by the recipient/transferor before the recipient/transferor's receipt of the Statement described in paragraph (a) of this section, the supplemental Statement will report the change in the ownership of the property and need not provide the value information that would otherwise be required on the supplemental Statement. In the event the transfer occurs before the final value is determined within the meaning of proposed § 1.1014–10(c), the transferor must provide the executor with a copy of the supplemental Statement filed with the IRS and furnished to the transferee in order to notify the executor of the change in ownership of the property. When the executor subsequently files any Return and issues any Statement required by paragraphs (a) or (e) of this section, the executor must provide the Statement (or supplemental Statement) to the new transferee instead of to the transferor. For purposes of this provision, a related transferee means any member of the transferor's family as defined in section 2704(c)(2), any controlled entity (a corporation or any other entity in which the transferor and members of the transferor's family (as defined in section 2704(c)(2)), whether directly or indirectly, have control within the meaning of section 2701(b)(2)(A) or (B)), and any trust of which the transferor is a deemed owner for income tax purposes. If the transferor chooses to include on the supplemental Statement provided to the transferee information regarding any changes to the basis of the reported property as described in § 1.1014–10(a)(2) that occurred during the transferor's ownership of the property, that basis adjustment information (which is not part of the requirement under section 6035) must be shown separately from the final value required to be reported on that Statement.

(g) *Definitions.* For purposes of this section, the following terms are defined as follows—

(1) *Executor* has the same meaning as in section 2203 and includes any other person required under section 6018(b) to file a return.

(2) *Information Return* means the Form 8971, including each beneficiary's Statement as defined in paragraph (g)(3) of this section required to be furnished, or any successor form issued by the IRS for this purpose.

(3) *Statement* means the payee statement described as Schedule A of the Information Return furnished to a beneficiary or any successor form or schedule issued by the IRS for this purpose.

(h) *Penalties*—(1) *Failure to timely file complete and correct Information Return.* For provisions relating to the penalty provided for failure to file an Information Return required by section 6035(a)(1) on or before the required filing date, failure to include all of the required information on an Information Return, or the filing of an Information Return that includes incorrect information, see section 6721 and the regulations thereunder. See section 6724 and the regulations thereunder for rules relating to waivers of penalties for certain failures due to reasonable cause.

(2) *Failure to timely furnish correct Statements.* For provisions relating to the penalty provided for failure to furnish a Statement required by section 6035(a)(2) on or before the prescribed date, failure to include all of the required information on a Statement, or the filing of a Statement that includes incorrect information, see section 6722 and the regulations thereunder. See section 6724 and the regulations thereunder for rules relating to waivers of penalties for certain failures due to reasonable cause.

(i) *Effective/applicability date.* Upon the publication of the Treasury Decision adopting these rules as final in the **Federal Register**, this section will apply to property acquired from a decedent or by reason of the death of a decedent whose return required by section 6018 is filed after July 31, 2015. Persons may rely upon these rules before the date of publication of the Treasury Decision adopting these rules as final in the **Federal Register**.

■ **Par. 4.** Section 1.6035–2 is added to read as follows:

§ 1.6035–2 Transition relief.

[The text of proposed § 1.6035–2 is the same as the text of § 1.6035–2T published elsewhere in this issue of the **Federal Register**].

§ 1.6035–3 [Removed]

■ **Par. 5.** Section 1.6035–3 is removed.

■ **Par. 6.** Section 1.6662–8 is added to read as follows:

§ 1.6662–8 Inconsistent estate basis reporting.

(a) *In general.* Section 6662(a) and (b)(8) impose an accuracy-related penalty on the portion of any underpayment of tax required to be shown on a return that is attributable to an inconsistent estate basis.

(b) *Inconsistent estate basis.* In accordance with section 6662(k), there is an *inconsistent estate basis* to the extent that a taxpayer claims a basis, without regard to the adjustments described in § 1.1014–10(a)(2), in property described in paragraph (c) of this section that exceeds that property's final value as determined under § 1.1014–10(c).

(c) *Applicable property.* The property to which this section applies is property described in § 1.1014–10(b) that is reported or required to be reported on a return required by section 6018 filed after July 31, 2015.

(d) *Effective/applicability date.* Upon the publication of the Treasury Decision adopting these rules as final in the **Federal Register**, this section will apply to property described in § 1.1014–10(b) acquired from a decedent or by reason of the death of a decedent whose return required by section 6018 is filed after July 31, 2015. Persons may rely upon these rules before the date of publication of the Treasury Decision adopting these rules as final in the **Federal Register**.

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 7.** The authority citation for part 301 continues to read in part as follows:

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

■ **Par. 8.** Section 301.6721–1 is amended by removing the word ''or'' at the end of paragraph (g)(2)(x), removing the period and adding ''; or'' at the end of paragraph (g)(2)(xi), and adding paragraph (g)(2)(xii).

The addition reads as follows:

§ 301.6721–1 Failure to file correct information returns.

* * * * *

(g) * * *

(2) * * *

(xii) Section 6035 (relating to basis of property acquired from decedents).

* * * * *

■ **Par. 9.** Section 301.6722–1 is amended by removing the word ''or'' at the end of paragraph (d)(2)(xxxiii), removing the period and adding a semi-colon in its place followed by the word ''or'' at the end of paragraph (d)(2)(xxxiv), and adding paragraph (d)(2)(xxxv).

The addition reads as follows:

§ 301.6722–1 Failure to furnish correct payee statements.

* * * * *

(d) * * *

(2) * * *

(xxxv) Section 6035 (relating to basis of property acquired from decedents).

* * * * *

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2016–04718 Filed 3–2–16; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

RIN 1506–AB30

Financial Crimes Enforcement Network; Withdrawal of Notice of Proposed Rulemaking Regarding Banca Privada d'Andorra

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws FinCEN's notice of proposed rulemaking seeking to impose the fifth special measure regarding Banca Privada d'Andorra (''BPA''), pursuant to Section 311 of the USA PATRIOT Act (''Section 311''), codified at 31 U.S.C. 5318A. Because of material subsequent developments that have mitigated the money laundering risks associated with BPA, FinCEN has determined that BPA is no longer a primary money laundering concern that warrants the implementation of a special measure under Section 311. Elsewhere in this issue of the **Federal Register**, FinCEN is publishing a withdrawal of the related finding regarding BPA.

DATES: The notice of proposed rulemaking is withdrawn as of March 4, 2016.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at (800) 767–2825.

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56 (''the USA PATRIOT Act''). Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act (''BSA''), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.

Section 311 of the USA PATRIOT Act (''Section 311'') grants the Director of FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, foreign financial institution, class of transactions, or type of account is of ''primary money laundering concern,'' to require domestic financial institutions and financial agencies to take certain ''special measures'' to address the primary money laundering concern. The special measures enumerated under Section 311 are prophylactic safeguards that defend the U.S. financial system from money laundering and terrorist financing. FinCEN may impose one or more of these special measures in order to protect the U.S. financial system from these threats. To that end, special measures one through four, codified at 31 U.S.C. 5318A(b)(1)–(b)(4), impose additional recordkeeping, information collection, and information reporting requirements on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C. 5318A(b)(5), allows the Director to prohibit or impose conditions on the opening or maintaining of correspondent or payable-through accounts by covered U.S. financial institutions.

II. The Finding and Notice of Proposed Rulemaking

On March 13, 2015, FinCEN provided notice in the **Federal Register** that it had found Banca Privada d'Andorra (''BPA''), a bank headquartered in Andorra, to be of primary money laundering concern.[1] Based on the finding, FinCEN also published on March 13, 2015 a notice of proposed rulemaking (''NPRM'') proposing the imposition of the fifth special measure with respect to BPA, and invited public

[1] 80 FR 13,464 (Mar. 13, 2015).

comment.[2] Specifically, FinCEN proposed to prohibit covered financial institutions from establishing, maintaining, administering, or managing in the United States any correspondent account for, or on behalf of, BPA. FinCEN also proposed to require a covered financial institution to apply special due diligence to all of its foreign correspondent accounts that is reasonably designed to guard against processing transactions involving BPA. Among other things, covered financial institutions would have been required to notify those foreign correspondent account holders that the covered financial institutions know or have reason to know provide services to BPA that such correspondents may not provide BPA with access to the correspondent account maintained at the covered financial institution.

III. Subsequent Developments

Significant developments regarding BPA have occurred since FinCEN announced its finding and related NPRM regarding BPA, as described below. As a result, BPA is no longer operating as a financial institution that poses a money laundering threat to the U.S. financial system.

On March 11, 2015, the Institut Nacional Andorrà de Finances (''INAF''), the Andorran regulator and supervisor of financial institutions, appointed two INAF representatives to oversee BPA's operations. On March 12, 2015, the INAF suspended the authority of BPA's board of directors, the chief executive officer and two other senior managers and appointed special administrators to assume full control of BPA. On March 13, 2015, Andorran law enforcement arrested BPA's chief executive officer in Andorra on suspicion of money laundering.

The next month, in April 2015, the Andorran parliament enacted a law regarding the restructuring and resolution of banks, which created a new government agency, Agència Estatal de Resolució d'Entitats Bancàries (''AREB''), for that purpose. On April 27, 2015, AREB took over control of BPA.[3] In June 2015, AREB approved a resolution plan for BPA, under which the bank's ''good'' and ''bad'' assets, liabilities, and clients would be separated. Under the resolution plan, the ''good'' assets, liabilities, and clients are to be transferred to a bridge bank, and the bridge bank sold.[4] In July 2015, AREB announced the creation of the bridge bank, named Vall Banc, to receive the transfer of BPA's legitimate assets, liabilities, and clients. Vall Banc is wholly-owned by AREB, is registered with the INAF, and is supervised by Andorran banking supervisory authorities. Vall Banc will not employ the high-level BPA managers described in FinCEN's Notice of Finding. In addition, any other person who has been or may be identified as related to the issues described in the Notice of Finding will not be employed at Vall Banc.

After the good assets, liabilities, and clients are transferred from BPA to Vall Banc, BPA will remain under the control of AREB. FinCEN understands that BPA will not be reactivated as an operational financial institution at any point except to facilitate the finalization of the resolution process. AREB, in coordination with other authorities in Andorra, ultimately intends to liquidate BPA following the resolution of judicial proceedings in Andorra and other jurisdictions.

IV. Withdrawal of the NPRM

Because of these subsequent developments, BPA no longer operates in a manner that poses a money laundering threat to the U.S. financial system. FinCEN has determined that the steps taken by the authorities in Andorra sufficiently protect the U.S. financial system from the money laundering risks previously associated with BPA. FinCEN therefore has determined that BPA no longer is a primary money laundering concern and will not impose any special measures under Section 311 with respect to BPA.

For these reasons, FinCEN hereby withdraws its NPRM published on March 13, 2015, and announced on March 10, 2015, seeking to impose the fifth special measure regarding BPA.

Jamal El-Hindi,

Deputy Director, Financial Crimes Enforcement Network.

[FR Doc. 2016–04768 Filed 3–3–16; 8:45 am]

BILLING CODE 4810–02–P

[2] 80 FR 13,304 (Mar. 13, 2015) (RIN 1506–AB30). FinCEN publicly announced the finding and NPRM on March 10, 2015.

[3] Press Release, AREB, *AREB Assumes the Tutelage of BPA,* April 27, 2015, (*http://areb.ad/images/areb/comunicats/27042015_AREB_ENG.pdf*)

[4] Press Release, AREB, *AREB Will Create a 'Good Bank' with Legitimate Assets and Liabilities Segregated from BPA,* June 15, 2015, (*http://areb.ad/images/areb/comunicats/15062015_AREB_ENG.pdf*)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2015–0353, FRL–9943–24–Region 10]

Approval and Promulgation of Implementation Plans; Alaska: Updates to Incorporation by Reference and Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve certain State Implementation Plan revisions submitted by Alaska on May 12, 2015. The revisions updated the incorporation by reference of certain Federal provisions, revised rules to reflect changes to Federal permitting requirements and the 2013 redesignation of the Mendenhall Valley area of Juneau, and made minor clarifications. We note that the May 12, 2015 submission also addressed transportation conformity and infrastructure requirements. These requirements are not being addressed in this action. We approved the transportation conformity revisions in a previous action on September 8, 2015 and we intend to address the infrastructure requirements in a separate, future action.

DATES: Comments must be received on or before April 4, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2015–0353, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *http://www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit

http://www2.epa.gov/dockets/commenting-epa-dockets.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Kristin Hall at (206) 553–6357 or *hall.kristin@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA.

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I. Background

Section 110 of the Clean Air Act (CAA) governs the process by which a state submits air quality requirements to the EPA for approval into the State Implementation Plan (SIP). The SIP is a state's plan to implement, maintain and enforce the National Ambient Air Quality Standards (NAAQS) set by the EPA. Alaska's air quality regulations are set forth at Alaska Administrative Code Title 18 Environmental Conservation, Chapter 50 Air Quality Control (18 AAC 50). Alaska regularly revises these and other rules to implement, maintain and enforce the standards.

We note that Alaska incorporates by reference portions of certain Federal regulations directly into the Alaska SIP. Alaska generally submits an annual update to the EPA to ensure that its rules stay consistent with Federal requirements. On May 12, 2015, Alaska submitted such an update, and included other revisions to account for changes to Federal permitting rules and the 2013 redesignation of the Mendenhall Valley area of Juneau. Alaska also included some minor rule clarifications and edits.

We note that the May 12, 2015 submission also addressed transportation conformity and infrastructure-related requirements. These requirements are not being addressed in this action. We previously approved the transportation conformity revisions on September 8, 2015 (80 FR 53735). We intend to address the infrastructure requirements in a separate, future action.

II. Analysis of Rule Updates

Ambient Air Quality Standards—18 AAC 50.010

In the *Ambient Air Quality Standards* rule section, Alaska revised paragraph (1)(A) to reference the appropriate Federal interpretation method for determining compliance with the 24-hour standard for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The interpretation method is specified at 40 CFR part 50, Appendix K, and Alaska incorporates this provision by reference into the Alaska SIP at 18 AAC 50.035(b). We are proposing to approve this revision.

We note that, consistent with our September 19, 2014 action, we are not approving paragraphs (7) and (8) of this section, which establish state ambient air quality standards for reduced sulfur compounds and ammonia (79 FR 56268). These are not NAAQS established under section 109 of the CAA and Alaska has not relied on these provisions to demonstrate attainment or maintenance of the NAAQS or to meet other specific requirements of section 110 of the CAA.

Air Quality Designations—18 AAC 50.015

Alaska revised paragraphs (b)(2) and (e) of the *Air Quality Designations, Classifications, and Control Regions* rule section to reflect the redesignation of the Mendenhall Valley area of Juneau to attainment for the 24-hour PM_{10} NAAQS. The EPA approved Alaska's maintenance plan and request to redesignate the area on May 9, 2013 (78 FR 27071). We are proposing to approve the update to this rule section to reflect the redesignation.

Baseline Dates and Maximum Allowable Increases—18 AAC 50.020

Alaska updated Table 2 in paragraph (a) of the *Baseline Dates and Maximum Allowable Increases* rule section to set the minor source baseline date for fine particulate matter ($PM_{2.5}$) for the Northern Alaska Intrastate Air Quality Control Region. This baseline date is calculated based on a trigger date set in Federal major source permitting regulations. The baseline date is calculated as the date on which the first complete Prevention of Significant Deterioration (PSD) permit application is received after the EPA trigger date—which for $PM_{2.5}$ is October 20, 2011. For this region of Alaska, the minor source baseline date is November 2, 2012. Emission changes at sources after this date consume the $PM_{2.5}$ PSD increment. We are proposing to approve this rule revision.

Documents, Procedures and Methods Adopted by Reference—18 AAC 50.035

Alaska submitted revisions to paragraphs (a) and (b) of the *Documents, Procedures and Methods Adopted by Reference* rule section to include the *Quality Assurance Handbook for Air Pollutant Measurement Systems* and the Federal reference method for measuring carbon monoxide in ambient air. Alaska also repealed the section's reference to a Federal monitoring provision that was likewise repealed. The revisions update the incorporation by reference of specific Federal procedures and methods into the Alaska SIP, as of February 27, 2014. We are proposing to approve the submitted revisions.

We note that, consistent with our September 19, 2014 action, we are not approving paragraph (a)(6) of this rule section because the provision implements requirements of title V of the CAA and not requirements of section 110 of title I of the CAA. We are also not approving paragraph (b)(4) which specifies test methods related to 40 CFR part 63 because it is not related to attainment or maintenance of the NAAQS or other specific requirements of section 110 of the CAA (79 FR 56268).

Federal Standards Adopted by Reference—18 AAC 50.040

Alaska submitted revisions to paragraphs (f) and (h) of the *Federal Standards Adopted by Reference* rule section to update the citation dates for the adoption by reference of the Federal Guideline on Air Quality Models at paragraph (f) and the Federal PSD permitting requirements at paragraph (h). We are proposing to approve the changes to 18 AAC 50.040(f) and (h) because they update the Alaska SIP to reflect recent changes to Federal requirements, including the EPA's final rule to remove specific screening provisions from PSD regulations that were vacated by a court and subsequently repealed by the EPA, as discussed below.

On January 22, 2013, the U.S. Court of Appeals for the District of Columbia, in *Sierra Club* v. *EPA,* 703 F.3d 458 (D.C. Cir. 2013), issued a judgment that, among other things, vacated the provisions adding the $PM_{2.5}$ Significant Monitoring Concentration (SMC) to the

Federal regulations, at 40 CFR 51.166(i)(5)(i)(*c*) and 52.21(i)(5)(i)(*c*), that were promulgated as part of the ''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 10, 2010) (2010 PSD $PM_{2.5}$ Implementation Rule).

In its decision, the court held that the EPA did not have the authority to use SMCs to exempt permit applicants from statutory requirements related to PSD. Although the $PM_{2.5}$ SMC was not a required element of a state's PSD program, were a state PSD program that contains such a provision to rely on that provision to issue new permits without requiring ambient $PM_{2.5}$ monitoring data, such application of the vacated SMC would be inconsistent with the court's opinion and the requirements of the CAA.

This decision also—at the EPA's request—vacated and remanded to the EPA for further consideration the portions of the 2010 PSD $PM_{2.5}$ Implementation Rule that revised certain Federal regulations related to Significant Impact Levels (SILs) for $PM_{2.5}$. The EPA requested this vacatur and remand of two of the three provisions in the EPA regulations that contain SILs for $PM_{2.5}$, because the wording of these two SIL provisions (40 CFR 51.166(k)(2) and 40 CFR 52.21(k)(2)) is inconsistent with the explanation of when and how SILs should be used by permitting authorities that we provided in the preamble to the **Federal Register** publication when we promulgated these provisions. The third SIL provision (40 CFR 51.165(b)(2)) was not vacated and remains in effect. The court's decision does not affect the PSD increments for $PM_{2.5}$ promulgated as part of the 2010 PSD $PM_{2.5}$ Implementation Rule.

The EPA amended its regulations to remove the vacated $PM_{2.5}$ SILs and SMC provisions from PSD regulations on December 9, 2013 (78 FR 73698). In addition, the EPA is initiating a separate rulemaking regarding the $PM_{2.5}$ SILs that will address the court's remand.

In the May 12, 2015 submission, Alaska updated the citation date for the incorporation by reference of Federal PSD permitting rules to December 9, 2013, to capture the EPA's removal of the vacated SILs and SMC provisions. In addition, Alaska submitted changes to the *Ambient Air Quality Analysis Methods* rule section at 18 AAC 50.215 to address the court vacatur. These changes are discussed below. We are proposing to approve the changes to 18 AAC 50.040(h) and 18 AAC 50.215 as being consistent with the court decision and revised EPA regulations for the $PM_{2.5}$ SMC and SILs.

Ambient Air Quality Analysis Methods—18 AAC 50.215

Alaska revised paragraph (a)(3) of the *Ambient Air Quality Analysis Methods* rule section to include a reference to the *Quality Assurance Project Plan for the State of Alaska Air Monitoring and Quality Assurance Program* (QAPP) for meteorological data, as adopted by reference in 18 AAC 50.030. We are proposing to approve the revision because the EPA has reviewed and approved the QAPP through a separate quality assurance/quality control review process.

Alaska revised paragraph (d) of this section, intending to align the rule language with the explanation of when and how SILs should be used by permitting authorities that the EPA provided in the preamble to the **Federal Register** publication when the provisions were originally promulgated (October 20, 2010, 75 FR 64864). Alaska also updated the SILs table in paragraph (d), adding SILs for the annual and 24-hour $PM_{2.5}$ NAAQS, and for 1-hour sulfur dioxide (SO_2) and nitrogen dioxide (NO_2) NAAQS. The SILs values in the table are consistent with the EPA's implementing regulations at 40 CFR 51.165(b) and the EPA's NO_2 and SO_2 guidance and recommended interim SILs for the 1-hour NO_2 and 1-hour SO_2 NAAQS. We are proposing to approve the revisions as being consistent with the January 22, 2013, court decision vacating the $PM_{2.5}$ SILs and SMC discussed above.

Consistent with our previous actions on the Alaska SIP, the EPA is proposing not to approve paragraph (a)(4), which authorizes the Alaska Department of Environmental Conservation to approve any alternative method that it determines is ''representative, accurate, verifiable, capable of replication.'' In essence, this subparagraph allows the department to modify requirements relied on to attain and maintain the NAAQS without a SIP revision. For additional discussion, please see the technical support documents for our previous actions on September 19, 2014 (79 FR 56268) and on August 14, 2007 (72 FR 45378). See also 78 FR 12460, 12485–86 (Feb. 22, 2013).

III. Proposed Action

We are proposing to approve and incorporate by reference into the Alaska SIP the following revised provisions, state effective April 17, 2015:

- 18 AAC 50.010 Ambient Air Quality Standards, except paragraphs (7) and (8);
- 18 AAC 50.015 Air Quality Designations, Classifications, and Control Regions;
- 18 AAC 50.020 Baseline Dates and Maximum Allowable Increases;
- 18 AAC 50.035 Documents, Procedures and Methods Adopted by Reference, except paragraphs (a)(6) and (b)(4);
- 18 AAC 50.040 Federal Standards Adopted by Reference, except (a), (b), (c), (d), (e), (g), (i), (j), and (k); and
- 18 AAC 50.215 Ambient Air Quality Analysis Methods, except (a)(4).

We note that we previously approved the submitted rule revisions related to transportation conformity at 18 AAC 50.700 through 18 AAC 50.750 and 18 AAC 50.990 on September 8, 2015 (80 FR 53735).

IV. Incorporation by Reference

In this rule, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are proposing to incorporate by reference the provisions described above in Section VI. Proposed Action.

The EPA has made, and will continue to make, these documents generally available electronically through *http://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 CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 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 it does not involve technical standards; and

• does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: February 17, 2016.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2016–04753 Filed 3–3–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[IB Docket Nos. 11–80, 10–95, 05–254, RM–11322; FCC 16–13]

International Settlements Policy Reform

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, based on recent State Department guidance, the Federal Communications Commission (Commission) proposes to remove the nondiscrimination prong of the International Settlements Policy (ISP) on the U.S.-Cuba route and the nondiscrimination requirement condition placed on the waiver of benchmark settlements for the U.S.-Cuba route by the TeleCuba Waiver Order. Removal of these nondiscrimination requirements would allow U.S. carriers to enter into individualized contracts with the Cuban carrier.

DATES: Submit comments on or before April 4, 2016, and replies on or before April 18, 2016.

ADDRESSES: You may submit comments, identified by Docket Nos. 11–80, 10–95, 05–254 and RM–11322, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Federal Communications Commission's ECFS Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.

• *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email to *FCC504@fcc.gov,* phone: 202–418–0530 (voice), tty: 202–418–0432.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Krech or Jodi Cooper, Telecommunications and Analysis Division, International Bureau, FCC, (202) 418–1480 or via email to *David.Krech@fcc.gov, Jodi.Cooper@fcc.gov.* On PRA matters, contact Cathy Williams, Office of the Managing Director, FCC, (202) 418–2918 or via email to *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking in IB Docket Nos. 11–80, 10–95, 05–254 and RM–11322, FCC 16–13, adopted on February 10, 2016 and released on February 12, 2016. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554. The document also is available for download over the Internet at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-13A1.pdf.*

Comment Filing Procedures

Pursuant to §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the Commission's ECFS Web site at *http://apps.fcc.gov/ecfs/.*

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

Summary of Further Notice of Proposed Rulemaking

1. The Further Notice of Proposed Rulemaking (FNPRM) proposes to remove the nondiscrimination

requirements from the U.S.-Cuba route. Recent policy guidance from the U.S. Department of State (State Department) recommends that the Commission discontinue application of the nondiscrimination requirements on the U.S.-Cuba route in light of the changes in U.S.-Cuba relations. *See Modification of Process Regarding the Licensing of Telecommunications Services Between the United States and Cuba,* Public Notice, 30 FCC Rcd 12458 (IB 2015) (*2015 Cuba Public Notice*). Currently, under Commission policy and rules, the terms and conditions of any operating agreement to provide facilities-based switched voice service on the U.S.-Cuba route between a U.S. carrier and a carrier with market power in Cuba must be identical to the equivalent terms and conditions in the agreement of any other U.S. carrier providing the same or similar service between the United States and Cuba. The FNPRM seeks comment on the State Department's recommendation for removal of the nondiscrimination requirements based on the changes in U.S.-Cuba relations and whether such a Commission action would serve the public interest. Specifically, the FNPRM seeks comment on removing (1) the nondiscrimination prong of the International Settlements Policy (ISP), as codified in 47 CFR 63.22(f), and (2) the nondiscrimination requirement condition placed on the waiver of benchmark settlements by the *TeleCuba Waiver Order. See* IConnect *Wholesale, Inc., d/b/a TeleCuba; Petition for Waiver of the International Settlements Policy and Benchmark Rate for Facilities-Based Telecommunications Services with Cuba,* Memorandum Opinion and Order, 26 FCC Rcd 5217, 5228, para. 31 (IB 2011) (TeleCuba Waiver Order).

2. The FNPRM seeks comment on whether removal of these nondiscrimination requirements would serve the public interest, for example, by leading to more direct agreements between U.S. carriers and the Cuban carrier, ETECSA. In the *2012 ISP Reform Order,* 78 FR 11109 (Feb. 15, 2013), the Commission found that removal of the ISP on all routes (except the nondiscrimination prong on the U.S.-Cuba route) would provide U.S. carriers greater flexibility to negotiate lower settlement rates. *See International Settlement Policy Reform et al.,* Report and Order, 27 FCC Rcd 15521 (2012) (*2012 ISP Reform Order*). Do commenters agree that circumstances have now changed sufficiently with respect to Cuba to anticipate that the removal of the nondiscrimination prong of the ISP on the U.S.-Cuba route will provide similar opportunities? More generally, comment is sought on whether removal of these nondiscrimination requirements may encourage competition on the U.S.-Cuba route. Would the ability of U.S. carriers to negotiate individualized operating agreements with ETECSA give U.S. carriers the ability to negotiate lower rates? Are there any concerns that removal of our nondiscrimination requirements would cause discrimination or threats of discrimination or other anticompetitive actions against U.S. carriers as a strategy to obtain pricing concessions regarding the exchange of traffic between the United States and Cuba?

3. The FNPRM observes that the operation of the current benchmark settlement rate for telecommunications services between the United States and Cuba—which we are not proposing to change—will continue to provide a safeguard against anticompetitive actions against U.S. carriers. (The State Department recommends that the Commission continue to apply the benchmarks settlement policy on the U.S.-Cuba route, but continue to allow waivers of limited duration. *See 2015 Cuba Public Notice,* 30 FCC Rcd at 12461.) Although carriers may still obtain operating agreements above the benchmark rate, such agreements would require Commission grant of a waiver of the benchmark rate before they could go into effect, and, in considering the waiver, the Commission would have the opportunity to assess on a case-by-case basis whether allowing an above benchmark settlement rate without the protections of a nondiscrimination rule (with or without conditions) would serve the public interest. Comment is sought on these observations.

4. Currently, any agreement with ETECSA is routinely made available for public inspection under the nondiscrimination requirement condition placed on the waiver of the benchmark settlements in the *TeleCuba Waiver Order. TeleCuba Waiver Order,* 26 FCC Rcd at 5228, para. 31. The FPRM seeks comment on whether, if the Commission is to remove the nondiscrimination requirement in the *TeleCuba Waiver Order,* it also should no longer consider operating agreements between a U.S. carrier and ETECSA to be routinely available for public inspection. In that waiver order, the International Bureau adopted other conditions that it believed would help ''balance the policy goals of reestablishing direct telecommunications links with Cuba by U.S. carriers with promoting competition and lower international calling rates for services to Cuba, as well as other international routes.'' *TeleCuba Waiver Order,* 26 FCC Rcd at 5222, para. 15. Commenters may address whether it would serve the public interest to reevaluate other conditions adopted in the *TeleCuba Waiver Order* in light of the proposed changes. Finally, the FNPRM seeks comment on whether there are other actions the Commission should take involving the U.S.-Cuba route to facilitate the provision of service between the United States and Cuba.

Initial Paperwork Reduction Act of 1995 Analysis

5. The Further Notice does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.[1]

Initial Regulatory Flexibility Certification

6. The Regulatory Flexibility Act of 1980, as amended (RFA),[2] requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' [3] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [4] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[5] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field

[1] Public Law 107–198, 116 Stat. 729 (2002); *see* 44 U.S.C. 3506 (c)(4).

[2] *See* 5 U.S.C. 603. The RFA, 5 U.S.C. 2002); §601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847, 857 (1996).

[3] 5 U.S.C. 605(b).

[4] 5 U.S.C. 601(6).

[5] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definitions(s) in the **Federal Register**''.

of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

7. The Commission has licensed facilities-based telecommunications between the United States and Cuba based on policy guidance from the State due to the unique relationship between the United States and Cuba. The State Department has recently provided new guidance that recommends that the Commission remove the nondiscrimination requirements placed on the U.S.-Cuba route.

8. In this Further Notice, the Commission seeks comment on proposals to remove the nondiscrimination requirements for the provision of telecommunications services between the United States and Cuba. We seek comment on whether, if we are to remove the nondiscrimination requirements, we also should no longer consider operating agreements between a U.S. carrier and ETECSA to be routinely available for public inspection. The proposals in this Further Notice are designed to allow U.S. carriers to negotiate individualized operating agreements with ETECSA, the Cuban carrier. Allowing U.S. carriers to negotiate individualized operating agreements may lead to more U.S. carriers entering into operating agreements with ETECSA, more direct connections between the United States and Cuba, and lower settlement rates on the U.S.-Cuba route.

9. The proposals in this Further Notice, if adopted, would not change the need for a U.S. carrier to reach an agreement with the Cuban carrier and to file the agreement with the Commission. Therefore, these rule changes should not have a significant economic impact on any carrier. Further, these requirements are only applicable to facilities-based carriers, which are generally large companies and do not come within the definition of small businesses. Consequently, we do not believe that the proposals affect a substantial number of small businesses. Accordingly, the Commission certifies that the proposed rule change will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the Further Notice, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA. This initial certification will also be published in the **Federal Register**.

Ordering Clauses

10. IT IS ORDERED that, pursuant to Sections 1, 2, 4(i), 4(j), 201–205, 208, 211, 214, 303(r), 309, and 403, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 201–205, 208, 211, 214, 303(r), 309, and 403, this Further Notice of Proposed Rulemaking IS ADOPTED.

11. IT IS FUTHER ORDERED that NOTICE IS HEREBY GIVEN of the proposed regulatory changes to Commission policy and rules described in this Further Notice of Proposed Rulemaking and that comment is sought on these proposals.

12. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 63

Communications common carriers, Telecommunications.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 63 as follows:

Proposed Rules

PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

■ 1. The authority citation for part 63 continues to read as follows:

Authority: Sections 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

63.22 [Amended].

■ 2. In § 63.22 remove and reserve paragraph (f).

[FR Doc. 2016–04837 Filed 3–3–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 150303208–6099–01]

RIN 0648–BE70

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 35

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 35 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) (Amendment 35), as prepared and submitted by the South Atlantic Fishery Management Council (Council). The proposed rule, if implemented, would remove black snapper, mahogany snapper, dog snapper, and schoolmaster from the FMP as well as revise regulations regarding the golden tilefish longline endorsement program. The purpose of this rule is to ensure that only snapper-grouper species requiring Federal management are included in the Snapper-Grouper FMP, improve the consistency of management of snapper-grouper species in waters off south Florida across state and Federal jurisdictional boundaries, and to align regulations for golden tilefish longline endorsements with the Council's original intent for establishing the longline endorsement program.

DATES: Written comments must be received on or before April 4, 2016.

ADDRESSES: You may submit comments on the proposed rule identified by ''NOAA–NMFS–2015–0076'' by any of the following methods:

• *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0076,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Nikhil Mehta, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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).

Electronic copies of Amendment 35 may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.* Amendment 35 includes a draft environmental assessment, a Regulatory Flexibility Act (RFA) analysis, a Regulatory Impact Review, and a Fishery Impact Statement.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: 727–824–5305; email: *nikhil.mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the FMP, and includes black snapper, mahogany snapper, dog snapper, schoolmaster, and golden tilefish. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Management Measures Contained in This Proposed Rule

This rule would remove black snapper, mahogany snapper, dog snapper, and schoolmaster from the FMP, and revise the golden tilefish longline endorsement regulations to be consistent with the Council's original intent for establishing the longline endorsement program.

Remove Four Species From the FMP

Black snapper, mahogany snapper, dog snapper, and schoolmaster are currently in the FMP, but have extremely low commercial landings in state and Federal waters, and almost all harvest (recreational and commercial) occurs in waters off the coast of South Florida. Currently, NMFS does not manage these species in Federal waters of the Gulf of Mexico (Gulf); however, the species are subject to regulations in Florida state waters. As described in Amendment 35, there are currently different regulations for recreational bag limits, size limits, and catch levels for these species between the Gulf, South Atlantic, and Florida. Inconsistent regulations make enforcement difficult and can be confusing to the public. This rule would remove black snapper, mahogany snapper, dog snapper, and schoolmaster from the FMP and NMFS's management in Federal waters of the South Atlantic to ensure that only species requiring federal management are included in the FMP. The state of Florida has indicated that if these species are removed from the FMP, it intends to extend state regulation of these species into Federal waters off Florida for Florida-state registered fishing vessels, under § 306(a)(3)(A) of the Magnuson-Stevens Act, to provide consistent regulations for these species across state and Federal jurisdictional boundaries.

Black snapper is part of the deep-water complex within the FMP. The deep-water complex currently includes black snapper, yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, and blackfin snapper. If black snapper is removed from the FMP, the annual catch limit (ACL) for the deep-water complex would be reduced from 170,279 lb (77,237 kg), round weight, to 169,896 lb (77,063 kg), round weight, a difference of 382 lb (173 kg), round weight.

Dog snapper and mahogany snapper are part of the other snappers complex within the FMP. The other snappers complex currently includes cubera snapper, gray snapper, lane snapper, dog snapper, and mahogany snapper. Removal of dog snapper and mahogany snapper from the FMP would reduce the other snappers complex ACL from 1,517,716 lb (688,424 kg), round weight, to 1,513,883 lb (686,688 kg), round weight, a difference of 3,833 lb (1,739 kg), round weight.

Dog snapper, mahogany snapper, and black snapper are not typically targeted by commercial or recreational fishermen; therefore, bycatch associated with harvest of these species is extremely low. Schoolmaster is currently designated as an ecosystem component (EC) species in the FMP. The Council did not choose to retain dog snapper, mahogany snapper, and black snapper in the FMP as EC species because the objective of the amendment is to establish a consistent regulatory environment across jurisdictional boundaries in Gulf and South Atlantic Federal waters and Florida state waters. Because NMFS does not manage these species in Gulf Federal waters, retaining them as EC species would continue inconsistent regulations across jurisdictional boundaries. Additionally, if these species are designated as EC species, the state of Florida would not be able to extend their management authority for these species into Federal waters, because states may not generally manage species in Federal waters if those species are included in Federal fishery management plans.

A formal stock assessment has not been performed for black snapper, mahogany snapper, dog snapper, or schoolmaster; however, there is no indication that these stocks are depleted. Therefore, removing these species from the FMP is not expected to result in any adverse biological effects.

Clarify Regulations for Golden Tilefish Endorsement Holders

The final rule to implement Amendment 18B to the FMP (78 FR 23858, April 23, 2013) established a longline endorsement program for the commercial golden tilefish component of the snapper-grouper fishery. A longline endorsement is required to fish for golden tilefish with longline gear. Amendment 18B also established a golden tilefish hook-and-line quota and modified the golden tilefish commercial trip limits. The golden tilefish longline endorsement, sector quotas, and trip limits, were implemented because the golden tilefish commercial ACL was being harvested rapidly by fishermen using longline gear, so that fishermen who had historically used hook-and-line gear to target golden tilefish were not able to participate in the golden tilefish portion of the snapper-grouper fishery. The Council established the longline endorsement program and gear specific commercial quotas to help ensure that fishermen fishing with each gear type have a fair and equitable allocation of the commercial quota. The Council did not intend for longline endorsement holders to fish on the hook-and-line quota, or for non-endorsement holders to fish on the longline quota.

The Council and NMFS are aware that since Amendment 18B was implemented, some longline endorsement holders are transferring their golden tilefish longline endorsement to another vessel and then fishing for golden tilefish using hook-and-line gear under the hook-and-line quota. Other endorsement holders are renewing their Federal commercial snapper-grouper vessel permit but are waiting to renew their golden tilefish longline endorsement, so that they are able to fish for golden tilefish using hook-and-line gear under the hook-and-line quota while their longline endorsement is not valid. Neither scenario is consistent with the original intent of the Council in Amendment 18B. The Council decided to clarify their intent for golden tilefish longline

endorsement holders in Amendment 35. Currently, as described at § 622.191(a)(2)(ii), the regulations state that ''Vessels with a golden tilefish longline endorsement are not eligible to fish for golden tilefish using hook-and-line gear under this 500–lb (227–kg), gutted weight, trip limit.'' This rule would propose that ''Vessels that have valid or renewable golden tilefish longline endorsements anytime during the fishing year, are not eligible to fish for golden tilefish using hook-and-line gear under this 500-lb (227-;kg), gutted weight, trip limit.'' Thus, a fisherman who owns a vessel with a valid or renewable golden tilefish longline endorsement would not be eligible to fish for golden tilefish using hook-and-line gear under the 500-lb (227-kg), gutted weight, hook-and-line trip limit during that fishing year.

Additional Change to Codified Text

In the part 622 regulations, NMFS would revise ''allowable biological catch'' to read ''acceptable biological catch'' wherever it occurs. In the part 600 regulations, ''ABC'' is defined as ''acceptable biological catch;'' however, in the part 622 regulations, ''ABC'' is defined as ''acceptable biological catch'' in three places and ''allowable biological catch'' in four places. NMFS has determined that ''acceptable biological catch'' is the more precise definition for ''ABC''. Therefore, to be consistent with the part 600 regulations and to use the more precise terminology, NMFS proposes to change the definition of ''ABC'' to ''acceptable biological catch,'' and accordingly revise ''allowable biological catch,'' wherever it occurs in the part 622 regulations.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with Amendment 35, the FMP, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

A Regulatory Flexibility Act (RFA) Analysis was prepared as an Appendix to Amendment 35 and is available from NMFS (see **ADDRESSES**). For this proposed rule, NMFS adopts this analysis as its initial regulatory flexibility analysis (IRFA) required by section 603 of the RFA, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule, if implemented, would have on small entities. A description of the proposed rule, why it is being considered, and the objectives of, and legal basis for this proposed rule are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this rule does not implicate the Paperwork Reduction Act.

This proposed rule would be expected to directly affect all commercial vessels that harvest black snapper, dog snapper, mahogany snapper, schoolmaster and/or golden tilefish under the FMP. The removal of the four snapper-grouper species discussed in this proposed rule would not directly apply to or affect charter vessel and headboat (for-hire) businesses. Any impact to the profitability or competitiveness of for-hire fishing businesses would be the result of changes in for-hire angler demand and would therefore be indirect in nature. Currently, charter and headboat captains and crew can retain black snapper, dog snapper, mahogany snapper, schoolmaster and golden tilefish under the recreational bag limit; however, they cannot sell these fish. As such, charter and headboat captains and crew would only be affected as recreational anglers. The RFA does not consider recreational anglers, who would be directly affected by this proposed rule, to be small entities, so they are outside the scope of this analysis and only the effects on commercial vessels were analyzed.

As of November 3, 2014, there were 564 vessels with valid or renewable South Atlantic Snapper-Grouper Unlimited Permits, 120 vessels with valid or renewable 225-lb (102-kg) Trip Limit Permits and 22 vessels with valid or renewable longline endorsements for golden tilefish. Although all commercial snapper-grouper permit holders have the opportunity to fish for black snapper, dog snapper, mahogany snapper, and/or schoolmaster, on average, there were only four federally permitted vessels identified from 2009 through 2013 that commercially landed one or more of these species each year. The average annual vessel-level revenue for all species harvested by these four vessels over this period was approximately $101,000 (2013 dollars), of which $32 was from black snapper, dog snapper, mahogany snapper, and/or schoolmaster. During the same time period, on average, 22 vessels per year commercially harvested golden tilefish using longline gear and their annual average vessel-level revenue for all species was approximately $95,000 (2013 dollars), of which $55,000 was from golden tilefish. Thirty-seven vessels, on average (2009 through 2013), commercially harvested golden tilefish exclusively with non-longline gear and they earned an average of approximately $46,000 (2013 dollars) per vessel for all species harvested, of which $2,000 was from golden tilefish.

No other small entities that would be directly affected by this proposed rule have been identified.

The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S., including commercial finfish harvesters (NAICS code 114111). A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $20.5 million for all its affiliated operations worldwide. All of the vessels directly regulated by this rule are believed to be small entities based on the SBA size criteria.

Of the 684 vessels eligible to fish for the species managed under the FMP, only 63 of them are expected to be affected by this proposed rule (approximately 9 percent). Because all of these commercial fishing businesses are believed to be small entities, the issue of disproportionate effects on small versus large entities does not arise in the present case.

This proposed rule would remove black snapper, dog snapper, mahogany snapper, and schoolmaster from the FMP. The state of Florida intends to then extend its management of these species into Federal waters. Average revenues per vessel from 2009 through 2013 for these four snapper-grouper species accounted for less than 1 percent of average total revenues received by the vessels that commercially harvested these species. Almost all harvest (recreational and commercial) of these species occurs in state and Federal waters off the coast of Florida. The normal harvest of these species would not be expected to change under management by the state of Florida, thus no reduction in associated ex-vessel revenue or profit would be expected from this proposed rule.

This proposed rule would also modify the golden tilefish longline endorsement regulations. Vessels that have Federal

commercial snapper-grouper permits with golden tilefish longline endorsements, specifically those that harvest golden tilefish using both longline and hook-and-line gear, would be expected to be negatively affected by this proposed action because they would no longer be able to harvest golden tilefish using hook-and-line gear under the hook-and-line quota. This would result in reduced revenues if they are unable to substitute the harvest of other species. A total of four vessels were identified in 2014 that had a valid or renewable golden tilefish longline endorsement during some part of the year and also harvested golden tilefish under the hook-and-line 500-lb (227-kg) trip limit quota. On average, these four vessels earned an estimated $8,142 (2013 dollars) per vessel from golden tilefish landings using hook-and-line gear in 2014. This accounts for approximately 9.2 percent of their average total revenue per vessel (2009 through 2013; 2014 data were incomplete). Therefore, this proposed rule, if implemented, assuming no substitution of other species and constant prices, would be expected to result in an estimated recurring annual loss of $8,142 (2013 dollars) per vessel for the four vessels that harvested golden tilefish using both longline and hook-and-line gear. Vessels that do not have longline endorsements, on the other hand, would be expected to indirectly benefit from this proposed rule, because they would no longer have to compete with longline endorsement holders for the hook-and-line quota. On average, the 37 non-longline endorsement holders would be expected to experience an annual per-vessel increase in revenue of approximately $880 (2013 dollars) or less than 2 percent of their annual average vessel-level revenue.

The following discussion analyzes the alternatives that were not selected as preferred by the Council. Only actions that would have direct economic effects on small entities merit inclusion.

Five alternatives were considered to remove species from the FMP. The first alternative, the no action alternative, would retain all current species in the FMP and would not be expected to have any economic effects. Under the no action alternative, species that do not require Federal management would remain in the FMP and potential cost savings and/or efficiency gains of management would go unrealized. All of the other alternatives were selected as preferred and would result in the removal of black snapper, dog snapper, mahogany snapper, and schoolmaster from Federal management.

Three alternatives, including the preferred alternative, were considered for modifying the golden tilefish endorsement regulations. The first alternative, the no action alternative, would not be expected to have any economic effects. The current golden tilefish endorsement regulations are, however, contrary to the intent of the Council and unintentionally limit golden tilefish harvest opportunities and economic benefits for hook-and-line fishermen. The second alternative would revise the golden tilefish endorsement regulations so that any vessel with a valid or renewable longline endorsement would not be permitted to harvest golden tilefish under the hook-and-line quota. Under the second alternative, longline endorsement holders that operate more than one vessel (with a Federal snapper-grouper vessel permit) would be able to transfer their golden tilefish longline endorsement to a different vessel and then continue to fish for golden tilefish under the hook-and-line quota in a single year. Only one vessel exhibited this behavior in 2014. Under the second alternative, the negative economic effects on the longline endorsement holders would be lower than under this proposed rule, as would the positive effects experienced by the hook-and-line component of the commercial sector. However, this alternative would be inconsistent with the original Council intent of establishing the longline endorsement.

List of Subjects in 50 CFR Part 622

Acceptable biological catch, Annual catch limit, Commercial trip limit, Fisheries, Fishing, Quotas, Snapper-grouper, South atlantic, Species table.

Dated: February 26, 2016.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In part 622, revise ''allowable biological catch'' to read ''acceptable biological catch'' wherever it occurs.

■ 3. In § 622.185, paragraph (a)(3) is revised to read as follows:

§ 622.185 Size limits.

* * * * *

(a) * * *

(3) *Blackfin, cubera, gray, queen, silk, and yellowtail snappers*—12 inches (30.5 cm), TL.

* * * * *

■ 4. In § 622.191, the second sentence in paragraph (a)(2)(ii) is revised to read as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(2) * * *

(ii) * * * Vessels that have valid or renewable golden tilefish longline endorsements any time during the fishing year, are not eligible to fish for golden tilefish using hook-and-line gear under this 500-lb (227-kg), gutted weight, trip limit.

* * * * *

■ 5. In § 622.193, paragraphs (h) and (p) are revised to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(h) *Deep-water complex (including yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, and blackfin snapper)*—(1) *Commercial sector*—(i) If commercial landings for the deep-water complex, as estimated by the SRD, reach or are projected to reach the commercial ACL of 131,268 lb (59,542 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of deep-water complex species is prohibited and harvest or possession of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings exceed the ACL, and the combined commercial and recreational ACL of 169,896 lb (77,064 kg), round weight, is exceeded, and at least one of the species in the deep-water complex is overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the commercial ACL for that

following year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for the deep-water complex, as estimated by the SRD, are projected to reach the recreational ACL of 38,628 lb (17,521 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year, unless the RA determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits are zero.

(ii) If recreational landings for the deep-water complex, exceed the applicable recreational ACL, and the combined commercial and recreational ACL of 169,896 lb (77,064 kg), round weight, is exceeded, and at least one of the species in the deep-water complex is overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, to reduce the length of the recreational fishing season in the following fishing year to ensure recreational landings do not exceed the recreational ACL the following fishing year. When NMFS reduces the length of the following recreational fishing season and closes the recreational sector, the following closure provisions apply: The bag and possession limits for the deep-water complex in or from the South Atlantic EEZ are zero. Additionally, the recreational ACL will be reduced by the amount of the recreational ACL overage in the prior fishing year. The fishing season and recreational ACL will not be reduced if the RA determines, using the best scientific information available that no reduction is necessary.

* * * * *

(p) *Other snappers complex (including cubera snapper, gray snapper, and lane snapper)*—(1) *Commercial sector*—(i) If commercial landings for the other snappers complex, as estimated by the SRD, reach or are projected to reach the complex commercial ACL of 344,575 lb (156,297 kg), round weight, the AA will file a notification with the Office of the Federal Register, to close the commercial sector for this complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of cubera snapper, gray snapper, and lane snapper is prohibited, and harvest or possession of any of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for the other snappers complex, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 1,513,883 lb (686,686 kg), round weight, is exceeded, and at least one of the species in the other snappers complex is overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for the other snappers complex, as estimated by the SRD, reach or are projected to reach the recreational ACL of 1,169,308 lb (530,391 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if any stock in the other snappers complex is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for any species in the other snappers complex in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for the other snappers complex, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if at least one of the species in the other snappers complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and the combined commercial and recreational ACL of 1,513,883 lb (686,686 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and the ACL, the bag and possession limits for any species in the other snappers complex in or from the South Atlantic EEZ are zero.

* * * * *

■ 6. In Appendix A to part 622, Table 4 is revised to read as follows:

Appendix A to Part 622—Species Tables

* * * * *

Table 4 of Appendix A to Part 622—South Atlantic Snapper-Grouper

Balistidae—Triggerfishes
- Gray triggerfish, *Balistes capriscus*

Carangidae—Jacks
- Bar jack, *Caranx ruber*
- Greater amberjack, *Seriola dumerili*
- Lesser amberjack, *Seriola fasciata*
- Almaco jack, *Seriola rivoliana*
- Banded rudderfish, *Seriola zonata*

Ephippidae—Spadefishes
- Spadefish, *Chaetodipterus faber*

Haemulidae—Grunts
- Margate, *Haemulon album*
- Tomtate, *Haemulon aurolineatum*
- Sailor's choice, *Haemulon parrai*
- White grunt, *Haemulon plumieri*

Labridae—Wrasses
- Hogfish, *Lachnolaimus maximus*

Lutjanidae—Snappers
- Queen snapper, *Etelis oculatus*
- Mutton snapper, *Lutjanus analis*
- Blackfin snapper, *Lutjanus buccanella*
- Red snapper, *Lutjanus campechanus*
- Cubera snapper, *Lutjanus cyanopterus*
- Gray snapper, *Lutjanus griseus*
- Lane snapper, *Lutjanus synagris*
- Silk snapper, *Lutjanus vivanus*
- Yellowtail snapper, *Ocyurus chrysurus*
- Vermilion snapper, *Rhomboplites aurorubens*

Malacanthidae—Tilefishes
- Blueline tilefish, *Caulolatilus microps*
- Golden tilefish, *Lopholatilus chamaeleonticeps*
- Sand tilefish, *Malacanthus plumieri*

Percichthyidae—Temperate basses
- Wreckfish, *Polyprion americanus*

Serranidae—Groupers
- Rock hind, *Epinephelus adscensionis*
- Graysby, *Epinephelus cruentatus*
- Speckled hind, *Epinephelus drummondhayi*
- Yellowedge grouper, *Epinephelus flavolimbatus*
- Coney, *Epinephelus fulvus*
- Red hind, *Epinephelus guttatus*
- Goliath grouper, *Epinephelus itajara*
- Red grouper, *Epinephelus morio*
- Misty grouper, *Epinephelus mystacinus*
- Warsaw grouper, *Epinephelus nigritus*
- Snowy grouper, *Epinephelus niveatus*
- Nassau grouper, *Epinephelus striatus*
- Black grouper, *Mycteroperca bonaci*
- Yellowmouth grouper, *Mycteroperca interstitialis*
- Gag, *Mycteroperca microlepis*
- Scamp, *Mycteroperca phenax*
- Yellowfin grouper, *Mycteroperca venenosa*

Serranidae—Sea Basses
- Black sea bass, *Centropristis striata*

Sparidae—Porgies
- Jolthead porgy, *Calamus bajonado*
- Saucereye porgy, *Calamus calamus*

Whitebone porgy, *Calamus leucosteus*
Knobbed porgy, *Calamus nodosus*
Red porgy, *Pagrus pagrus*
Scup, *Stenotomus chrysops*

The following species are designated as ecosystem component species:

Cottonwick, *Haemulon melanurum*
Bank sea bass, *Centropristis ocyurus*
Rock sea bass, *Centropristis philadelphica*
Longspine porgy, *Stenotomus caprinus*
Ocean triggerfish, *Canthidermis sufflamen*

* * * * *

[FR Doc. 2016–04808 Filed 3–3–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 81, No. 43

Friday, March 4, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Black Hills National Forest Advisory Board (Board) will meet in Rapid City, South Dakota. The Board is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. II), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), the National Forest Management Act of 1976 (16 U.S.C. 1612), and the Federal Public Lands Recreation Enhancement Act (Pub. L. 108–447). Additional information concerning the Board, including the meeting summary/minutes, can be found by visiting the Board's Web site at: *http://www.fs.usda.gov/main/blackhills/workingtogether/advisorycommittees*.

DATES: The meeting will be held on Wednesday, March 16, 2016, at 1:00 p.m.

All meetings are subject to cancellation. For updated status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Mystic Ranger District, 8221 South Highway 16, Rapid City, South Dakota.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Black Hills National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Scott Jacobson, Board Coordinator, by phone at 605–440–1409 or by email at *sjjacobson@fs.fed.us*.

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.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to provide:

(1) Welcome Members;

(2) Purpose and Mission of NFAB & Black Hills National Forest;

(3) Over-snow and Non-motorized Working Group Report update;

(4) Forest Health Working Group update;

(5) Restoring Large Landscapes Strategy;

(6) Northern Long Eared Bat Report; and

(7) Election process update.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by March 7, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Board may file written statements with the Board's staff before or after the meeting. Written comments and time requests for oral comments must be sent to Scott Jacobson, Black Hills National Forest Supervisor's Office, 1019 North Fifth Street, Custer, South Dakota 57730; by email to *sjjacobson@fs.fed.us,* or via facsimile to 605–673–9208.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: February 29, 2016.

Craig Bobzien,

Forest Supervisor.

[FR Doc. 2016–04789 Filed 3–3–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Peninsula Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic Peninsula Resource Advisory Committee (RAC) will meet in Sequim, Washington. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/main/olympic/workingtogether/advisorycommittees*.

DATES: The meeting will be held April 6, 2016, from 9:00 a.m. to 5:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at Jamestown S'Klallam Tribal Center, Red Cedar Room, 1033 Old Blyn Highway, Sequim, Washington.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Olympic National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Susan Piper, RAC Coordinator, by phone at 360–956–2435 or via email at *spiper@fs.fed.us*.

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.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review project proposals; and
2. Make recommendations for Title II funds.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 1, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Susan Piper, RAC Coordinator, Olympic National Forest, 1835 Black Lake Boulevard Southwest, Olympia, Washington, 98512; by email to *spiper@fs.fed.us,* or via facsimile to 360–956–2330. *Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: February 25, 2016.

Larry Sandoval,

Acting Forest Supervisor.

[FR Doc. 2016–04778 Filed 3–3–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Submission for OMB Review; Comment Request

February 29, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 4, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Residue and Biomass Field Survey.

OMB Control Number: 0535–0251.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue official State and national estimates of crop and livestock production, disposition and prices. The purpose of this collection is for NASS and the Agricultural Research Service/Hydrology and Remote Sensing Laboratory to make an objective connection between the amounts of organic matter produced and how crop residues impact future crop yields. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204(a) which specifies that ''The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain . . . by the collection of statistics . . . and shall distribute them among agriculturists.'' Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Need and Use of the Information: This study will investigate the effect crop residue removal has on soil and water quality. The study will use, as a sampling universe fields in the South Fork watershed in central Iowa. The study will be conducted in several phases. Permission forms will be presented to farm operators. With the farmers permission the field enumerators will return several times during the growing season to measure and collect samples from the target areas. Measurements of crop residues will be compared with remote sensed data to measure crop residue cover and soil tillage intensity for the entire watershed. After measurements and samples are taken the farm operators will be asked to complete a questionnaire and, if possible provide a yield map. The questionnaire and yield maps help associate measured residue and biomass to specific field management plans and provide realistic operation files for the water and soil quality models. Without this collection, our knowledge of the management practices in the watershed would be severely limited.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 100.

Frequency of Responses: Reporting: One time.

Total Burden Hours: 64.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–04787 Filed 3–3–16; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS–2016–0001]

Notice of Proposed Changes to the National Handbook of Conservation Practices for the Natural Resources Conservation Service

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA).

ACTION: Notice of availability of proposed changes to the National Handbook of Conservation Practices for public review and comment.

SUMMARY: Notice is hereby given of the intention of NRCS to issue a series of revised conservation practice standards in the National Handbook of Conservation Practices. These standards include: Clearing and Snagging (Code 326), Diversion (Code 362), Fish Raceway or Tank (Code 398), Pond Sealing or Lining—Compacted Soil Treatment (Code 521B), Pond Sealing or Lining—Concrete (Code 521C),

Sediment Basin (Code 350), Silvopasture (Code 381), Tree/Shrub Establishment (Code 612), Vegetated Subsurface Drain Outlet (Code 604), and Waste Storage Facility (Code 313).

NRCS State Conservationists who choose to adopt these practices for use within their States will incorporate them into section IV of their respective electronic Field Office Technical Guide. These practices may be used in conservation systems that treat highly erodible land (HEL) or on land determined to be a wetland. Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 requires NRCS to make available for public review and comment all proposed revisions to conservation practice standards used to carry out HEL and wetland provisions of the law.

DATES: *Effective Date:* This is effective March 4, 2016.

Comment Date: Submit comments on or before April 4, 2016. Final versions of these new or revised conservation practice standards will be adopted after the close of the 30-day period and after consideration of all comments.

ADDRESSES: Comments should be submitted, identified by Docket Number NRCS–2016–0001, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail or hand-delivery:* Public Comments Processing, Attention: Regulatory and Agency Policy Team, Strategic Planning and Accountability, Natural Resources Conservation Service, 5601 Sunnyside Avenue, Building 1–1112D, Beltsville, Maryland 20705.

NRCS will post all comments on *http://www.regulations.gov.* In general, personal information provided with comments will be posted. If your comment includes your address, phone number, email, or other personal identifying information, your comments, including personal identifying information (PII), may be available to the public. You may ask in your comment that your PII be withheld from public view, but this cannot be guaranteed.

FOR FURTHER INFORMATION CONTACT: Wayne Bogovich, National Agricultural Engineer, Conservation Engineering Division, U.S. Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue Southwest, South Building, Room 6136, Washington, DC 20250.

Electronic copies of the proposed revised standards are available through *http://www.regulations.gov* by accessing Docket No. NRCS–2016–0001. Alternatively, copies can be downloaded or printed from the following Web site: *http://go.usa.gov/TXye.* Requests for paper versions or inquiries may be directed to Emil Horvath, National Practice Standards Review Coordinator, Natural Resources Conservation Service, Central National Technology Support Center, 501 West Felix Street, Fort Worth, Texas 76115.

SUPPLEMENTARY INFORMATION: The amount of the proposed changes varies considerably for each of the conservation practice standards addressed in this notice. To fully understand the proposed changes, individuals are encouraged to compare these changes with each standard's current version as shown at: *http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/technical/cp/ncps/?cid=nrcs143_026849.* To aid in this comparison, following are highlights of some of the proposed revisions to each standard:

Clearing and Snagging (Code 326)—The changes were made to provide better clarity, and include the use of active voice and the removal of all occurrences of the word ''shall''. The References section remains unchanged; however, one of the references, NEH Part 654, Stream Restoration Design, now appears in the Considerations section, where it specifically identifies Technical Supplement 14E of this reference for use in determining the forces acting on woody debris and the necessary anchoring.

Diversion (Code 362)—The definition was revised and the purpose modified for clarity. The Criteria, Considerations, and Operations and Maintenance sections were refined and the references were updated.

Fish Raceway or Tank (Code 398)—The purpose was refined, the criteria was modified, and the references were updated. Other changes improved the clarity of the language used in the standard.

Pond Sealing or Lining—Compacted Soil Treatment (Code 521B)—521B Pond Sealing or Lining—Compacted Soil Treatment now combines the existing compacted soil liner standards (521B. 521C & 521D) into one standard code which is now 521B Pond Sealing or Lining—Compacted Soil Treatment. As a result, a change to the title was necessary, along with other changes needed for clarification, consistency, and 508 compliance requirements.

Pond Sealing or Lining—Concrete (Code 521C)—521C Pond Sealing or Lining—Concrete is a new standard developed as an alternative practice for lining and sealing animal waste storage ponds and lagoons as needed. It covers concrete design requirements for this specified function that is not specified in Waste Storage Facility (Code 313).

Sediment Basin (Code 350)—The purpose was refined, the criteria was modified, and the references were updated. Other changes improved the clarity of the language used in the standard.

Silvopasture (Code 381)—The title was changed from ''Silvopasture Establishment'' to ''Silvopasture.'' The Definition, Purposes, and Conditions Where Practice Applies sections were refined. Two purposes were removed and three purposes were added. The criteria were adjusted to match the changes in purposes. The Considerations and Operations and Maintenance sections were refined and the references were updated.

Tree/Shrub Establishment (Code 612)—The Purposes and Conditions Where Practice Applies sections were refined. One purpose was added and one purpose removed. The criteria were adjusted to match the changes in purposes. The Considerations, Plans and Specifications, and Operations and Maintenance sections were refined and the references were updated.

Saturated Buffer (Code 604)—This is a new conservation practice standard developed from an existing interim conservation practice standard ''Saturated Buffer'' (Code 739).

Waste Storage Facility (Code 313)—The document has been revised extensively. Those revisions include modification of structural design requirements to account for changes in accepted concrete and timber design criteria, modification of language for storage requirements to improve clarity, modify language to conform to the Plain Language Act, improvements to the safety criteria, changing the requirement of a staff gauge from optional to required, addition of criteria specific to solid manure stacking facilities, and improvements to the Plans and Specifications, and Operation and Maintenance sections of the standard. The structural design and safety requirements have been revised to reflect changes in accepted design methods. Other changes have been made to improve the clarity of the language used in the standard.

Jason A. Weller,

Chief, Natural Resources Conservation Service.

[FR Doc. 2016–04824 Filed 3–3–16; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utility Service

Submission for OMB Review; Comment Request

February 29, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 4, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utilities Service

Title: 7 CFR part 1786, Prepayment of RUS Guaranteed and Insured Loans to Electric and Telephone Borrowers.

Omb Control Number: 0572–0088.

Summary of Collection: The Rural Electrification (RE) Act of 1936, as amended, authorizes and empowers the Administrator of RUS to make loans in the States and Territories of the United States for rural electrification and for the purpose of furnishing and improving electric and telephone service in rural areas and to assist electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems. 7 CFR part 1786, subparts E and F are authorized by this section.

Need and Use of the Information: The required documentation and information will be collected from electric and telecommunications program borrowers. The purpose of the information collected is to provide borrowers an opportunity to request prepayment of their notes and to determine that the borrower is qualified to prepay under the authorizing statues. The overall goal of Subparts E and F is to allow RUS borrowers to prepay their RUS loan and the overall goal of Subpart G is to refinance.

Description of Respondents: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 38.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 76.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–04788 Filed 3–3–16; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority

[Docket Number: 160229154–6154–01]

RIN 0660–XC023

Notice of Availability of a Draft Programmatic Environmental Impact Statement for the Non-Contiguous Region of the Nationwide Public Safety Broadband Network and Notice of Public Meetings

AGENCY: First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Announcement of availability of a draft programmatic environmental impact statement and of public meetings.

SUMMARY: The First Responder Network Authority (''FirstNet'') announces the availability of the Draft Programmatic Environmental Impact Statement for the Non-Contiguous Region (''Draft PEIS''). FirstNet also announces a series of public meetings to be held throughout the Non-Contiguous Region to receive comments on the Draft PEIS. The Draft PEIS evaluates the potential environmental impacts of the proposed nationwide public safety broadband network in the Non-Contiguous Region.

DATES: Submit comments on the Draft PEIS for the Non-Contiguous Region on or before May 3, 2016. FirstNet will also hold public meetings in each of the seven Non-Contiguous states and territories. See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: At any time during the public comment period, members of the public, public agencies, and other interested parties are encouraged to submit written comments, questions, and concerns about the project for FirstNet's consideration or to attend any of the public meetings. Written comments may be submitted electronically via *www.regulations.gov*, FIRSTNET–2016–01, or by mail to Amanda Goebel Pereira, NEPA Coordinator, First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce, 12201 Sunrise Valley Drive, M/S 243, Reston, VA 20192. Comments received will be made a part of the public record and may be posted to FirstNet's Web site (*www.firstnet.gov*) without change. Comments should be machine readable and should not be copy-protected. All personally identifiable 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. The Draft PEIS is available for download from *www.regulations.gov* FIRSTNET–2016–01. A CD of this document is also available for viewing at public libraries (see Chapter 15 of the Draft PEIS for the complete distribution list). See **SUPPLEMENTARY INFORMATION** section for public meeting addresses.

FOR FURTHER INFORMATION CONTACT: For more information on the Draft PEIS, contact Amanda Goebel Pereira, NEPA Coordinator, First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce, 12201 Sunrise Valley Drive, M/S 243, Reston, VA 20192.

SUPPLEMENTARY INFORMATION:

Public Meetings

Attendees can obtain information regarding the project and/or submit a comment in person during public meetings. The meeting details are as follows:

- Anchorage, Alaska: March 15, 2016, from 5:00–8:00 p.m., at the Hilton Anchorage, 500 West Third Avenue, Anchorage, Alaska 99501
- Juneau, Alaska: March 17, 2016, from 5:00–8:00 p.m., at the Centennial Hall Convention Center, 101 Egan Drive, Juneau, Alaska 99801
- Honolulu, Hawaii: March 21, 2016, from 10:00 a.m. to 8:00 p.m., at the Hilton Waikiki Beach Hotel, 2500 Kuhio Avenue, Honolulu, Hawaii 96815
- Tumon Bay, Guam: April 5, 2016, from 5:00 p.m. to 8:00 p.m., at the Hilton Guam Resort, 202 Hilton Road, Tumon Bay, Guam 96913
- Saipan, Northern Mariana Islands: April 7, 2016, from 5:00 p.m. to 8:00 p.m., at the Hyatt Regency Saipan, Royal Palm Avenue, Micro Beach Road, Garapan, Saipan, MP 96950
- Tafuna, American Samoa: April 11, 2016, from 5:00 p.m. to 8:00 p.m., at the Tradewinds Hotel, 999 Ottoville Road, Tafuna, American Samoa 69799
- Christiansted, St. Croix, U.S. Virgin Islands: April 22, 2016, from 5:00 p.m. to 8:00 p.m., at the Company House Hotel, No. 2 Company Street, Christiansted, Virgin Islands 00820
- San Juan, Puerto Rico: April 26, 2016, from 5:00 p.m. to 8:00 p.m., at La Concha Resort, 1077 Ashford Avenue, San Juan, Puerto Rico 00907

Background

The Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96, Title VI, 126 Stat. 156 (codified at 47 U.S.C. 1401 *et seq.*)) (the ''Act'') created and authorized FirstNet to take all actions necessary to ensure the building, deployment, and operation of an interoperable, nationwide public safety broadband network (''NPSBN'') based on a single, national network architecture. The Act meets a longstanding and critical national infrastructure need, to create a single, nationwide network that will, for the first time, allow police officers, fire fighters, emergency medical service professionals, and other public safety entities to effectively communicate with each other across agencies and jurisdictions. The NPSBN is intended to enhance the ability of the public safety community to perform more reliably, effectively, and safely; increase situational awareness during an emergency; and improve the ability of the public safety community to effectively engage in those critical activities.

The National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) (''NEPA'') requires federal agencies to undertake an assessment of environmental effects of their proposed actions prior to making a final decision and implementing the action. NEPA requirements apply to any federal project, decision, or action that may have a significant impact on the quality of the human environment. NEPA also establishes the Council on Environmental Quality (''CEQ''), which issued regulations implementing the procedural provisions of NEPA (see 40 CFR parts 1500–1508). Among other considerations, CEQ regulations at 40 CFR 1508.28 recommend the use of *tiering* from a ''broader environmental impact statement (such as a national program or policy statements) with subsequent narrower statements or environmental analysis (such as regional or basin wide statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared.''

Due to the geographic scope of FirstNet (all 50 states, the District of Columbia, and five territories) and the diversity of ecosystems potentially traversed by the project, FirstNet has elected to prepare five regional PEISs. The five PEISs will be divided into the East, Central, West, South, and Non-Contiguous Regions. The Non-Contiguous Region consists of Alaska, Hawaii, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. The Draft PEIS analyzes potential impacts of the deployment and operation of the NPSBN on the natural and human environment in the Non-Contiguous Region, in accordance with FirstNet's responsibilities under NEPA.

Next Steps

All comments received by the public and any interested stakeholders will be evaluated and considered by FirstNet during the preparation of the Final PEIS. Once a PEIS is completed and a Record of Decision (ROD) is signed, FirstNet will evaluate site-specific documentation, as network design is developed, to determine if the proposed project has been adequately evaluated in the PEIS or warrants a Categorical Exclusion, an Environmental Assessment, or an Environmental Impact Statement.

Dated: March 1, 2016.

Amanda Goebel Pereira,

NEPA Coordinator First Responder Network Authority.

[FR Doc. 2016–04830 Filed 3–3–16; 8:45 am]

BILLING CODE 3510–TL–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–11–2016]

Foreign-Trade Zone 230—Piedmont Triad Area, North Carolina; Notification of Proposed Production Activity; United Chemi-Con, Inc.; Subzone 230A (Aluminum Electrolytic Capacitors); Lansing, North Carolina

The Piedmont Triad Partnership, grantee of FTZ 230, submitted a notification of proposed production activity to the FTZ Board on behalf of United Chemi-Con, Inc. (UCC), operator of Subzone 230A, at its facility located in Lansing, North Carolina. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 26, 2016.

UCC already has authority to produce aluminum electrolytic capacitors within Subzone 230A. The current request would add new foreign components to the scope of authority. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt UCC from customs duty payments on the foreign status components used in export production. On its domestic sales, UCC would be able to choose the duty rate during customs entry procedures that applies to aluminum electrolytic capacitors (free) for the foreign status inputs noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components sourced from abroad are: Boric acid; D-Mannitol; polyoxy ethylene glyceline; polyvinyl/p-nitrobenzy alcohol; ammonium benzoate; adipic acid; ammonium adipate; maleic acid; gamma resorcylic acid; isomeric decanedicarboxylic & 1,2,3,4-butanetracarboxylic; polyethylene glycol phosphate; KIP (gamma-butyrolactone & 1-ethyl-2,3-dimethylimidazoliniium hydrogen phthalate mixture); PEG1000 polyethylene glycol; MMA–10R (carbolic acid mixture); wax poly white; silicone oil; polypropylene tape; sleeving and nuts of plastic; end disks; gaskets of ethylene propylene diene monomer; steel screws/nuts/hexes; aluminum waste/scrap/tab stock/foil/inserts/rivets/washers/springs/lock washers; and, metal clamps and

brackets (duty rate ranges from free to 6.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is April 13, 2016.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: February 29, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–04845 Filed 3–3–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1994]

Reorganization of Foreign-Trade Zone 182, (Expansion of Service Area), Under Alternative Site Framework; Fort Wayne, Indiana

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the City of Fort Wayne, grantee of Foreign-Trade Zone 182, submitted an application to the Board (FTZ Docket B–56–2015, docketed August 25, 2015) for authority to expand the service area of the zone to include Randolph County, Indiana, as described in the application, adjacent to the Dayton, Ohio Customs and Border Protection port of entry;

Whereas, notice inviting public comment was given in the **Federal Register** (80 FR 53103–53104, September 2, 2015) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 182 to expand the service area under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and to the Board's standard 2,000-acre activation limit for the zone.

Signed at Washington, DC, this 22nd day of February 2016.

Paul Piquado,

Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–04846 Filed 3–3–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from interested parties, the Department of Commerce (''Department'') is conducting the administrative review of the antidumping duty order on certain activated carbon from the People's Republic of China (''PRC'') for the period of review (''POR'') April 1, 2014, through March 31, 2015. The Department preliminarily finds that subject merchandise has been sold in the United States at prices below normal value (''NV'') during the POR. The Department invites interested parties to comment on these preliminary results.

DATES: Effective March 4, 2016.

FOR FURTHER INFORMATION CONTACT: Bob Palmer or Frances Veith, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–9068, or (202) 482–4295, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the order is certain activated carbon. The products are currently classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 3802.10.00.[1] Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order remains dispositive.

Preliminary Determination of No Shipments

Based on an analysis of U.S. Customs and Border Protection (''CBP'') information, and no shipment certifications submitted by Carbon Activated Tianjin Co., Ltd. (''Carbon Activated''), the Department preliminarily determines that Carbon Activated had no shipments during the POR. For additional information regarding this determination, *see* the Preliminary Decision Memorandum.

Consistent with our practice in non-market economy (''NME'') cases, the Department is not rescinding this review, in part, but intends to complete the review with respect to Carbon Activated, for which it has preliminarily found no shipments, and issue appropriate instructions to CBP based on the final results of the review.[2]

Methodology

The Department is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (''the Act''). We calculated constructed export prices and export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy (''NME'') within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics included in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *https://access.trade.gov,* and it is

[1] For a complete description of the Scope of the Order, *see* ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Certain Activated Carbon From the People's Republic of China; 2014–2015'' (''Preliminary Decision Memorandum'') from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado Assistant Secretary for Enforcement and Compliance, issued concurrently with, and hereby adopted by, this notice.

[2] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011).

available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum is available at *http://enforcement.trade.gov/frn/*. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Verification

As provided in sections 782(i)(3)(A)–(B) of the Act, we intend to verify the information upon which we will rely in determining our final results of review with respect to Jacobi Carbons AB.

Preliminary Results of the Review

The Department preliminarily finds that 181 companies [3] for which a review was requested did not establish eligibility for a separate rate because they either failed to provide a timely response to a separate rate application (''SRA''); to a supplemental questionnaire; or did not file a SRA or a SRC. As such, we preliminarily determine that they [4] are part of the PRC-wide entity.[5]

For companies subject to this review that established their eligibility for a separate rate, the Department preliminarily determines that the following weighted-average dumping margins exist for the POR from April 1, 2014, through March 31, 2015:

Exporter	Weighted-average dumping margin (U.S. dollars per kilogram) [6]
Jacobi Carbons AB [7]	2.80
Datong Juqiang Activated Carbon Co., Ltd	0.29
Calgon Carbon (Tianjin) Co., Ltd	2.22
Datong Municipal Yunguang Activated Carbon Co., Ltd	2.22
Jilin Bright Future Chemicals Company, Ltd	2.22
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.[8]	2.22
Ningxia Huahui Activated Carbon Co., Ltd	2.22
Ningxia Mineral and Chemical Limited	2.22
Shanxi DMD Corporation	2.22
Shanxi Dapu International Trade Co., Ltd	2.22
Shanxi Industry Technology Trading Co., Ltd	2.22
Shanxi Sincere Industrial Co., Ltd	2.22
Shanxi Tianxi Purification Filter Co., Ltd	2.22
Sinoacarbon International Trading Co., Ltd	2.22
Tancarb Activated Carbon Co., Ltd	2.22
Tianjin Channel Filters Co., Ltd	2.22
Tianjin Maijin Industries Co., Ltd	2.22

Disclosure and Public Comment

The Department intends to disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Because, as noted above, the Department intends to verify the information upon which we will rely in making our final determination, the Department will establish the briefing schedule at a later time, and will notify parties of the schedule in accordance with 19 CFR 351.309. Interested parties may submit written comments in the form of case briefs and rebuttal comments in the form of rebuttal briefs within five days after the time limit for filing case briefs.[9] Rebuttal briefs must be limited to issues raised in the case briefs.[10] Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[11]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) The number of participants; and (3) A list of issues parties intend to discuss.

[3] Two companies, Beijing Embrace Technology Co. Ltd. (''Beijing Embrace'') and Shanxi Carbon Industry Co., Ltd. (''Shanxi Carbon''), did not establish eligibility for a separate rate because Beijing Embrace and Shanxi Carbon failed to provide a timely response to a separate rate application (''SRA'') or to a supplemental questionnaire and 179 companies did not establish eligibility for a separate rate because they did not provide the Department with a response to a SRA or a separate rate certification (''SRC''). *See* ''Separate Rates'' section of the Preliminary Decision Memorandum at Attachment I for a complete list of the 179 company names.

[4] *Id.*

[5] Because no party requested a review of the PRC-wide entity and the Department no longer considers the PRC-wide entity as an exporter conditionally subject to administrative reviews, we did not conduct a review of the PRC-wide entity. Thus, the rate for the NME entity is not subject to change as a result of this review. *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65969–70 (November 4, 2013).

[6] In the second administrative review of the *Order,* the Department determined that it would calculate per-unit weighted-average dumping margins and assessment rates for all future reviews. *See Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review,* 75 FR 70208, 70211 (November 17, 2010). *See also Notice of Antidumping Duty Order: Certain Activated Carbon From the People's Republic of China,* 72 FR 20988 (April 27, 2007) (''*Order*'').

[7] In the third administrative review of the *Order,* the Department found that Jacobi Carbons AB, Tianjin Jacobi International Trading Co. Ltd., and Jacobi Carbons Industry (Tianjin) are a single entity and, because there were no changes to the facts which supported that decision since that determination was made, we continue to find that these companies are part of a single entity for this administrative review. *See Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Third Antidumping Duty Administrative Review,* 76 FR 67142 (October 31, 2011); *Certain Activated Carbon From the People's Republic of China; 2010–2011; Certain Activated Carbon From the People's Republic of China; 2010–2011; Final Results of Antidumping Duty Administrative Review, 77 FR 67337, 67338 (November 9, 2012); Certain Activated Carbon From the People's Republic of China; 2011–2012; Final Results of Antidumping Duty Administrative Review, 78 FR 70533, 70535 (November 26, 2013); Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013, 79 FR 70163, 70165 (November 25, 2014). Final Results of Antidumping Duty Administrative Review,* 77 FR 67337, 67338 (November 9, 2012); *Certain Activated Carbon From the People's Republic of China; 2011–2012; Final Results of Antidumping Duty Administrative Review,* 78 FR 70533, 70535 (November 26, 2013); *Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 70163, 70165 (November 25, 2014), and; *Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 61172 (October 9, 2015) (''*AR5 Final*''). *See also* Preliminary Decision Memorandum.

[8] In the first administrative review of the *Order,* the Department found that Beijing Pacific Activated Carbon Products Co., Ltd., Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd., and Ningxia Guanghua Activated Carbon Co., Ltd. are a single entity and, because there were no changes to the facts which supported that decision since that determination, we continue to find that these companies are part of a single entity for this administrative review. *See Certain Activated Carbon From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limits for the Final Results,* 74 FR 21317 (May 7, 2009), unchanged in *First Administrative Review of Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 74 FR 57995 (November 10, 2009); and *Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 2011–2012, 78 FR 70533 (November 26, 2013) at footnote 33; *Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 70163, 70165 (November 25, 2014), and *AR5 Final. See also* Preliminary Decision Memorandum.

[9] *See* 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1); *see also* 19 CFR 351.303 (for general filing requirements).

[10] *See* 19 CFR 351.309(d)(2).

[11] *See* 19 CFR 351.309(c) and (d); *see also* 19 CFR 351.303 (for general filing requirements).

Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.[12] If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date and time to be determined.[13] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by 5 p.m. Eastern Time (''ET'') on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by 5 p.m. ET on the due date.

Unless otherwise extended, the Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review.[14] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For any individually examined respondent whose (estimated) *ad valorem* weighted–average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total quantity of those sales, in accordance with 19 CFR 351.212(b)(1).[15] The Department will also calculate (estimated) *ad valorem* importer-specific assessment rates with which to assess whether the per-unit assessment rate is *de minimis.* We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate calculated in the final results of this review is not zero or *de minimis.* Where either the respondent's *ad valorem* weighted-average dumping margin is zero or *de minimis,* or an importer-specific *ad valorem* assessment rate is zero or *de minimis,*[16] we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries that were not reported in the U.S. sales data submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the rate for the PRC-wide entity.[17] Additionally, if the Department determines that an exporter under review had no shipments of the 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 rate for the PRC-wide entity.[18]

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated antidumping duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For each specific company listed in the final results of review, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis,* then cash deposit rate will be zero); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in the completed segment of this proceeding for the most recent period, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary 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 POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: February 26, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum:

1. Summary
2. Background
   a. Initiation
   b. Respondent Selection
   c. Questionnaires
   d. Scope of the Order
3. Discussion of the Methodology
   a. Preliminary Determination of No Shipments
   b. Non-Market Economy Country
   c. Separate Rates
   d. Weighted-Average Dumping Margin for Non-Examined Separate Rate Companies
   e. Surrogate Country and Surrogate Value Data
   f. Facts Available for Normal Value
   g. Date of Sale
   h. Comparisons to Normal Value
   i. U.S. Price
   j. Normal Value
   k. Currency Conversion
4. Recommendation

[FR Doc. 2016–04729 Filed 3–3–16; 8:45 am]

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[12] *See* 19 CFR 351.310(c).

[13] *See* 19 CFR 351.310(d).

[14] *See* 19 CFR 351.212(b)(1).

[15] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[16] *See* 19 CFR 351.106(c)(2).

[17] *Id.*

[18] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–009]

Calcium Hypochlorite From the People's Republic of China: Initiation of Countervailing Duty New Shipper Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATE: Effective Date: March 4, 2016.

SUMMARY: The Department of Commerce (''the Department'') is initiating a new shipper review (''NSR'') of the countervailing duty (''CVD'') order on calcium hypochlorite from the People's Republic of China (''PRC'') with respect to Jingmei Chemical Products Sales Co., Ltd. (''Jingmei Chemical''). The period of review (''POR'') for this NSR is May 27, 2014, through December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Frances Veith, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–4295.

SUPPLEMENTARY INFORMATION:

Background

The CVD order on calcium hypochlorite from the PRC published in the **Federal Register** on January 30, 2015.[1] Pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.214(b), we received a request for a NSR of the order from Haixing Jingmei Chemical.[2] Jingmei Chemical certified that it is the exporter of the subject merchandise upon which the request is based and that Haixing Eno Chemical Co., Ltd. (''Eno Chemical'') is the producer of the subject merchandise.[3]

Pursuant to section 751(a)(2)(B)(i) of the Act and 19 CFR 351.214(b)(2)(ii)(A) and (B), Jingmei Chemical and Eno Chemical each certified that they did not export subject merchandise to the United States during the period of investigation (''POI'').[4] In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Jingmei Chemical and Eno Chemical each certified that, since the initiation of the investigation, it has never been affiliated with any PRC exporter or producer who exported subject merchandise to the United States during the POI, including those respondents not individually examined during the investigation.[5]

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), Jingmei Chemical submitted documentation establishing the following: (1) The date on which the subject merchandise was first entered or withdrawn from warehouse, for consumption; (2) the volume of its first shipment and subsequent shipments, if any; and (3) the date of its first sale to an unaffiliated customer in the United States.[6] Pursuant to 19 CFR 351.214(b)(2)(v), Jingmei Chemical certified that it informed the government of the PRC that it will be required to provide a full response to the Department's questionnaire.[7] On February 2, 2016, the Department issued a pre-initiation supplemental questionnaire to Jingmei Chemical,[8] to which Jingmei provided a timely response.[9]

Finally, the Department conducted a U.S. Customs and Border Protection (''CBP'') database query and confirmed the price and quantity reported of the sale by Jingmei Chemical that formed the basis for this new shipper request.[10]

Period of Review

The Department's regulations state, in 19 CFR 351.214(g)(2), that the POR for a CVD NSR will be the same period as that specified in 19 CFR 351.213(e)(2), which states that the Department normally will cover entries of subject merchandise during the most recently completed calendar year. However, 19 CFR 351.213(e)(2)(ii) provides that for requests received during the first anniversary month after publication of an order, the review will cover entries or exports during the period from the date of suspension of liquidation to the end of the most recently completed calendar or fiscal year. Accordingly, the POR is May 27, 2014, through December 31, 2015.

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act, 19 CFR 351.214(b), and 19 CFR 351.214(d)(1), and based on the evidence provided by Jingmei Chemical, we find that its request meets the threshold requirements for initiation of the NSR for shipments of calcium hypochlorite from the PRC produced by Eno Chemical and exported by Jingmei Chemical.[11] If the information supplied by Jingmei Chemical is found to be incorrect or insufficient during the course of this proceeding, the Department may rescind the review for Jingmei Chemical or apply facts available pursuant to section 776 of the Act, depending on the facts on the record.

Absent a determination that the new shipper review is extraordinarily complicated, the Department intends to issue the preliminary results of this NSR within 180 days from the date of initiation and the final results within 90 days after the date on which the preliminary results are issued.[12]

We will instruct CBP to allow, at the option of the importer, the posting, until the completion of this review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise from the requesting company in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because Jingmei Chemical certified that Eno Chemical produced the subject merchandise that Jingmei Chemical exported, the sales of which are the basis for the NSR request, we will instruct CBP to permit the use of a bond only for subject merchandise that Eno Chemical produced and Jingmei Chemical exported.

Interested parties requiring access to proprietary information in this NSR should submit applications for disclosure under administrative protective order, in accordance with 19 CFR 351.305 and 19 CFR 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act, 19 CFR 351.214, and 19 CFR 351.221(c)(1)(i).

[1] *See Calcium Hypochlorite From the People's Republic of China: Countervailing Duty Order,* 80 FR 5082 (January 30, 2015) (''*Order*'').

[2] *See* Jingmei Chemical's letter to the Department regarding, ''Calcium Hypochlorite from the People's Republic of China Entry of Appearance and Request for New Shipper Review,'' dated November 20, 2015 (''NSR Request'').

[3] *Id.,* at 3 and Exhibit 1.

[4] *Id.,* at Exhibit 1.

[5] *Id.*

[6] *See* NSR Request at 3–4 and Exhibit 2.

[7] *Id.,* at Exhibit 1.

[8] *See* Letter to Jingmei from the Department titled ''*Calcium Hypochlorite from the People's Republic of China: Request for New Shipper Review,*'' *dated February 2, 2016.*

[9] *See* Jingmei's pre-initiation supplemental questionnaire response regarding, ''Calcium Hypochlorite from the People's Republic of China Response to Department's Question About First Sale,'' February 8, 2016.

[10] *See* Memorandum to the File from Frances Veith, Senior International Trade Analyst, Office V, Enforcement and Compliance, regarding ''Calcium Hypochlorite from the People's Republic of China; U.S. Imports of Calcium Hypochlorite,'' dated concurrently with this notice.

[11] *See* Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, Enforcement and Compliance, from Frances Veith, Senior International Trade Analyst, Office V, Enforcement and Compliance, titled ''Initiation of CVD New Shipper Review: Calcium Hypochlorite from the People's Republic of China,'' dated concurrently with this notice.

[12] *See* section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i).

Dated: February 29, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016–04844 Filed 3–3–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

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), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before March 24, 2016. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 15–044. Applicant: University of Pittsburgh, 116 Atwood Street, Suite 201, Pittsburgh, PA 15260. Instrument: Scios Dual Beam Field Emission Scanning Electron Microscope. Manufacturer: Scios, Czech Republic. Intended Use: The instrument will be used to reveal the surface and sub-surface microstructure metrics of structural materials such as steels, Ni-based superalloys, Al-, Ti-, Mn-base and other specialty alloys, functional materials based on ceramic, metal and semiconducting thin films, particulates and composites. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: December 15, 2015.

Docket Number: 15–047. Applicant: Dana-Farber Cancer Institute, 450 Brookline Ave., Boston, MA 02210. Instrument: Electron Microscope. Manufacturer: JEOL, LTD., Japan. Intended Use: The instrument will be used to study a wide range of biomolecules with the overall objective of better understanding the biological processes underlying normal and abnormal (cancer) biological activity. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: December 15, 2015.

Docket Number: 15–049. Applicant: University of Maryland College Park, 2125 J. M. Patterson, College Park, MD 20742. Instrument: Laser lithography system Photonic Professional GT and accessories. Manufacturer: Nanoscribe GmbH, Hermon Von Hermholtz Platz 1, Germany. Intended Use: The fundamental capabilities of the instrument target the nanoscale fabrication of complex 3-dimensional polymer components and systems. The instrument will be used for the characterization and optimization of fabrication resolution and precision for specific applications and device and system level characterization of components manufactured using the nanoscribe tool. It will be used to perform research into the nanoscale patterning of photoactive polymer materials, including epoxy-based photoresists. Unique features of this instrument include two photon polymerization of various UV-curable photoresists, two photon exposure of common positive tone photoresists, and the highest resolution available for a 3D printer. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: December 7, 2015.

Docket Number: 15–054. Applicant: University of Connecticut Health Center, 263 Farmington Ave., Farmington, CT 06030. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used to investigate the organization of various organs and tissues obtained from mice. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: November 24, 2015.

Docket Number: 15–056. Applicant: St. Jude Children's Research Hospital, 262 Danny Thomas Place, Memphis, TN 38105. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used to study cell and tissue cultures, model systems and human tissue biopsies. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: December 15, 2015.

Docket Number: 15–059. Applicant: Rutgers University, 136 Frelinghuysen Road, Piscataway, NK 08854. Instrument: Low Temperature Scanning Tunneling Microscope. Manufacturer: Unisoku, Japan. Intended Use: The instrument will be used to prepare atomically flat and clean surfaces of samples with proper heat treatment, measure crystal surface's electronic structure with ultimate spatial and energy resolution, observe quantum phenomena accompanied with temperature or magnetic field change at the atomic scale, find the atomic origin of quantum phenomena in strongly correlated materials and control the quantum phenomena by material deposition or atom manipulation. Techniques will include making and maintaining ultra-high vacuum, lowering the temperature by using cryogenic liquids, heating of samples in the vacuum chamber by electron beam heating, cleaving of samples at low temperature, vacuum material evaporation, and scanning probe techniques to get electronic structures of the specimen (scanning tunneling microscopy, scanning tunneling spectroscopy, tip treatment or atom manipulation). Unique features of this instrument include operation temperature of lower than 5K with liquid helium, ultra high vacuum at $1.3x10^{-8}$ Pa ($9.8x10^{-11}$ Torr), high magnetic field supplied superconducting magnet with a maximum 8 Tesla field perpendicular to the sample plane, preparation chamber with direct current heating up to 1300C and e-beam heating up to 1500C, IS 40C1 Sputter Cleaning Ion Source with gas inlet package, MAN–SLT cooling and cleaving manipulator, and UHV multi-element miniature evaporator ME series. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: December 15, 2015.

Docket Number: 15–060. Applicant: Kent State University, 1425 University Esplanade, Kent, OH 44242. Instrument: Electron Microscope. Manufacturer: FEI company, the Netherlands. Intended Use: The instrument will be used to characterize various kinds of solid state materials and fabricate nanostructures and devices. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: December 8, 2015.

Dated: February 25, 2016.

Gregory W. Campbell,

Director of Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2016–04843 Filed 3–3–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE479

Endangered Species Act; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: We, NMFS, announce a public meeting of a review of our recovery program under the Endangered Species Act of 1973, as amended (ESA). The purpose of the review is to ensure that recovery program priorities and implementation are aligned with resources and mission mandates; enhance and align strategic management of NMFS regulatory programs; and provide transparency in the operation of NMFS recovery program.

DATES: The meeting will be held Tuesday April 19, 2016, through Thursday April 21, 2016, at 9 a.m.

ADDRESSES: The meeting will be held at the NOAA Science Center, 1301 East-West Highway, Silver Spring, MD 20910; phone: 301–713–1010.

FOR FURTHER INFORMATION CONTACT: Therese Conant, NMFS Office of Protected Resources, 301–427–8456.

SUPPLEMENTARY INFORMATION: Under the ESA, section 4(f) requires the Secretary to develop and implement recovery plans for the conservation and survival of endangered and threatened species. Those recovery plans must include objective, measurable criteria which, when met, would lead to a determination that the species be removed from the list, site-specific management actions necessary to achieve the plan's goal for the conservation of the species, and estimates of the time and costs to carry out the measures identified in the plan.

We currently have final recovery plans for 47 species and draft recovery plans for five species. Recovery plans are not started or are under development for 39 species. The objective of the recovery program review is to determine if the current recovery planning process results in recovery plans that are effective roadmaps for recovering the species as evidenced by whether the plans are being implemented by NMFS and stakeholders, resulting in progress towards meeting the recovery criteria so that the species may be delisted. This review will evaluate, within the context of current budget constraints, the efficacy of the recovery planning process, including the quality of the recovery plans, the implementation of recovery actions, and the monitoring of recovery progress. This review will provide recommendations to improve recovery plans and the recovery planning and implementation process to increase the likelihood of recovering species.

The meeting is open to the public all day, and the public will have an opportunity to provide verbal or written comments in one-hour sessions each day. Exact times for the public comment sessions are not known, but will be scheduled after 2 p.m. each day.

Special Accommodations

This public meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other accommodations should be directed to Therese Conant (see **ADDRESSES**) as soon as possible, but no later than 7 business days prior to the meeting date.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: February 29, 2016.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–04793 Filed 3–3–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council (MAFMC); Public Hearings

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

ACTION: Notice of public hearings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public hearings for the Council's Blueline Tilefish Amendment.

DATES: Written comments will be accepted until 11:59 p.m. Wednesday, March 30, 2016. The hearings will be held between March 21, 2016 and March 29, 2016 as described below.

ADDRESSES: Written comments may be sent by any of the following methods:

- Email to the following address: *jdidden@mafmc.org;* Include ''Blueline Tilefish Comments'' in the subject line;
- Mail or hand deliver to Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, Delaware 19901. Mark the outside of the envelope ''Blueline Tilefish Comments''; or
- Fax to (302) 674–5399.

There will be four hearings with the following dates/times/locations:

1. Monday March 21, 2016, 6 p.m. Dare County Administration Building, Commissioners Meeting Room, 954 Marshall C. Collins Drive, Manteo, NC 27954; telephone: (252) 475–5700.
2. Tuesday March 22, 2016, 7 p.m. Hilton Virginia Beach Oceanfront, 3001 Atlantic Ave, Virginia Beach, VA 23451; telephone: (757) 213–3001.
3. Monday, March 28, 2016, 7 p.m. Hilton Suites Oceanfront, 3200 Baltimore Ave., Ocean City, MD 21842; telephone: (410) 289–6444.
4. Tuesday, March 29, 2016, 7 p.m. Hilton Garden Inn Lakewood, 1885 Route 70, Lakewood, NJ 08701; telephone: (732) 262–5232.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; Web site: *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Council has initiated an amendment to the Golden Tilefish Fishery Management Plan to begin management and conservation of blueline tilefish in the Mid-Atlantic. Measures include options for establishing a Mid-Atlantic blueline tilefish unit, establishing status determination criteria, commercial/for-hire/private permitting and reporting, establishment of a monitoring committee, framework adjustment procedures, specification process (including risk policy), commercial/recreational allocations, commercial/recreational trip/possession limits, essential fish habitat designation, and catch accountability measures. A public hearing document will be posted to the Council's Web site, *www.mafmc.org,* on or before March 14, 2916. The Council will consider the public's comments and testimony at its April 2016 Council Meeting, when it will take final action regarding adding blueline tilefish to the Golden Tilefish Fishery Management Plan.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: March 1, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–04858 Filed 3–3–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, March 22, 2016 at 9 a.m.

ADDRESSES: The meeting will be held at the Crowne Plaza Providence Warwick (Airport), 801 Greenwich Avenue, Warwick, RI 02886; phone: (401) 732–6000; fax: (401) 732–0261.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee plans to review habitat-related sections of five-year Council research priorities and forward recommendations to the Scientific and Statistical Committee. They will also receive update on framework adjustment to develop clam dredge access areas in Council-proposed Omnibus Habitat Amendment management areas. The committee will continue development of Omnibus Deep-Sea Coral Amendment; discuss goals and objectives of action, review list of coral zones and Plan Development Team (PDT) recommended updates and recommend modified alternatives to Council as appropriate; discuss range of management measures for coral zones and recommend modified alternatives to Council as appropriate; review preliminary PDT summary of fishing activities within coral zones; Discuss timeline for action and work plan. The Committee may also receive an update on the Northeast Regional Ocean Plan. Other business will be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 1, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–04859 Filed 3–3–16; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds a service to the Procurement List that will be provided by the nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* April 3, 2016.

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: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Addition

On 1/29/2016 (81 FR 5009), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agency to furnish the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will provide the service to the Government.

2. The action will result in authorizing a small entity to provide the service 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 service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service is added to the Procurement List:

Service

Service Type: Base Supply Center Service

Mandatory for: U.S. Army, Fort Wainwright, AK

Mandatory Source(s) of Supply: RLCB, Inc., Raleigh, NC

Contracting Activity: Dept. of the Army, 0413 AQ HQ, HQ PARC, Fort Wainwright, AK

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2016–04811 Filed 3–3–16; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete products previously furnished by such agencies.

DATES: Comments must be received on or before March 3, 2016.

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: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and service listed below from the nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and service are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN(s)—Product Name(s): MR 10659—Container Set, Soup and Salad, Includes Shipper 20659
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC

NSN(s)—Product Name(s): MR 849—Whisk, Wire Looped
Mandatory Source(s) of Supply: Cincinnati Association for the Blind, Cincinnati, OH
Mandatory for: Military commissaries and exchanges in accordance with the Code of Federal Regulations, Chapter 51, 51–6.4.
Contracting Activity: Defense Commissary Agency, Fort Lee, VA
Distribution: C-List

Service

Service Type: Custodial Service
Mandatory For: U.S. Air Force, Air Force Institute of Technology/Air Force Research Laboratories, Wright-Patterson Air Force Base, OH
Mandatory Source(s) of Supply: CW Resources, Inc., New Britain, CT
Contracting Activity: Dept. of the Air Force, FA8601 AFLCMC PZIO, Wright-Patterson Air Force Base, OH

Deletions

The following products are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s): MR 941—Cloth, Dish, Knitted Cotton, 4 pack
Mandatory Source(s) of Supply: Lions Services, Inc., Charlotte, NC

NSN(s)—Product Name(s): MR 354—Multipurpose Food Dicer
Mandatory Source(s) of Supply: Industries for the Blind, Inc., West Allis, WI
Contracting Activity: Defense Commissary Agency, Fort Lee, VA

NSN(s)—Product Name(s):
7530–00–NIB–0496—Index Tabs, Mylar Reinforced
7530–00–NIB–0497
7530–00–NIB–0498
7530–00–NIB–0499
7530–00–NIB–0500
7530–00–NIB–0501
7530–00–NIB–0502
7530–00–NIB–0503
7530–00–NIB–0504
Mandatory Source(s) of Supply: South Texas Lighthouse for the Blind, Corpus Christi, TX
Contracting Activity: General Services Administration, New York, NY

NSN(s)—Product Name(s): 9320–00–NSH–0001—Foam Cutouts
Mandatory Source(s) of Supply: Epilepsy Association of Georgia, Warner Robins, GA
Contracting Activity: Dept. of the Air Force, FA8501 AFSC PZIO, Robins AFB, GA.

Barry S. Lineback,
Director, Business Operations.

[FR Doc. 2016–04810 Filed 3–3–16; 8:45 am]
BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0107, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is announcing an opportunity for public comment on the renewal of collection of certain information by the Commission's Office of Consumer Outreach (''OCO''). Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed or renewal of a collection of information and to allow 60 days for public comment. The Commission is soliciting comments for the renewal of its generic information collection that will help the CFTC satisfy responsibilities under the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''), found in Section 748 of the Dodd-Frank Act. The generic information collection will provide the OCO a means to gather qualitative consumer and stakeholder feedback in an efficient, timely manner to facilitate service delivery.

DATES: Comments must be submitted on or before May 3, 2016.

ADDRESSES: You may submit comments, identified by ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery,'' and Collection Number 3038–0107, by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

FOR FURTHER INFORMATION CONTACT: Nisha Smalls, Office of Consumer Outreach, Commodity Futures Trading Commission, 1155 21st Street NW.,

[1] 17 CFR 145.9.

Washington, DC 20581, (202) 418–5895; FAX: (202) 418–5541; email: *nsmalls@cftc.gov* and refer to this **Federal Register** notice.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

Title: Generic Clearance for Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: In accordance with section 748 of the Dodd-Frank Act, the OCO anticipates undertaking a variety of service delivery-focused activities over the next few years which include consumer outreach and information-sharing with stakeholders that are responsive to stakeholders' needs and sensitive to changes in the consumer market. The proposed information collection activity will use similar methods for information collection or otherwise share common elements, and provide a means to gather qualitative customer and stakeholder feedback in an efficient, timely manner. By qualitative feedback we mean information that provides useful information on perceptions and opinions. The solicitation of information on delivery of consumer services will address such areas as appropriate messages, effective message delivery methods, effective event outreach tactics and characteristics, new outreach program ideas and content, and current consumer beliefs, psychographics and social norms that will assist the agency in developing outreach and communications campaigns. Since these systems will use similar methods for information collection or otherwise share common elements, the OCO is proposing a generic clearance for this process which will allow the OCO to implement these systems and meet the obligations of the PRA without the delays of the normal clearance process. Collection methods may include focus groups and surveys as well as other relevant collection methods that meet the conditions appropriate for a generic clearance as outlined below. The OCO will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondent, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of the Commission (if released, the Commission must indicate the qualitative nature of the information);
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study. Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

With respect to the collection of information, the Commission invites comments on:

- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

Burden Statement

Type of Review: Generic Clearance Request.

Affected Public: Individuals and Households, Businesses and Organization, State, Local or Tribal governments.

Respondent's Obligation: Voluntary.

Estimated number of Respondents/Affected Entities: 1,440.

Estimated average number of responses: 10 per year.

Estimated total average annual burden on respondents: 14,400 responses.

Frequency of collection: Once per request.

Average minutes per response: 120.

Estimated total annual burden hours requested: 28,800 hours.

There are no capital costs or operating and maintenance costs associated with this collection.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: March 1, 2016.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2016–04812 Filed 3–3–16; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 15–80]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Sarah A. Ragan or Heather N. Harwell, DSCA/LMO, (703) 604–1546/(703) 607–5339.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 15–80 with attached Policy Justification.

Dated: March 1, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

FEB 11 2016

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-80, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Pakistan for defense articles and services estimated to cost $699.04 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 15–80

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* The Government of Pakistan

(ii) *Total Estimated Value:*

Major Defense Equipment *	$564.68 million
Other	$134.36 million
TOTAL	$699.04 million

(iii) *Description and Quantity or Quantities of Articles or Services Under Consideration for Purchase:*

Major Defense Equipment (MDE):

Eight (8) F–16 Block 52 aircraft (two (2) C and six (6) D models), with the F100–PW–229 increased performance engine

Fourteen (14) Joint Helmet Mounted Cueing Systems (JHMCS)

Non-MDE items included in this request are eight (8) AN/APG–68(V)9 radars, and eight (8) ALQ–211(V)9 Advanced Integrated Defensive Electronic Warfare Suites (AIDEWS). Additionally, this possible sale includes spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support. The estimated cost of MDE is $564.68 million. The total estimated cost is $699.04 million.

(iv) *Military Department:* Air Force (X7–D–5A7)

(v) *Prior Related Cases, if any:* FMS Case SAF—$1.4B–24 Oct 06

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* 11 February 2016

* as defined in Section 47(6) of the Arms Export Control Act

POLICY JUSTIFICATION

The Government of Pakistan—F–16 Block 52 Aircraft

The Government of Pakistan has requested a possible sale of:

Major Defense Equipment (MDE):

Eight (8) F–16 Block 52 aircraft (two (2) C and six (6) D models), with the F100–PW–229 increased performance engine

Fourteen (14) Joint Helmet Mounted Cueing Systems (JHMCS)

Non-MDE items included in this request are eight (8) AN/APG–68(V)9 radars, and eight (8) ALQ–211(V)9 Advanced Integrated Defensive Electronic Warfare Suites (AIDEWS). Additionally, this possible sale includes spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support. The estimated cost of MDE is $564.68 million. The total estimated cost is $699.04 million.

This proposed sale contributes to U.S. foreign policy objectives and national security goals by helping to improve the security of a strategic partner in South Asia.

The proposed sale improves Pakistan's capability to meet current and future security threats. These additional F–16 aircraft will facilitate operations in all-weather, non-daylight environments, provide a self-defense/area suppression capability, and enhance Pakistan's ability to conduct counter-insurgency and counterterrorism operations.

This sale will increase the number of aircraft available to the Pakistan Air Force to sustain operations, meet monthly training requirements, and support transition training for pilots new to the Block-52. Pakistan will have no difficulty absorbing these additional aircraft into its air force.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

Contractors have not been selected to support this proposed sale. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Pakistan.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 15–80

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology*:

1. This sale involves the release of sensitive technology to Pakistan. The F–l 6C/D Block 50/52 weapon system is UNCLASSIFIED, except as noted below. The aircraft uses the F–16 airframe and features advanced avionics and systems. It contains the Pratt and Whitney F–100–PW–229 engine, AN/APG–68V(9) radar, digital flight control system, external electronic warfare equipment, Advanced Identification Friend or Foe (AIFF), LINK–16 datalink, and software computer programs.

2. Sensitive and/or classified (up to SECRET) elements of the proposed F–16C/D include hardware, accessories, components, and associated software: AN/APG–68V(9) Radar, Have Quick I/II Radios, AN/APX–113 AIFF with Mode IV capability, AN/ALE–47 Countermeasures (Chaff and Flare) set, LINK–16 Advanced Data Link Group A provisions only, Embedded Global Positioning System/Inertial Navigation System, Joint Helmet-Mounted Cueing System (JHMCS), ALQ–21 l(V)9 Advanced Integrated Defensive Electronic Warfare Suite (AIDEWS) without Digital Radio Frequency Memory, AN/ALQ–213 Countermeasures Set, Modular Mission Computer, Have Glass I/II without infrared top coat, Digital Flight Control System, F–100 engine infrared signature, and Advanced Interference Blanker Unit. Additional sensitive areas include operating manuals and maintenance technical orders containing performance information, operating and test procedures, and other information related to support operations and repair. The hardware, software, and data identified are classified to protect vulnerabilities, design and performance parameters and other similar critical information.

3. The AN/APG–68(V)9 is the latest model of the APG–68 radar and was specifically designed for foreign military sales. This model contains the latest digital technology available for a mechanically scanned antenna, including higher processor power, higher transmission power, more sensitive receiver electronics, and an entirely new capability, Synthetic Aperture Radar (SAR), which creates higher resolution ground maps from a much greater distance than previous versions of the APG–68. Complete hardware is classified CONFIDENTIAL, major components and subsystems are classified CONFIDENTIAL, software is classified SECRET, and technical data and documentation are classified up to SECRET.

4. The AN/ARC–238 radio with HAVE QUICK II is a voice communications radio system. The AN/ARC–238 employs cryptographic technology that is classified SECRET. Classified elements include operating characteristics, parameters, technical data, and keying material.

5. The AN/APX–113 AIFF with Mode IV system is classified up to SECRET when operational evaluator parameters are loaded into the equipment. Classified elements of the AIFF system include software object code, operating characteristics, parameters, and technical data.

6. The Multifunctional Information Distribution System-Low Volume Terminal (MIDS–LVT) is an advanced Link–16 command, control, communications, and intelligence (C31) system incorporating high-capacity, jam-resistant, digital communication links for exchange of near real-time tactical information, including both data and voice, among air, ground, and sea elements. MIDS–LVT is intended to support key theater functions such as surveillance, identification, air control, weapons engagement coordination, and direction for all services and allied forces. The system will provide jamming-resistant, wide-area communications on a Link–16 network among MIDS and Joint Tactical Information Distribution System (JTIDS) equipped platforms. The MIDS/LVT and MIDS on Ship Terminal hardware, publications, performance specifications, operational capability, parameters, vulnerabilities to countermeasures, and software documentation are classified CONFIDENTIAL. The classified information to be provided consists of that which is necessary for the operation, maintenance, and repair (through intermediate level) of the data link terminal, installed systems, and related software.

7. The Joint Helmet Mounted Cueing System (JHMCS) is a modified HGU–55/P helmet that incorporates a visor-projected Heads-Up Display (HUD) to cue weapons and aircraft sensors to air and ground targets. A

Helmet Vehicle Interface (HVI) interacts with the aircraft system bus to provide signal generation for the helmet display. This provides significant improvement for close combat targeting and engagement. The hardware is UNCLASSIFIED; technical data and documents are classified up to SECRET.

8. If a technologically advanced adversary were to obtain knowledge of the specific hardware or software source code in this proposed sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of systems with similar or advanced capabilities. The benefits to be derived from this sale in the furtherance of the U.S. foreign policy and national security objectives, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

9. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

10. A determination has been made that the recipient country can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

11. All defense articles and services are approved for release to the Government of Pakistan.

[FR Doc. 2016–04860 Filed 3–3–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 15–82]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Sarah A. Ragan or Heather N. Harwell, DSCA/LMO, (703) 604–1546/(703) 607–5339.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 15–82 with attached Policy Justification and Sensitivity of Technology.

Dated: March 1, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

FEB 10 2016

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-82, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to the Kingdom of Saudi Arabia for defense articles and services estimated to cost $154.9 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 15–82

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Kingdom of Saudi Arabia

(ii) *Total Estimated Value:*

Major Defense Equipment *	$72.5 million
Other	$82.4 million
Total	$154.9 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Five (5) MK 15 Phalanx Close-In Weapons System (CIWS) Block 0 to Block 1B Baseline 2 upgrade kits

Also included are the following non-MDE items: five (5) local control stations, spare and repair parts, upgrade and conversion of the kits, support and test equipment, personnel training and training equipment, publications, software and technical documentation, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of program and logistics support. The estimated cost is $154.9 million.

(iv) *Military Department:* Navy (SR–P–LCR)

(v) *Prior Related Cases, if any:* FMS Case: SR–P–SAT, 24 Mar 74, $147.8 million

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or*

Defense Services Proposed to be Sold: See Attached Annex

(viii) *Date Report Delivered to Congress:* 10 February 2016

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kingdom of Saudi Arabia-MK 15 Phalanx Close-In Weapons System (CIWS) Block 1B Baseline 2 Kits

The Kingdom of Saudi Arabia has requested a sale for the upgrade and conversion of five (5) MK 15 Phalanx Close-In Weapons System (CIWS) Block 0 systems to the Block 1B Baseline 2 configuration. The Block 0 systems are currently installed on four (4) Royal Saudi Naval Forces (RSNF) Patrol Chaser Missile (PCG) Ships (U.S. origin) in their Eastern Fleet and one (1) system is located at its Naval Forces School. Also included are; five (5) local control stations, spare and repair parts, support and test equipment, personnel training and training equipment, publications, software, and technical documentation, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of program and logistics support. The total estimated value of MDE is $72.5 million. The overall total estimated value is $154.9 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a strategic regional partner, which has been, and continues to be, an important force for political stability and economic progress in the Middle East. This acquisition will enhance regional stability and maritime security and support strategic objectives of the United States.

The proposed sale will provide Saudi Arabia with self-defense capabilities for surface combatants supporting both national and multi-national naval operations. The sale will extend the life of existing PCG Class ships. Saudi Arabia will use the enhanced capability as a deterrent to regional threats and to strengthen its homeland defense. Saudi Arabia will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment, services, and support will not alter the basic military balance in the region.

The prime contractor will be Raytheon Missiles Systems of Tucson, Arizona. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Saudi Arabia; however, contractor engineering and technical services may be required on an interim basis for installations and integration.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 15–82

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex Item No. vii

(vii) *Sensitivity of Technology*

1. The MK 15 CIWS Phalanx Block 1B is a fast reaction detect-through-engage combat system that provides terminal defense against low-flying, high speed, anti-ship missiles; slow speed general purpose aircraft, helicopters, and small surface craft; and rockets, artillery, and mortars. The system is an automatic, self-contained unit consisting of a search and track radar, digitalized fire control system, and electro-optical thermal imager, and a stabilization system, as well as a 20mm M61A1 gun subsystem. CIWS Block 0 provides terminal defense capability but is no longer in the U.S. Navy inventory decreasing its sustainability. By comparison, the CIWS Block 1B upgrade included in this sale would add surface mode and enhanced anti-air warfare capabilities.

a. There is no Critical Program Information associated with the MK 15 CIWS Phalanx hardware, technical documentation, or software. The highest classification of the hardware to be exported is UNCLASSIFIED. The highest classification of the technical documentation to be exported is CONFIDENTIAL. The highest classification of software to be exported is UNCLASSIFIED.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

4. All defense articles and services listed in this transmittal have been authorized for release and export to Saudi Arabia.

[FR Doc. 2016–04823 Filed 3–3–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 16–14]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Sarah A. Ragan or Heather N. Harwell, DSCA/LMO, (703) 604–1546/(703) 607–5339.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 16–14 with attached Policy Justification.

Dated: February 29, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

FEB 1 2016

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 16-14, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to the Kingdom of Saudi Arabia for defense articles and services estimated to cost $200 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Regional Balance (Classified Document Provided Under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 16–14

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* Kingdom of Saudi Arabia

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$ 0 million
Other	$200 million
Total	$200 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* The Kingdom of Saudi Arabia has requested a possible sale of three years of support services by the United States Military Training Mission to Saudi Arabia (USMTM). USMTM is the Security Cooperation Organization (SCO) responsible for identifying, planning, and executing U.S. Security Cooperation training and advisory support for the Kingdom of Saudi Arabia Ministry of Defense.

(iv) *Military Department:* U.S. Army (ABT, Basic Case)

(v) *Prior Related Cases, if any:* SR–B–ABS–A01; $90M; implemented 30 Dec 13

(vi) *Sales Commission, Fee. etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* 17 February 2016

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kingdom of Saudi Arabia—Support Services

The Government of Saudi Arabia has requested a possible sale of support services by the United States Military Training Mission to Saudi Arabia (USMTM). USMTM is the Security Cooperation Organization (SCO) responsible for identifying, planning, and executing U.S. Security Cooperation training and advisory support for the Kingdom of Saudi Arabia Ministry of Defense. The estimated cost is $200 million.

This proposed sale will enhance the foreign policy and national security objectives of the United States by helping to improve the security of an important partner which has been and continues to be an important force for political stability and economic progress in the Middle East.

This proposed sale will provide the continuation of Technical Assistance Field Teams (TAFT) and other support for USMTM services to the Kingdom of Saudi Arabia. The proposed sale supports the United States' continued commitment to the Kingdom of Saudi Arabia's security and strengthens U.S.-Saudi Arabia strategic partnership. Sustaining the USMTM supports Saudi Arabia in deterring hostile action and increases U.S.—Saudi Arabia military interoperability. Saudi Arabia will have no difficulty absorbing this support.

The proposed sale will not alter the basic military balance in the region. It will support Combatant Command initiatives in the region by enabling Saudi Arabia's efforts to combat aggression and terrorism.

There is no prime contractor associated with this proposed sale. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will approve the permanent or temporary assignment of up to 202 case-funded U.S. Government or contractor personnel to the Kingdom of Saudi Arabia.

There will be no adverse impact on U.S. Defense readiness as a result of this proposed sale.

[FR Doc. 2016–04706 Filed 3–3–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2016–OS–0018]

Privacy Act of 1974; Notice of a Computer Matching Program

AGENCY: Defense Manpower Data Center, DoD.

ACTION: Notice of a computer matching program.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended (5 U.S.C. 552a), requires agencies to publish advance notice of any proposed or revised computer matching program by the matching agency for public comment. The Defense Manpower Data Center (DMDC) of the Department of Defense (DoD), as the matching agency under the Privacy Act is hereby giving notice to the record subjects of a computer matching program between the Department of Veterans Affairs (VA) and DMDC that their records are being matched by computer. The purpose of this match concerns Reserve pay reconciliation.

DATES: This proposed action will become effective April 4, 2016 and matching may commence unless changes to the matching program are required due to public comments or by Congressional or by Office of Management and Budget objections. Any public comment must be received before the effective date.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Mary Fletcher at telephone (703) 571–0070.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the DMDC and VA have concluded an agreement to conduct a computer matching program between the agencies. The purpose of this agreement is to verify eligibility for DoD/United States Coast Guard (USCG) members of the Reserve forces who receive VA disability compensation or pension in addition to receiving military pay and allowances when performing reserve duty. The parties to this agreement have determined that a computer matching program is the most efficient, expeditious, and effective means of obtaining and processing the information needed by the VA to identify those individuals who are receiving both VA compensation or pension and DoD/USCG payments for those periods when they are performing reserve duty. By law, the individual must waive his or her entitlement to VA disability compensation or pension if he or she desires to receive DoD/USCG pay and allowances for the period of duty performed. This matching agreement will result in an accurate reconciliation of such payments by permitting the VA to determine which individuals are being paid by DoD/USCG for duty performed and are being paid VA disability compensation or pension benefit for the same period of time without a waiver on file with the VA. If this reconciliation is not done by computer matching, but is done manually, the cost would be prohibitive and most dual payments would not be detected.

A copy of the computer matching agreement between VA and DMDC is available upon request to the public. Requests should be submitted to Office of the Secretary of Defense, Office of the Deputy Chief Management Officer, Attn: Chief, Defense Privacy and Civil Liberties Division 9010 Defense Pentagon, Washington, DC 20301–9010 or to the Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue NW., Washington, DC 20420.

Set forth below is the notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published in the **Federal Register** at 54 FR 25818 on June 19, 1989.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on February 11, 2016, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Administrator of the Office of Information and Regulatory Affairs,

Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: March 1, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Notice of a Computer Matching Program Between the Department of Veterans Affairs and the Department of Defense for Verification of Disability Compensation

A. Participating Agencies

Participants in this computer matching program are the Department of Veterans Affairs (VA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The VA is the source agency, *i.e.,* the activity disclosing the records for the purpose of the match. The DMDC is the specific recipient activity or matching agency, *i.e.,* the agency that actually performs the computer matching.

B. Purpose of the Match

The purpose of this agreement is to verify eligibility for DoD/United States Coast Guard (USCG) members of the Reserve forces who receive VA disability compensation or pension to also receive military pay and allowances when performing reserve duty.

The VA will provide to DMDC identifying information on all VA recipients receiving a VA disability compensation or pension. DMDC will match the information with its reserve military pay data and provide for each match (hit) the number of training days, by fiscal year, for which the veteran was paid. The VA will use this information to make, where appropriate, necessary VA payment adjustments.

C. Authority for Conducting the Match

The legal authority for conducting the matching program for use in the administration of VA's Compensation and Pension Benefits Program is contained in 38 U.S.C. 5304(c), Prohibition Against Duplication of Benefits, provides that VA disability compensation or pension based upon his or her previous military service shall not be paid to a person for any period for which such person receives active service pay. 10 U.S.C. 12316, Payment of certain Reserves While on Duty, further provides that a reservist who is entitled to disability payments due to his or her earlier military service and who performs duty for which he or she is entitled to DoD/USCG compensation may elect to receive for that duty either the disability payments or, if he or she waives such payments, the DoD/USCG compensation for the duty performed.

D. Records To Be Matched

The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

The DMDC will use the system of records identified as DMDC 01, entitled ''Defense Manpower Data Center Data Base,'' last published in the **Federal Register** at November 23, 2011, 76 FR 72391.

The VA will use the system of records identified as ''Compensation, Pension, Education and Vocational Rehabilitation and Employment Records–VA'' (58 VA 21/22/28), republished in its entirety in the **Federal Register** at July 19, 2012, 77 FR 42593.

E. Description of Computer Matching Program

The VA will submit to DMDC an electronic data of all VA pension and disability compensation beneficiaries as of the end of September. Upon receipt of the data, DMDC will match by SSN with reserve pay data as submitted to DMDC by the military services and the USCG. Upon a SSN match, or a ''hit,'' of both data sets, DMDC will provide VA the individual's name and other identifying data, to include the number of training days, by fiscal year, for each matched record. Training days are the total of inactive duty drills paid plus active duty days paid.

The hits will be furnished to VA, which will be responsible for verifying and determining that the data in the DMDC electronic files is consistent with the VA files and for resolving any discrepancies or inconsistencies on an individual basis. VA will initiate actions to obtain an election by the individual of which pay he or she wishes to receive and will be responsible for making final determinations as to positive identification, eligibility for, or amounts of pension or disability compensation benefits, adjustments thereto, or any recovery of overpayments, or such other action as authorized by law.

The electronic data provided by the VA will contain information on approximately 4.2 million pension and disability compensation recipients.

The DMDC reserve pay data contains information on approximately 890,000 DoD and 10,000 USCG reservists who received pay and allowances for performing authorized duty.

VA will furnish DMDC the name and SSN of all VA pension and disability compensation recipients and DMDC will supply VA the name, SSN, date of birth, and the number of training days by fiscal year of each reservist who is identified as a result of the match.

F. Inclusive Dates of the Matching Program

This computer matching program is subject to public comment and review by Congress and the Office of Management and Budget. If the mandatory 30 day period for comment has expired and no comments are received and if no objections are raised by either Congress or the Office of Management and Budget within 40 days of being notified of the proposed match, the computer matching program becomes effective and the respective agencies may begin the exchange at a mutually agreeable time and thereafter on a quarterly basis. By agreement between VA and DMDC, the matching program will be in effect for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. Address for Receipt of Public Comments or Inquiries

Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

[FR Doc. 2016–04832 Filed 3–3–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Joint Environmental Impact Statement/ Environmental Impact Report for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Study, San Francisco Bay, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (USACE) San Francisco District, the Port of Stockton, and the Contra Costa County Water Agency are preparing an Environmental Impact Statement/Environmental Impact Report

(EIS/EIR) to evaluate the efficiency of the movement of goods along the existing deep-draft navigation route extending from the San Francisco Bay to the Port of Stockton. This Notice of Intent (NOI) represents a supplemental notice to the March 12, 2008, NOI released for the San Francisco Bay to Stockton Navigation Improvement Study. This supplemental NOI also provides an update to the description of the study and discusses current phasing of the project. Because of the amount of time that has passed since 2008, this supplemental NOI is being released to notify the public that work will begin on an EIS/EIR, which is anticipated to be issued for public review in 2016. This NOI also re-opens the public scoping period.

The 2008 NOI discussed the project as a single navigation improvement study/project, proposing to deepen the John F. Baldwin channel from the West Richmond Channel to New York Slough Channel to a maximum depth of −45 feet mean lower low water (MLLW) and the Stockton Deep Water Ship Channel to a maximum depth of −40 feet MLLW.

The forthcoming EIS/EIR proposes to reevaluate the unconstructed portions of the original project described in the 1965 Chief of Engineers Report (House Document 89–208) and authorized by the Rivers and Harbors Act of 1965 (Public Law 89–298), which will be referred to in the EIS/EIR as Phase I (or the proposed project). Additional study authority exists for the entire channel from San Francisco Bay to Stockton, provided by the 2014 United States Senate Committee on Environment and Public Works Committee Resolution and specifying ''navigation, ecosystem restoration, flood risk reduction, and other water related resource purposes.'' This additional study authority will be discussed programmatically in the EIS/EIR.

The study area for the overall project consists of two reaches: The Western Reach and Eastern Reach. The Western Reach extends from Central San Francisco Bay to Avon and includes the West Richmond Channel, Pinole Shoal Channel, and Bulls Head Reach portion of the Suisun Bay Channel. The Eastern Reach extends from Avon to the Port of Stockton and includes the remaining portions of the Suisun Bay Channel (east of Avon), New York Slough Channel, and the Stockton Deep Water Ship Channel. The Western Reach is authorized to a depth of −45 feet mean lower low water (MLLW), but is currently maintained to −35 feet MLLW. Additional deepening of the Eastern Reach requires separate Congressional authorization for construction.

The forthcoming EIS/EIR for which this NOI is prepared proposes to separate the overall project into two separate phases (Phase I and Phase II) under a navigation improvement programmatic analysis. Under the programmatic analysis, two reaches and two phases are identified.

Phase I of the study is a single purpose navigation improvement project to evaluate incremental deepening to a maximum depth of −40 feet MLLW in the Western Reach. Phase II is a subsequent multipurpose navigation and ecosystem restoration study that would evaluate deepening the Eastern Reach to a maximum depth of −40 feet MLLW. Phase II will also revisit if further deepening of Western Reach up to its authorized depth of −45 feet MLLW is warranted. The Eastern Reach is maintained at its authorized depth of −35 feet MLLW, and any additional deepening in this reach will require a new project authorization through a subsequent Water Resources Development Act (WRDA).

The EIS/EIR will include both a project-level feasibility analysis for implementation of Phase I and a programmatic-level analysis for Phase II. Analysis of Phase II will be conducted using only existing information (*i.e.*, additional studies or data collection will not be conducted). Additional project-level feasibility analysis of Phase II will require execution of a separate Feasibility Cost Sharing Agreement with the local sponsor and pending receipt of federal study funds.

DATES: Submit comments concerning this notice on or before April 4, 2016. There will be no additional public meeting in conjunction with this scoping period.

ADDRESSES: Mail written comments concerning this notice to: U.S. Army Corps of Engineers, San Francisco District, Planning Branch, ATTN: Cynthia J. Fowler, 1455 Market Street, San Francisco, CA 94103–1398. Comment letters should include the commenter's physical mailing address, the project title, and the USACE file number in the subject line.

FOR FURTHER INFORMATION CONTACT: Cynthia J. Fowler, U.S. Army Corps of Engineers, San Francisco District, Planning Branch, 1455 Market Street, San Francisco CA 94103–1398, (415) 503–6870, *cynthia.j.fowler@usace.army.mil.*

SUPPLEMENTARY INFORMATION: As previously mentioned, the USACE intends to prepare an EIS to reevaluate incremental deepening of the Western Reach and programmatically assess a multipurpose project involving deepening and ecosystem restoration in both the Western and Eastern Reaches. The Port of Stockton is the lead agency and local sponsor in preparing the EIR. The USACE and the Port of Stockton have agreed to jointly prepare an EIS/EIR to optimize efficiency and avoid duplication. The EIS/EIR is intended to be sufficient in scope to address the federal, state, and local requirements and environmental issues concerning the proposed activities and permit approvals.

Project Area and Background Information: The San Francisco Bay to Stockton Navigation Improvement Project includes the John F. Baldwin and Stockton Ship Channels, which extend 75 nautical miles from the Pacific Ocean, just outside the Golden Gate, to the Port of Stockton. Modern vessels crossing the channels can require up to 55 feet of draft when fully laden. Given that these channels are maintained at −35 feet MLLW, most vessels must be ''light-loaded'' (*i.e.*, less than fully loaded with cargo) to navigate the channels with sufficient under-keel clearance. Light-loading increases the cost of transportation and, in turn, the cost of the shipped products because more trips must be made to carry the same volume of cargo. Light-loading is also inefficient, requiring more ships to carry cargo than if ships could travel with full loads.

The study area includes the entire extent of the federal navigation channels occurring in the Western and Eastern reaches, which are defined as follows:

Western Reach. This area includes the West Richmond Channel, Pinole Shoal Channel, Carquinez Strait, and the Bulls Head Reach portion of the Suisun Bay Channel. Avon (just east of the Benicia-Martinez Bridge) separates the Western Reach from the Eastern Reach. Western Reach is currently maintained at −35 feet MLLW, although the channels have an authorized depth of −45 feet MLLW.

Eastern Reach. This area includes the remaining portions of the Suisun Bay Channel (*i.e.*, Suisun Bay Channel east of Avon and New York Slough) and all of the Stockton Deep Water Ship Channel (DWSC). The Eastern Reach is also maintained at a depth of −35 feet MLLW.

The Phase I project-level alternatives described below are anticipated to be analyzed in the Draft EIS/EIR. Phase II will be evaluated at a programmatic level because of uncertainties associated with its scope, size, and other details.

No Action, in which dredging to deepen the Western Reach would not occur and all construction-related

activities would be avoided. Maintenance dredging would continue annually or on an as-needed basis and the federal standard placement sites would continue to be used.

Deepening to −37 feet MLLW, which would deepen the Western Reach to a depth of −37 feet MLLW with up to 2 feet of overdepth for a maximum depth of −39 feet MLLW. To account for rapid shoaling, an approximately 800-foot long sediment trap would be constructed at Bulls Head Reach by dredging up to an additional 6 feet (including 2 feet of overdepth) to −43 feet MLLW.

Deepening to −38 feet MLLW, which would deepen the Western Reach to a depth of −38 feet MLLW with up to 2 feet of overdepth for a maximum depth of −40 feet MLLW. Under this alternative, an approximately 800-foot long sediment trap at Bulls Head Reach would be constructed by dredging up to an additional 6 feet (including 2 feet of overdepth) to −44 feet MLLW.

Under both deepening alternatives, dredged material is expected to be placed at one or more permitted and economically feasible beneficial reuse sites.

Purpose and Need: The purpose of the Phase I study is to evaluate more efficient deep-draft navigation via incremental deepening of the Western Reach in a manner that minimizes adverse environmental effects. A potential subsequent Phase II multipurpose project involving deepening and ecosystem restoration in both the Western and Eastern Reaches will also be discussed programmatically. The purpose of Phase II is also to evaluate efficient deep-draft navigation and beneficial use opportunities using material generated from the deepening project. The need for the Phase I and Phase II studies is to address vessel restrictions imposed by the existing channel depths, which are inadequate to accommodate vessels with drafts exceeding −35 feet MLLW.

Issues: The detailed environmental analysis will consider the effect of maintaining or deepening the Western Reach on biological resources, sediments, air quality, greenhouse gas emissions, climate change, water quality, geology, sediments, hydraulics and hydrology, hazards, noise, utilities, navigation, environmental justice, transportation, land use, cultural and historic resources, aesthetics, recreation, and socioeconomic effects, as well as cumulative impacts and other specific potential environmental issues of concern. Where existing information is sufficiently available, the EIS/EIR will also consider the effects of both phases.

Scoping Process: The USACE is seeking participation of all interested federal, state, and local agencies, Native American groups, and other concerned private organizations or individuals through this public notice. The purpose of the public scoping period is to solicit comments regarding the potential impacts, environmental issues, and alternatives associated with the proposed action to be considered in the Draft EIS/EIR; identify other significant issues; provide other relevant information; and recommend mitigation measures. The public comment period is anticipated to run from March 4 to April 4, 2016.

The public will have an additional opportunity to comment once the Draft EIS/EIR is released, which is anticipated to be in the summer of 2016. The USACE will announce availability of the Draft EIS/EIR in the **Federal Register** and other media, and the USACE and Port of Stockton will provide a 45-day review period for the public, organizations, and agencies to review and comment on the Draft EIS/EIR. All interested parties should respond to this notice and provide a current address if they wish to be notified of the Draft EIS/EIR circulation.

John C. Morrow,

Lieutenant Colonel, U.S. Army, District Engineer.

[FR Doc. 2016–04758 Filed 3–3–16; 8:45 am]

BILLING CODE 3720–58–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Notice

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of Public Hearing.

SUMMARY: Pursuant to the provisions of the Government in the Sunshine Act (5 U.S.C. 552b), notice is hereby given of the Defense Nuclear Facilities Safety Board's (Board) public hearing described below. The Board invites any interested persons or groups to present any comments, technical information, or data concerning safety issues related to the matters to be considered.

DATES: Session I: 5:00 p.m.–6:30 p.m., Session II: 6:45 p.m.–9:00 p.m., March 22, 2016.

PLACE: Santa Fe Community Convention Center, 201 West Marcy Street, Santa Fe, New Mexico 87501. Parking will be available at no cost.

STATUS: Open. The Board has determined that an open hearing furthers the public interests underlying both the Government in the Sunshine Act and the Board's enabling legislation.

MATTERS TO BE CONSIDERED: In this public hearing, the Board wishes to gather information regarding the hazards to the public and workers posed by the management of transuranic (TRU) waste at Los Alamos National Laboratory (LANL) as well as the Department of Energy's (DOE) plans to address those hazards. The Board will also examine DOE's actions taken or planned to resolve known inadequacies in the current safety basis of the various facilities that manage or store TRU waste at LANL, and actions to improve TRU waste management at LANL in response to the challenges caused by the Waste Isolation Pilot Plant (WIPP) accident and the associated investigation findings.

A senior Board technical staff employee will present information to the Board regarding TRU waste management at LANL, including safety issues identified at Area G including issues with inappropriately remediated nitrate salt-bearing waste, corrective actions resulting from the WIPP accident, and federal oversight. The Board will then receive testimony from senior officials from DOE Headquarters and National Nuclear Security Administration (NNSA) Headquarters regarding federal oversight of LANL transuranic waste management. After a brief recess, the Board will receive testimony from DOE and NNSA Los Alamos Field Office leadership as well as LANL leadership regarding technical resolution of safety issues. Following the public comment period, the hearing will conclude with statements from senior officials from DOE and NNSA as well as the Board Chairman. The public hearing portion of this proceeding is authorized by 42 U.S.C. 2286b.

FOR MORE INFORMATION CONTACT: Mark Welch, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (800) 788–4016.

SUPPLEMENTARY INFORMATION: Public participation in the hearing is invited during the public comment period of the agenda. The Board is setting aside time for presentations and comments from the public. Persons interested in speaking during the public comment period are encouraged to pre-register by submitting a request in writing to the Board's address listed above or by telephone to the Office of the General Counsel at (202) 694–7062 prior to close of business on March 18, 2016. The Board asks that commenters describe the nature and scope of their oral

presentations. Those who pre-register will be scheduled to speak first. Individual oral comments may be limited by the time available, depending on the number of persons who register. At the beginning of the hearing, the Board will post a list of speakers at the entrance to the hearing room. Anyone who wishes to comment or provide technical information or data may do so in writing, either in lieu of, or in addition to, making an oral presentation. The Board Members may question presenters to the extent deemed appropriate. Public participation in the hearing will be subject to the participation criteria posted on the Board's Web site with the hearing agenda. Written comments and documents will be accepted at the hearing or may be sent to the Board's Washington, DC, office. The Board will hold the hearing record open until April 22, 2016, for the receipt of additional materials.

The hearing will be presented live through Internet video streaming. A link to the presentation will be available on the Board's Web site (*www.dnfsb.gov*). A transcript of the hearing, along with a DVD video recording, will be made available by the Board for inspection and viewing by the public at the Board's Washington office and at the Department of Energy's (DOE) public reading room at the DOE Federal Building, 1000 Independence Avenue SW., Washington, DC 20585. The Board specifically reserves its right to further schedule and otherwise regulate the course of the hearing, to recess, reconvene, postpone, or adjourn the hearing, conduct further reviews, and otherwise exercise its authority under the Atomic Energy Act of 1954, as amended.

Dated: March 1, 2016.

Joyce L. Connery,

Chairman.

[FR Doc. 2016–04928 Filed 3–2–16; 11:15 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Hispanic-Serving Institutions STEM and Articulation Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information

Hispanic-Serving Institutions STEM and Articulation Program

Notice inviting applications for new awards for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.031C.

DATES:

Applications Available: March 4, 2016.

Deadline for Transmittal of Applications: May 3, 2016.

Deadline for Intergovernmental Review: July 5, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Hispanic-Serving Institutions STEM and Articulation Program supports eligible Hispanic-Serving institutions (as defined in section 502 of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1101a)) (HSIs) in developing and carrying out activities described in section 503(b) of the HEA (20 U.S.C. 1101b(b)) to increase the number of Hispanic and low-income students attaining degrees in the fields of science, technology, engineering, and math (STEM).

Background: Given the growth in the Hispanic population, taking steps to increase the number of Hispanic students with STEM credentials is critical to the future workforce and economy of the United States. Data from the U.S. Bureau of Labor Statistics [1] project that jobs in occupations related to STEM will grow to more than nine million between 2012 and 2022. This represents an increase of about one million jobs over 2012 employment levels. Additionally, the U.S. Census Bureau reports that Latinos accounted for just 6.5 percent of the STEM workforce in 2011, even though they made up about 17 percent of the U.S. population. The number of Hispanic students graduating with a postsecondary degree has increased in recent years; however, these students continue to be significantly underrepresented in the total number of students earning STEM credentials. In 2013 Hispanic students accounted for nine percent of students earning STEM degrees and certificates, with the majority of such Hispanic students coming from HSIs.[2]

These data demonstrate the need for comprehensive support programs that promote educational opportunities in STEM fields for Hispanics. The Department has promoted college retention, affordability, and completion, especially for minority and low-income students, through various policy initiatives. This competition specifically acknowledges the importance of student-centered programs that will increase the number of Hispanic and low-income students who graduate with degrees in STEM fields, as well as the need to promote strong articulation and transfer models, leading to more transfer students attaining STEM field degrees.

In recent years, the Department has emphasized the importance of promoting evidence-based practices through our grant competitions. In an effort to focus on promising strategies that have been the subject of research and evaluation as a way to enhance the effectiveness of work supported by funded applicants with Federal dollars, and to improve outcomes for students participating in our programs, we have included competitive preference priorities encouraging applicants to model their proposed projects on evidence-based strategies. For applicants that address a competitive preference priority, we award one additional point if the activities or strategies are supported by a study that meets the evidence of promise standard or three additional points if the activities or strategies are supported by a study (or studies) that meet the moderate evidence of effectiveness standard.

Applicants must demonstrate that the research cited is relevant to the proposed project activities or strategies. In assessing the relevance of the research cited to the proposed project, the Secretary will consider, among other factors, the portion of the requested funds that will be dedicated to the evidence-based strategies or activities. In addition, in an effort to help generate evidence about effective intervention strategies and best practices that lead to increased completion rates at two- and four-year HSIs, particularly for STEM credentials, we have included a selection criterion awarding additional points for applications that propose rigorous evaluation methods for their proposed projects.

Priorities: In accordance with 34 CFR 75.105(b)(2)(v), Absolute Priority 1 is from the list of authorized activities in the statute (see section 503(b)(5) of the HEA (20 U.S.C. 1101b(b)(5)). In accordance with 34 CFR 75.105(b)(2)(iv), Absolute Priority 2 is from section 371(b)(2)(B) of the HEA (20 U.S.C. 1067q(b)(2)(B)). In accordance with 34 CFR 75.105(b)(2)(ii), the competitive preference priorities are from 34 CFR 75.226.

Absolute Priorities: For FY 2016 and any subsequent year in which we make

[1] Vilorio, D. (2014, March). STEM 101: Intro to tomorrow's jobs. *Occupational Outlook Quarterly.* Retrieved from *www.bls.gov/careeroutlook/2014/spring/art01.pdf.*

[2] *Excelencia in Education.* (2015). *Finding Your Workforce: Latinos in Science, Technology, Engineering, and Math (STEM).* Washington, DC: *Excelencia* in Education.

awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet both priorities.

These priorities are:

Absolute Priority 1

An application that proposes to develop or enhance tutoring, counseling, and student service programs designed to improve academic success, including innovative and customized instruction courses (which may include remedial education and English language instruction) designed to help retain students and move the students rapidly into core courses and through program completion.

Absolute Priority 2

An application that proposes activities to increase the number of Hispanic and other low-income students attaining degrees in the STEM fields and proposes to develop model transfer and articulation agreements between two-year HSIs and four-year institutions in STEM fields.

Competitive Preference Priorities: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award one additional point to an application that meets Competitive Preference Priority 1 and three additional points to an application that meets Competitive Preference Priority 2. Applicants may address only one of the competitive preference priorities and must clearly indicate in their application which competitive preference priority they are addressing. Applicants that address Competitive Preference Priority 2, but whose applications do not meet the moderate evidence of effectiveness standard, may still be considered under Competitive Preference Priority 1 to determine whether their applications meet the evidence of promise standard.

These priorities are:

Competitive Preference Priority 1. (One additional point) Applications supported by evidence of effectiveness that meets the conditions set out in the definition of ''evidence of promise.''

Competitive Preference Priority 2. (Three additional points) Applications supported by evidence of effectiveness that meets the conditions set out in the definition of ''moderate evidence of effectiveness.''

Definitions: These definitions are from 34 CFR 77.1.

Evidence of promise means there is empirical evidence to support the theoretical linkage(s) between at least one critical component and at least one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice. Specifically, evidence of promise means the conditions in both paragraphs (i) and (ii) of this definition are met:

(i) There is at least one study that is a—

(A) Correlational study with statistical controls for selection bias;

(B) Quasi-experimental design study that meets the What Works Clearinghouse Evidence Standards with reservations; or

(C) Randomized controlled trial that meets the What Works Clearinghouse Evidence Standards with or without reservations.

(ii) The study referenced in paragraph (i) of this definition found a statistically significant or substantively important (defined as a difference of 0.25 standard deviations or larger), favorable association between at least one critical component and one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Note: In developing logic models, applicants may want to use resources such as the Pacific Education Laboratory's Education Logic Model Application (*www.relpacific.mcrel.org/PERR.html* or *http://files.eric.ed.gov/fulltext/ED544779.pdf*) to help design their logic model.

Moderate evidence of effectiveness means one of the following conditions is met:

(i) There is at least one study of the effectiveness of the process, product, strategy, or practices being proposed that meets the What Works Clearinghouse Evidence Standards without reservations, found a statistically significant favorable impact on a relevant outcome (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), and includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice.

(ii) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards with reservations, found a statistically significant favorable impact on a relevant outcome (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice, and includes a large sample and a multi-site sample.

Note: Multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph.

Multi-site sample means more than one site, where site can be defined as a local educational agency, locality, or State.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental design by identifying a comparison group that is similar to the treatment group in important respects. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards with reservations (but not What Works Clearinghouse Evidence Standards without reservations).

Randomized controlled trial means a study that employs random assignment of, for example, students, teachers, classrooms, schools, or districts to receive the intervention being evaluated (the treatment group) or not to receive the intervention (the control group). The estimated effectiveness of the intervention is the difference between the average outcome for the treatment group and for the control group. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards without reservations.

Relevant outcome means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve; consistent with the specific goals of a program.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

What Works Clearinghouse Evidence Standards means the standards set forth in the What Works Clearinghouse Procedures and Standards Handbook

(Version 3.0, March 2014), which can be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19*.

Program Authority: 20 U.S.C. 1067q(b)(2)(B).

Although the HSI STEM and Articulation Program authorized under section 371 of the HEA is not part of the Developing HSIs Program authorized by title V of the HEA, the eligibility and activity provisions under the Developing HSIs Program apply to the HSI STEM and Articulation Program pursuant to section 371(a)(2) and (b)(2)(B) of the HEA.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485 (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $91,773,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2017 from the list of unfunded applications from this competition.

Estimated Range of Awards: $700,000–1,200,000.

Estimated Average Size of Awards: $775,000.

Estimated Number of Awards: 109.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* (a) IHEs that qualify as eligible HSIs are eligible to apply under the HSI STEM and Articulation Program. To be an eligible HSI, an IHE must—

(i) Have an enrollment of needy students, as defined in section 502(b) of the HEA (section 502(a)(2)(A)(i) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(i));

(ii) Have, except as provided in section 522(b) of the HEA, average educational and general expenditures that are low, per full-time equivalent (FTE) undergraduate student, in comparison with the average educational and general expenditures per FTE undergraduate student of institutions that offer similar instruction (section 502(a)(2)(A)(ii) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(ii));

Note: The notice announcing the FY 2016 process for designation of eligible institutions, and inviting applications for waiver of eligibility requirements, was published in the **Federal Register** on November 19, 2015 (80 FR 72422). Only institutions that the Department determines are eligible, or are granted a waiver, may apply for a grant in this program.

(iii) Be accredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered, or making reasonable progress toward accreditation, according to such an agency or association (section 502(a)(2)(A)(iv) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(iv));

(iv) Be legally authorized to provide, and provide within the State, an educational program for which the institution awards a bachelor's degree, or be a junior or community college (section 502(a)(2)(A)(iii) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(iii)); and

(v) Have an enrollment of undergraduate FTE students that is at least 25 percent Hispanic students at the end of the award year immediately preceding the date of application (section 502(a)(5)(B) of the HEA; 20 U.S.C. 1101a(a)(5)(B)).

Note: Institutions that have been identified as meeting the requirements to be an ''eligible institution'' for purposes of title V of the HEA as described in the **Federal Register** notice published on November 19, 2015, including the requirement that it have at least 25 percent Hispanic enrollment, do not need to submit any additional eligibility information but must submit a grant application. Institutions that have been identified as meeting the basic requirements to be an eligible institution except for the requirement for 25 percent Hispanic enrollment must submit documentation to demonstrate that they meet that requirement. The institution must submit either: The data the institution submitted to the Department in response to the IPEDS surveys for Fall 2014 or the data submitted by the institution to the State. See the application package for more information regarding eligibility documentation.

An institution that is required to submit documentation of its percentage of Hispanic student enrollment but does not do so will not be eligible to apply for a grant. An institution that meets the basic requirements of an eligible institution but does not demonstrate that it meets the requirement for 25 percent Hispanic enrollment is also not eligible to apply for a grant.

(b) An eligible HSI that submits multiple applications may only be awarded one grant.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching unless the grantee uses a portion of its grant for establishing or improving an endowment fund. If a grantee uses a portion of its grant for endowment fund purposes, it must match those grant funds with non-Federal funds (section 503(c)(2) of the HEA; 20 U.S.C. 1101b(c)(2)).

IV. Application and Submission Information

1. *Address to Request for Application Package:* Everardo Gil or Jeffrey Hartman, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 7E311, Washington, DC 20202. Telephone: (202) 219–7000 or (202) 502–7607 or by email: *Everardo.Gil@ed.gov* or *Jeffrey.Hartman@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria, the absolute priorities, and the competitive preference priorities that reviewers use to evaluate your application. We have established the following mandatory page limits for all applications:

- If you are not addressing a competitive preference priority, you must limit your application narrative to no more than 50 pages.
- If you are addressing one of the competitive preference priorities, you must limit your application narrative to no more than 55 pages.

Please include a separate heading for the absolute priorities and for the competitive preference priority, if you address one.

For the purpose of determining compliance with the page limits, each page on which there are words will be

counted as one full page. Applicants must use the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1″ margins.

• Double space (no more than three lines per vertical inch) all text in the application narrative, except titles, headings, footnotes, quotations, references, captions and all text in charts, tables, figures, and graphs. These items may be single-spaced. Charts, tables, figures, and graphs in the application narrative count toward the page limit.

• Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch). However, you may use a 10-point font in charts, tables, figures, graphs, footnotes, and endnotes.

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit applies to all of the application narrative section, including your complete response to the selection criteria, the absolute priorities, and a competitive preference priority. However, the page limit does not apply to Part I, the Application for Federal Assistance (SF 424); the Department of Education Supplemental Information form (SF 424); Part II, Budget Information—Non-Construction Programs (ED 524) and budget narrative; Part IV, the assurances and certifications; or the one-page project abstract. If you include any attachments or appendices not specifically requested in the application package, these items will be counted as part of your application narrative for purposes of the page-limit requirement.

3. *Submission Dates and Times:*

Applications Available: March 4, 2016.

Deadline for Transmittal of Applications: May 3, 2016.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 5, 2016.

4. *Intergovernmental Review:* This 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 program.

5. *Funding Restrictions:* (a) *General.* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

(b) *Applicability of Executive Order 13202.* Applicants that apply for construction funds under the HSI STEM and Articulation Program must comply with Executive Order 13202, as amended. This Executive order provides that recipients of Federal construction funds may not ''require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other construction project(s)'' or ''otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).'' Projects funded under this program that include construction activity will be provided a copy of this Executive order and will be asked to certify that they will adhere to it.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under the HSI STEM and Articulation Program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the HSI STEM and Articulation Program, CFDA

number 84.031C, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for this competition at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.031, not 84.031C).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through Grants.gov, please refer to the Grants.gov Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF) format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason, it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. This notification indicates receipt by Grants.gov only, not receipt by the Department. Grants.gov will also notify you automatically by email if your application met all the Grants.gov validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by Grants.gov, the Department will retrieve your application from Grants.gov and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by Grants.gov, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the persons listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along

with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Everardo Gil or Jeffrey Hartman, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 7E311, Washington, DC 20202. FAX: (202) 205–0063.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.031C) LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.031C), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. We will award up to 100 points to an application under the selection criteria; the total possible points for each selection criterion are noted in parentheses.

(a) *Quality of the Project Design.* (Maximum 30 points) The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (Up to 10 points)

(2) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives. (Up to 5 points)

(3) The extent to which the proposed project is supported by strong theory (as defined in this notice). (Up to 5 points)

(4) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition. (Up to 10 points)

(b) *Quality of Project Services.* (Maximum 20 points) The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, national origin, gender, age, or disability.

In addition, the Secretary considers the following factors:

(1) The extent to which services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice. (Up to 10 points)

(2) The likely impact of the services to be provided by the proposed project on the intended recipients of those services. (Up to 10 points)

(c) *Significance.* (Maximum 20 points) The Secretary considers the significance of the proposed project. In determining the significance of the proposed project,

the Secretary considers the following factors:

(1) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies. (Up to 5 points)

(2) The likelihood that the proposed project will result in system change or improvement. (Up to 15 points)

(d) *Quality of the Management Plan.* (Maximum 10 points) The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (Up to 5 points)

(2) The extent to which the time commitments of the project director and principal investigator and other key personnel are appropriate and adequate to meet the objectives of the proposed project. (Up to 5 points)

(e) *Quality of the Project Evaluation.* (Maximum 20 points) The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (Up to 5 points)

(2) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (Up to 5 points)

(3) The extent to which the methods of evaluation will, if well-implemented, produce evidence about the project's effectiveness that would meet the What Works Clearinghouse Evidence Standards with reservations. (Up to 10 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Awards will be made in rank order according to the average score received from an evaluation performed by a panel of non-Federal reviewers based on responses to the selection criteria and, if applicable, the competitive preference priorities. If an application is scored highly, has the possibility of being funded, and includes a response to one of the competitive preference priorities, the Institute of Education Sciences (IES) will review the studies cited in the application to determine whether they meet the ''moderate evidence of effectiveness'' or the ''evidence of promise'' standard. Only those applications that address a competitive preference priority and have the possibility of being funded because of high scores and available funds for new awards will undergo further review by IES.

Note: As noted in 34 CFR 75.217, we will use other information noted in this section to select applications for new grants when two or more applicants receive the same score in the rank order and the program funds are insufficient to fund all applicants with the same cut off score.

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the HSI STEM and Articulation Program:

a. The percentage change, over the five-year grant period, of the number of Hispanic and low-income full-time STEM field degree-seeking undergraduate students enrolled.

b. The percentage of Hispanic and low-income first-time, full-time STEM field degree-seeking undergraduate students who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year who remain in a STEM field degree/credential program.

c. The percentage of Hispanic and low-income first-time, full-time degree-seeking undergraduate students enrolled at four-year HSIs graduating within six years of enrollment with a STEM field degree.

d. The percentage of Hispanic and low-income first-time, full-time degree-seeking undergraduate students enrolled at two-year HSIs graduating within three years of enrollment with a STEM field degree/credential.

e. The percentage of Hispanic and low-income students transferring successfully to a four-year institution from a two-year institution and retained in a STEM field major.

f. The number of Hispanic and low-income students participating in grant-funded student support programs or services.

g. The percent of Hispanic and low-income students who participated in grant-supported services or programs who successfully completed gateway courses.

h. The percent of Hispanic and low-income students who participated in grant-supported services or programs in good academic standing.

i. The percent of Hispanic and low-income STEM field major transfer students on track to complete a STEM field degree within three years from their transfer date.

j. The percent of Hispanic and low-income students who participated in grant-supported services or programs and completed a degree or credential.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Jeffrey Hartman or Everardo Gil, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 7E311, Washington, DC 20202. Telephone: (202) 502–7607 or (202) 219–7000 or by email: *Jeffrey.Hartman@ed.gov* or *Everardo.Gil@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Applicants should periodically check the HSI Program Web site for information regarding pre-application technical assistance workshops and webinars. The address is: *www.ed.gov/programs/idueshsi/index.html.*

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to one of the program contact persons listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

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 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: March 1, 2016.

Lynn Mahaffie,

Deputy Assistant Secretary for Policy, Planning and Innovation Delegated the Duties of Assistant Secretary for Postsecondary Education.

[FR Doc. 2016–04868 Filed 3–3–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities; Personnel Development To Improve Services and Results for Children With Disabilities; and Educational Technology, Media, and Materials for Individuals With Disabilities Programs—Postsecondary Education Center for Individuals Who Are Deaf or Hard of Hearing

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information

Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities (TA&D); Personnel Development to Improve Services and Results for Children with Disabilities (Personnel Development); and Educational Technology, Media, and Materials for Individuals with Disabilities (ETechM2) Programs—Postsecondary Education Center for Individuals who are Deaf or Hard of Hearing

Notice inviting applications for a new award for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.326D.

DATES:

Applications Available: March 4, 2016.

Deadline for Transmittal of Applications: April 18, 2016.

Deadline for Intergovernmental Review: June 17, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Funding from three Department of Education (Department) programs supports this competition: The TA&D program, the Personnel Development program, and the ETechM2 program.

The purpose of the TA&D program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

The purposes of the Personnel Development program are to: (1) Help address State-identified needs for personnel—in special education, related services, early intervention, and regular education—to work with children with disabilities; and (2) ensure that those personnel have the skills and knowledge—derived from practices that have been determined through research and experience to be successful—that are needed to serve those children.

Finally, the purposes of the ETechM2 program are to: (1) Improve results for children with disabilities by promoting the development, demonstration, and use of technology; (2) support educational activities designed to be of educational value in the classroom for students with disabilities; (3) provide support for captioning and video description that is appropriate for use in the classroom; and (4) provide accessible educational materials to students with disabilities in a timely manner.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 662(c)(2), 663(c)(8)(C), 674(b) and (c), and 681(d) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1462, 1463, 1474, and 1481)).

Absolute Priority: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Postsecondary Education Center for Individuals who are Deaf or Hard of Hearing.

Background:

The purpose of this priority is to fund a cooperative agreement to establish and operate a Postsecondary Education Center for Individuals who are Deaf or Hard of Hearing (Center). The Center will support postsecondary education through its work with institutions, State educational agencies (SEAs), local educational agencies (LEAs), State vocational rehabilitation (VR) agencies, VR service providers, and other relevant organizations and public agencies, to more effectively address the postsecondary, vocational, technical, continuing, and adult education (postsecondary education and training) needs of individuals who are deaf or hard of hearing, including those who have co-occurring disabilities, such as learning and emotional disabilities, and those who are English learners. The Center will foster collaboration among postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies to support improved outcomes for deaf or hard of hearing transition-aged youth.

Although an increasing number of individuals who are deaf or hard of hearing are attending postsecondary education and training programs, literature suggests they have poor rates of completion, as compared to their non-disabled peers, often due to inadequate postsecondary skill preparation (Convertino, Marschark, Sapere, Sarchet, & Zupan, 2009). Newman, Wagner, Cameto, and Knokey (2009) reported that, based on National Longitudinal Transition Study–2 (NLTS2) data, 72 percent of deaf or hard of hearing students enrolled in postsecondary school settings after leaving high school. Of these students, only 15 percent graduated or completed training within four years. However, these students' postsecondary completion rates rose to 53 percent with an additional four years' time (*i.e.,* eight years after leaving high school) (Newman et al., 2011). Transition planning teams and adult agencies must therefore anticipate the likelihood that students who are deaf or hard of hearing will need an extended time period or long-term services and support to complete postsecondary education and training (Luft, 2014).

Individuals who are deaf or hard of hearing have unique communication and language barriers that require a range of accommodations for success in postsecondary education and training settings. Research, policy, and practice suggest decisions about accommodations should be made on an individual basis (Cawthon & Leppo, 2013; Marschark, 2001; U.S. Department of Education, 2005).

For example, different accommodations are needed for a student who has hearing aids or a cochlear implant and uses oral-auditory strategies, a student with a cochlear implant who uses sign language in addition to oral-auditory strategies, and a student who uses sign language only (Ferrell, Bruce, & Luckner, 2014; Marschark, 2001). Postsecondary institutions must be well-informed about relevant requirements and the various accommodations that may be appropriate for students who are deaf or hard of hearing (*e.g.,* oral transliteration services, sign language transliteration, and sign language interpreting and transcription services).

In addition, deaf or hard of hearing students who may not pursue traditional postsecondary education may need access to appropriate job training or other postsecondary education opportunities. Luft and Huff (2011) examined the transition strengths and needs of middle and high school students who were deaf or hard of hearing and found substantial deficits in their employment and independent living skills. To ensure students successfully transition to postsecondary settings, postsecondary institutions—along with public agencies such as secondary schools, vocational rehabilitation agencies, community service agencies, centers for independent living, and one-stop centers funded under the Workforce Innovation and Opportunity Act—must provide appropriate supports and access to relevant resources.

Section 682(d)(1)(B) of IDEA requires the Secretary to ensure that, for each fiscal year, not less than $4,000,000 is provided to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals who are deaf or hard of hearing. Pursuant to this requirement, in FY 2011, the Department's Office of Special Education Programs (OSEP) funded a national center to support the efforts of postsecondary institutions, working with other relevant organizations and public agencies, to more effectively address the postsecondary, vocational, technical, continuing, and adult education needs of students who are deaf or hard of hearing, so that a greater number of these students persist in, and complete, college or other postsecondary education and training programs. The center's project period is scheduled to end on September 30, 2016. OSEP believes postsecondary institutions and other relevant organizations and public agencies continue to need technical assistance and training on how to best support students who are deaf or hard of hearing. For more information about the current center, see *www.pepnet.org.*

Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended (ADA), outline postsecondary institutions' obligations to ensure that they do not discriminate on the basis of disability. These obligations include providing academic adjustments and auxiliary aids and services for students with disabilities (28 CFR 35.160–164; 28 CFR 36.303; 34 CFR 104.44).

Given that statistics show many individuals who are deaf or hard of hearing are enrolling in mainstream postsecondary institutions (Raue & Lewis, 2011), and considering the wide range of accommodations that may be necessary to serve this low-incidence population, it is paramount that personnel at postsecondary institutions and training programs have the knowledge and skills needed to provide fully accessible learning experiences (Cawthon et al., 2014; Lang, 2002).

For example, personnel must be skilled at helping to determine appropriate accommodations for students' communication needs. Personnel must be knowledgeable about a variety of interpreting, transcription, and note-taking services and remote or onsite captioning technologies (*e.g.,* C-Print or Communication Access Real-time Translation (CART)), as well as assistive listening devices that may serve as effective accommodations for some students who are deaf or hard of hearing (Cawthon, Nichols, & Collier, 2009). With the rapid pace of technological advancement and the increasing sophistication of technology, it is important for personnel at postsecondary institutions and other relevant organizations and public agencies to stay current on available

technology and policies to ensure communication access for their deaf or hard of hearing students.

To address the diverse and complex needs of individuals with disabilities, including individuals who are deaf or hard of hearing and their families, policymakers and other professionals have stressed the importance of ensuring individuals with disabilities have access to a comprehensive set of services and supports to help them develop the skills they will need to access and succeed in postsecondary education and training settings (Federal Partners in Transition, 2015; National Agenda Steering Committee, 2005). Research suggests that better post-school outcomes for individuals with disabilities may be linked to strong and effective partnerships between agencies responsible for programs that play a key role in providing services to individuals with disabilities and their families (Federal Partners in Transition, 2015; Landmark, Ju, & Zhang, 2010; National Council on Disability, 2008; Test et al., 2009; U.S. Government Accountability Office, 2011). Currently no single system or agency is responsible for providing all the necessary supports to help individuals with disabilities develop essential skills. Individuals with disabilities, including those who are deaf or hard of hearing, often need to simultaneously access services from several different agencies to successfully meet their needs. Providing support for improved interagency collaboration at State and local levels may produce better outcomes in postsecondary education and training for individuals who are deaf or hard of hearing. The Department intends to build on current efforts to improve outcomes in postsecondary education and training for individuals who are deaf or hard hearing. The Department will fund a TA center dedicated to improving the collaboration among postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies.

In addition, OSEP has developed a Results-Driven Accountability (RDA) system that requires all States to develop a State Systemic Improvement Plan (SSIP) [1] that will incorporate strategies to produce improved outcomes for students with disabilities. A number of States have identified improving post-school outcomes as the focus of their SSIP work. For success in this area, States will need access to a center that provides TA to support the implementation of their SSIP strategies to improve postsecondary education and training outcomes for students who are deaf or hard of hearing.

Priority:

The purpose of this priority is to fund a Center that will support the efforts of postsecondary institutions, SEAs, LEAs, State VR Agencies, VR service providers, and other relevant organizations and public agencies, to more effectively address the postsecondary, vocational, technical, continuing, and adult education (postsecondary education and training) needs of individuals who are deaf or hard of hearing, including those who have co-occurring disabilities, such as learning and emotional disabilities, and those who are English learners.

The Center must achieve, at a minimum, the following outcomes:

(a) Increased numbers of individuals who are deaf or hard of hearing who, without requiring remedial coursework, are admitted to, persist in, and complete college or other postsecondary education and training programs, including adult basic education and developmental education programs;

(b) Improved collaboration among postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies so they are more effective at the following:

(1) Identifying roles, responsibilities, and procedures for outreach to individuals who are deaf or hard of hearing and who are interested in pursuing postsecondary education and training, including outreach to secondary school students who have identified postsecondary education and training goals as part of an individualized education program or individualized plan for employment;

(2) Identifying education and employment training opportunities for individuals who are deaf or hard of hearing and who are not college bound;

(3) Improving the ability of individuals who are deaf or hard of hearing to be effective self-advocates in postsecondary education and training settings; and

(4) Providing TA and services to individuals who are deaf or hard of hearing and their families;

(c) Improved capacity of postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies to implement evidence-based (as defined in this notice) practices and strategies designed to increase the number of individuals who are deaf or hard of hearing who, without requiring remedial coursework, are admitted to, persist in, and complete college or other postsecondary education and training;

(d) An increased body of knowledge on how to effectively utilize technology to promote access and provide accommodations (*e.g.,* high-quality captioning, note-taking, and interpreting services) for individuals who are deaf or hard of hearing in postsecondary education and training settings; and

(e) Expanded dissemination of lessons learned from implementing evidence-based practices and strategies to inform national, State, and local efforts to improve postsecondary education and training outcomes for individuals who are deaf or hard of hearing.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority. OSEP encourages innovative approaches to meet the following requirements:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Address the training and information needs of postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies for better implementing evidence-based practices and strategies that will increase the number of individuals who are deaf or hard of hearing who, without remedial coursework, are admitted to, persist in, and complete college or other postsecondary education and training, including adult basic education and developmental education programs. To meet this requirement, the applicant must—

(i) Include a project design that is evidence-based;

(ii) Present applicable national and State data demonstrating the training needs of postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies for better implementing evidence-based practices and strategies that will increase the success of students who are deaf or hard of hearing in postsecondary education and training; and

(iii) Identify current issues and policy initiatives in secondary transition, postsecondary education, career preparation, and employment for students who are deaf or hard of hearing; and

[1] For more information about the SSIP, see page 18 of the Part B Measurement Table under ''Forms and Instructions'' at *www.regulations.gov/#!docketDetail; D=ED-2013-ICCD-0047.* For more information about RDA, see *http://www2.ed.gov/about/offices/list/osers/osep/rda/index.html.*

(2) Address the current and emerging needs of postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies for better implementing SSIP strategies to improve postsecondary education and training outcomes for students who are deaf or hard of hearing.

(b) Demonstrate, in the narrative section of the application under ''Quality of the Project Services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have historically been underrepresented based on race, color, national origin, gender, age, or disability in accessing postsecondary education and training. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of intended recipients for TA and information; and

(ii) Ensure that services and products meet the needs of the intended recipients (*e.g.,* by creating materials in formats and languages accessible to the stakeholders served by the intended recipients);

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes;

(ii) A logic model that depicts, at a minimum, the goals, activities, outputs, and outcomes of the proposed project. A logic model communicates how a project will achieve its outcomes and provides a framework for both the formative and summative evaluations of the project; and

(iii) A conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: Section 77.1(c) of the Education Department General Administrative Regulations (EDGAR) contains a definition for ''logic model'' that incorporates the term ''conceptual framework'' into that definition. In the TA&D Technical Assistance and Dissemination program priorities, OSEP has chosen to keep the two concepts separate in an effort to promote a fuller description of both the theory behind the proposed project and how that theory is operationalized in a logic model that depicts how the project will work. The following Web sites provide examples for constructing logic models: *www.researchutilization.org/matrix/logicmodel_resource3c.html* and *www.osepideasthatwork.org/logicModel/index.asp.*

(3) Be based on current research and make use of evidence-based practices and strategies. To meet this requirement, the applicant must describe—

(i) The current research on the most effective ways to support students who are deaf or hard of hearing in postsecondary education and training;

(ii) The current research on the use of adult learning principles and implementation science to inform the proposed TA; and

(iii) How the proposed project will incorporate both current research identified in paragraphs (3)(i) and (ii) and evidence-based practices and strategies to facilitate the development and delivery of its products and services;

(4) Develop products, create training modules, and hold meetings to encourage collaborative activities between service providers;

(5) Provide TA that is of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify and increase the number of students who are deaf or hard of hearing who, without requiring remedial coursework, are admitted to, persist in, and complete college or other postsecondary education and training;

(ii) Its proposed approach to universal, general TA,[2] which must identify the intended recipients of the products and services under this approach;

(iii) Its proposed approach to targeted, specialized TA,[3] which must identify—

(A) The intended recipients of the products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at a local level; and

(iv) Its proposed approach to intensive, sustained TA,[4] which must identify—

(A) The intended recipients of the products and services under this approach;

(B) Its proposed approach to measure the readiness of postsecondary institutions, SEAs, LEAs, State VR Agencies, VR service providers, and other relevant organizations and public agencies to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the local, district, or State level;

(C) Its proposed plan for assisting postsecondary institutions, SEAs, LEAs, State VR Agencies, VR service providers, and other relevant organizations and public agencies to build training systems that include professional development based on adult learning principles and coaching; and

(D) Its proposed plan for working with students, families, postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies at the State and local levels (*e.g.,* TA providers, schools, transition coordinators, guidance counselors, career and technical education educators, Department of Labor personnel, private industry, postsecondary education professional(s)) to ensure there is communication between each level and there are systems in place to effectively address the postsecondary education and training needs of individuals who are deaf or hard of hearing, including those who have co-occurring disabilities, such as learning and emotional disabilities, and those who are English learners; and

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

[2] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's Web site by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[3] ''Targeted, specialized TA'' means TA based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[4] ''Intensive, sustained TA'' means TA services often provided onsite and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as a negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcome of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under ''Quality of the Evaluation Plan,'' include an evaluation plan for the project as described in the following paragraphs.

The evaluation plan must describe measures of: Progress in implementation, including the extent to which the project's products and services have reached their target population; intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met.

In designing the evaluation plan, the project must—

(1) Designate, with the approval of the OSEP project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Project Performance (CIPP),[5] the Center's project director, and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the grant application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the grant application consistent with the logic model (*e.g.,* preparing evaluation questions about significant program processes and outcomes; developing quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of project outcomes; selecting respondent samples if appropriate; designing instruments or identifying data sources; and identifying analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the grant application such that it clearly—

(A) Specifies the measures and associated instruments or sources for data appropriate to the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completing the plan;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's intensive review for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIPP, as needed, to specify the performance measures to be addressed in the project's Annual Performance Report;

(2) Cooperate with CIPP staff in order to accomplish the tasks described in paragraph (1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (1) and (2) of this section and implementing the evaluation plan.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have historically been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as appropriate; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality; and

(4) The proposed project will benefit from a diversity of perspectives, including students, families, transition specialists, career and technical education professionals, school guidance counselors, postsecondary education professionals, VR counselors, private industry, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, a logic model as described in paragraph (b)(2)(ii) of these requirements.

(2) Include, in Appendix A, a conceptual framework for the project as described in paragraph (b)(2)(iii) of these requirements;

(3) Include, in Appendix A, person-loading charts and timelines as applicable, to illustrate the management plan described in the narrative;

(4) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC during each year of the project period;

(iii) Two annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive review meeting in Washington, DC, during the last half of the second year of the project period;

(5) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the

[5] The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (*i.e.,* those awarded $500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased TA in designing the evaluations with due consideration of the project's budget. CIPP does not function as a third-party evaluator.

proposed project's intended outcomes, as those needs are identified in consultation with OSEP.

Note: With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period; and

(6) Maintain a Web site that meets government or industry-recognized standards for accessibility.

Fourth and Fifth Years of the Project:

In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a review team consisting of experts selected by the Secretary. This review will be conducted by OSEP during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) Whether the quality, relevance, and usefulness of the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

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Definitions

For the purposes of this priority:

Evidence-based means supported by strong theory.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1462, 1463, 1474, 1481, and 1482.

Applicable Regulations: (a) EDGAR in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: Three programs plan to make available a total of $4,000,000 for this competition: $1,300,000 from the TA&D program; $1,700,000 from the Personnel Development program; and $1,000,000 from the ETechM2 program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY

2017 from the list of unfunded applications from this competition.

Maximum Award: We will reject any application that proposes a budget exceeding $4,000,000 or the individual program budget amounts described in the note below for a single budget period of 12 months.

Note: In each budget period of 12 months, $1,300,000 must be budgeted under the TA&D program (consistent with section 663(c)(8)(C) of IDEA); $1,700,000 must be budgeted under the Personnel Development program (consistent with section 662(c)(2) of IDEA); and $1,000,000 must be budgeted under the ETechM2 program (consistent with section 674(b) of IDEA).

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months with an optional additional 24 months based on performance. Applications must include plans for both the 36-month award and the 24-month extension.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Eligible Subgrantees:* (a) Under 34 CFR 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian tribes or tribal organizations; and for-profit organizations.

(b) The grantee may award subgrants to entities it has identified in an approved application.

4. *Other General Requirements:* (a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this program must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.326D.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 70 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirements do not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirements do apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section or if you apply standards other than those specified in this notice and the application package.

3. *Submission Dates and Times:*

Applications Available: March 4, 2016.

Deadline for Transmittal of Applications: April 18, 2016.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: June 17, 2016.

4. *Intergovernmental Review:* This competition 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 program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Postsecondary Education Center for Individuals who are Deaf or Hard of Hearing competition, CFDA number 84.326D, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Postsecondary Education Center for Individuals who are Deaf or Hard of Hearing competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.326, not 84.326D).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through Grants.gov, please refer to the Grants.gov Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because

the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF. Additional, detailed information on how to attach files is in the application instructions.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. This notification indicates receipt by Grants.gov only, not receipt by the Department. Grants.gov will also notify you automatically by email if your application met all the Grants.gov validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by Grants.gov, the Department will retrieve your application from Grants.gov and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by Grants.gov, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Louise Tripoli, U.S. Department of Education, 400 Maryland Avenue SW., Room 5132, Potomac Center Plaza, Washington, DC 20202–5108. FAX: (202) 245–7590.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326D), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326D), 550 12th

Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program. These measures focus on the extent to which projects provide high-quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice.

Grantees will be required to report information on their project's performance in annual performance reports and additional performance data to the Department (34 CFR 75.590 and 75.591).

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities

receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Louise Tripoli, U.S. Department of Education, 400 Maryland Avenue SW., Room 5132, Potomac Center Plaza, Washington, DC 20202–5108. *Telephone:* (202) 245–7554.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5037, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or 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: February 29, 2016.

Michael K. Yudin,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2016–04867 Filed 3–3–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

President's Council of Advisors on Science and Technology Meeting

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of partially-closed meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a partially-closed meeting of the President's Council of Advisors on Science and Technology (PCAST), and describes the functions of the Council. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: March 25, 2016 9:00 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at the National Academy of Sciences, 2101 Constitution Avenue NW., Washington, DC in the Lecture Room.

FOR FURTHER INFORMATION CONTACT: Information regarding the meeting agenda, time, location, and how to register for the meeting is available on the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.* A live video webcast and an archive of the webcast after the event are expected to be available at *http://whitehouse.gov/ostp/pcast.* The archived video will be available within one week of the meeting. Questions about the meeting should be directed to Ms. Jennifer Michael at *jmichael@ostp.eop.gov,* (202) 395–2121. Please note that public seating for this meeting is limited and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Council of Advisors on Science and Technology (PCAST) is an advisory group of the nation's leading scientists and engineers, appointed by the President to augment the science and technology advice available to him from inside the White House, cabinet departments, and other Federal agencies. See the Executive Order at *http://www.whitehouse.gov/ostp/pcast.* PCAST is consulted about and provides analyses and recommendations concerning a wide range of issues where understandings from the domains of science, technology, and innovation may bear on the policy choices before the President. PCAST is co-chaired by Dr. John P. Holdren, Assistant to the President for Science and Technology, and Director, Office of Science and Technology Policy, Executive Office of the President, The White House; and Dr. Eric S. Lander, President, Broad Institute of the Massachusetts Institute of Technology and Harvard.

Type of Meeting: Open and Closed.

Proposed Schedule and Agenda: The President's Council of Advisors on Science and Technology (PCAST) is scheduled to meet in open session on March 25, 2016, from 9:00 a.m. to 12:00 p.m.

Open Portion of Meeting: During this open meeting, PCAST is scheduled to have presenters brief on the topic of One Health. They will also hear from speakers who will remark on National Science Foundation Science and Engineering Indicators and who will discuss cancer research frontiers. Additional information and the agenda, including any changes that arise, will be posted at the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.*

Closed Portion of the Meeting: PCAST may hold a closed meeting of approximately one hour with the President on March 25, 2016, which must take place in the White House for the President's scheduling convenience and to maintain Secret Service protection. This meeting will be closed to the public because such portion of the meeting is likely to disclose matters that are to be kept secret in the interest of national defense or foreign policy under 5 U.S.C. 552b(c)(1).

Public Comments: It is the policy of the PCAST to accept written public comments of any length, and to accommodate oral public comments whenever possible. The PCAST expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

The public comment period for this meeting will take place on March 25, 2016 at a time specified in the meeting agenda posted on the PCAST Web site at *http://whitehouse.gov/ostp/pcast.* This public comment period is designed only for substantive commentary on PCAST's work, not for business marketing purposes.

Oral Comments: To be considered for the public speaker list at the meeting, interested parties should register to speak at *http://whitehouse.gov/ostp/pcast,* no later than 12:00 p.m. Eastern Time on March 18, 2016. Phone or email reservations will not be accepted. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of up to 15 minutes. If more speakers register than there is space available on the agenda, PCAST will randomly select speakers from among those who applied. Those not selected to present oral comments may always file written comments with the committee. Speakers are requested to bring at least 25 copies of their oral comments for distribution to the PCAST members.

Written Comments: Although written comments are accepted continuously, written comments should be submitted to PCAST no later than 12:00 p.m.

Eastern Time on March 18, 2016 so that the comments may be made available to the PCAST members prior to this meeting for their consideration. Information regarding how to submit comments and documents to PCAST is available at *http://whitehouse.gov/ostp/pcast* in the section entitled ''Connect with PCAST.''

Please note that because PCAST operates under the provisions of FACA, all public comments and/or presentations will be treated as public documents and will be made available for public inspection, including being posted on the PCAST Web site.

Meeting Accommodations: Individuals requiring special accommodation to access this public meeting should contact Ms. Jennifer Michael at least ten business days prior to the meeting so that appropriate arrangements can be made.

Issued in Washington, DC, on February 26, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–04870 Filed 3–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Availability of the Final Environmental Impact Statement for the Disposal of Greater-Than-Class C (GTCC) Low-Level Radioactive Waste and GTCC-Like Waste

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The U.S. Department of Energy (DOE or Department) announces the availability of its *Final Environmental Impact Statement for the Disposal of Greater-Than-Class C (GTCC) Low-Level Radioactive Waste and GTCC-Like Waste* (Final EIS) (DOE/EIS–0375), prepared pursuant to the National Environmental Policy Act (NEPA). This Final EIS considered public comments, including a Comment Response Document that addresses all comments received on the Draft EIS. The U.S. Environmental Protection Agency (EPA) is a cooperating agency in the preparation of this EIS. The Final EIS evaluates the potential human health and environmental impacts of a range of reasonable alternatives for disposing of an estimated 12,000 cubic meters (m^3) of waste, containing approximately 160 million curies of radioactivity. This includes GTCC low-level radioactive waste (LLRW) as defined by the Nuclear Regulatory Commission (NRC) in 10 CFR 72.3, *i.e.,* ''low-level radioactive waste that exceeds the concentration limits of radionuclides established for Class C waste in 10 CFR 61.55,'' as well as GTCC-like waste which is DOE owned or generated LLRW and non-defense-generated transuranic radioactive waste having characteristics similar to GTCC LLRW and for which there may be no path to disposal. This Final EIS also identifies DOE's preferred alternative for the disposal of GTCC and GTCC-like waste at the Waste Isolation Pilot Plant (WIPP) geologic repository in New Mexico and land disposal at generic commercial facilities.

DATES: DOE will publish a Record of Decision no sooner than 30 days after publication of the U.S. EPA Notice of Availability in the **Federal Register** and not before Congressional Action as required by the Energy Policy Act of 2005 (Pub. L. 109–58).

ADDRESSES: This Final EIS is available on the DOE NEPA Web site at *http://energy.gov/nepa* and on the GTCC Web site at *http://www.gtcceis.anl.gov.* Copies of the Final EIS are also available in the public reading rooms and libraries listed in **SUPPLEMENTARY INFORMATION**. A printed summary and compact disc (CD) of the complete Final EIS or a complete printed copy of the Final EIS (approximately 4,198 pages) may be requested by sending an email to: *gtcceis@anl.gov.*

FOR FURTHER INFORMATION CONTACT: For further information about this Final EIS, please contact Ms. Theresa J. Kliczewski, GTCC EIS Document Manager, U.S. Department of Energy, Office of Disposition Planning & Policy (EM–32), 1000 Independence Avenue SW., Washington, DC 20585 or by email at *gtcceis@anl.gov.* For general information regarding the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: (202) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

Section 3(b)(1)(D) of the Low-Level Radioactive Waste Policy Amendments Act (LLRWPAA) of 1985 (Pub. L. 99–240) makes the U.S. Federal Government responsible for the disposal of GTCC LLRW that results from NRC and Agreement State licenses. The LLRWPAA also specified in Section 3(b)(2) that such waste be disposed of in a facility licensed by NRC. DOE is the Federal agency responsible for the disposal of GTCC LLRW. GTCC LLRW is LLRW that has radionuclide concentrations that exceed the limits for Class C LLRW provided in 10 CFR 61.55.

This Final EIS also addresses GTCC-like waste which is DOE owned or generated LLRW and non-defense-generated transuranic radioactive waste having characteristics similar to GTCC LLRW and for which there may be no path to disposal. The NRC LLRW waste classification system in 10 CFR 61.55 does not apply to radioactive waste generated or owned by DOE and disposed of in DOE facilities. DOE evaluates GTCC-like waste in the Final EIS because similar approaches may be used to dispose of both GTCC LLRW and GTCC-like waste. DOE's proposed action is therefore to construct and operate a new facility or facilities, or use an existing facility or facilities, for the disposal of GTCC LLRW and GTCC-like waste. The Final EIS evaluates alternative methods for disposal of these wastes at various alternative locations, evaluates generic commercial disposal sites in four regions of the U.S., and a ''No Action Alternative'' as required under NEPA.

Types and Estimated Quantities of GTCC LLRW and GTCC-Like Wastes

The total inventory volume of GTCC LLRW and GTCC-like waste evaluated in the Final EIS is about 12,000 m^3, and is estimated to contain approximately 160 million curies of radioactivity. Of this total, approximately 3,000 m^3 and less than one million curies are estimated to be GTCC-like waste. Approximately ten percent of the total estimated inventory volume of GTCC LLRW and GTCC-like waste is currently in storage, while approximately 90 percent is expected to be generated in the future.

GTCC LLRW and GTCC-like waste, for purposes of the Final EIS, are categorized into three waste types: activated metals, sealed sources, and other waste. Activated metals are largely generated from the decommissioning of nuclear reactors. They include portions of the nuclear reactor vessel, such as the core shroud and core support plate. Activated metals wastes represent approximately 17 percent of the total inventory volume and approximately 98 percent of the radioactivity from GTCC LLRW and GTCC-like waste. Most of the activated metals will not be generated for several decades, when the majority of the currently operating reactors are scheduled to undergo decommissioning.

Sealed sources are widely used for medical purposes, such as in equipment to diagnose and treat illnesses (particularly cancer), sterilize medical

devices, and irradiate blood for transplant patients; and for industrial purposes, such as nondestructive testing of structures and industrial equipment and exploration of geologic formations for oil and gas. They are located in hospitals, universities, and industries throughout the U.S. Sealed sources represent approximately 25 percent of the total inventory volume and approximately one percent of the total radioactivity from GTCC LLRW and GTCC-like waste.

Other waste primarily includes contaminated equipment, debris, scrap metal, resins, and solidified sludges. These wastes are associated with the production of molybdenum-99, which is used in about 16 million medical procedures (*e.g.,* to detect cancer) each year; the production of radioisotope power systems in support of space exploration (*e.g.* from the plutonium-238 production project) and national security; and the environmental cleanup of the West Valley Demonstration Project site in New York. Other waste represents approximately 58 percent of the total inventory volume and approximately one percent of the radioactivity from GTCC and GTCC-like wastes.

Disposal Alternatives Evaluated

The Final EIS evaluates a range of reasonable alternatives for the disposal of GTCC LLRW and GTCC-like waste including:

1. No Action, as required by NEPA;

2. Disposal in the WIPP geologic repository in New Mexico;

3. Disposal in a new intermediate-depth borehole disposal facility at the Hanford Site in Washington, the Idaho National Laboratory in Idaho, the Los Alamos National Laboratory and WIPP Vicinity in New Mexico, the Nevada National Security Site (formerly known as the Nevada Test Site) in Nevada and generic commercial sites in four regions of the U.S.; and

4. Disposal in a new enhanced near-surface trench disposal facility at the Hanford, the Idaho National Laboratory, the Los Alamos National Laboratory and the WIPP, the Nevada National Security Site, Savannah River Site in South Carolina, and generic commercial sites; and

5. Disposal in a new above-grade vault disposal facility at the Hanford, the Idaho National Laboratory, the Los Alamos National Laboratory and the WIPP, the Nevada National Security Site, Savannah River Site in South Carolina, as well as at generic commercial facilities.

Responses to Public Comment

The Final EIS includes a Comment Response Document that includes all comments received on the Draft EIS as well as DOE's detailed responses to the individual comments. DOE received a total of 1,196 comment records, which accounted for 3,982 individual comments. Of the 1,196 comment records received, 154 were from organizations or federal or state agencies; 495 were from private citizens; and 547 were campaign letters, emails, or web comments received from six organizations. All comments received on the Draft EIS were considered by DOE in the preparation of this Final GTCC EIS.

Preferred Alternative

Given the diverse characteristics (*e.g.*, different radionuclide inventories, range of physical conditions, and derived from both commercial and DOE sources) of GTCC and GTCC-like waste analyzed in this Final EIS, the preferred alternative selected is not limited to one disposal technology. The preferred alternative for the disposal of GTCC and GTCC-like waste is the WIPP geologic repository and/or land disposal at generic commercial facilities. These land disposal conceptual designs may be altered or enhanced, as necessary, to provide the optimal application at a given location. For generic commercial facilities, the preferred alternative does not include land disposal at DOE sites. In addition, there is presently no preference among the three land disposal technologies at the generic commercial sites. The factors considered during the development of the preferred alternative include public comment provided on the Draft EIS; disposal site impacts including potential human health impacts, cultural resources and tribal concerns; waste types impacts including radionuclide inventory and characteristics and availability for disposal; and disposal method impacts including inadvertent human intrusion, construction and operation and cost. The analysis in this Final GTCC EIS has provided the Department with the integrated insight needed to identify a preferred alternative with the potential to enable the disposal of the entire waste inventory analyzed in this EIS. The Department has determined that the preferred alternative would satisfy the needs of the Department for the disposal of GTCC and GTCC-like waste.

Next Steps

Following the issuance of the Final GTCC EIS and in accordance with the Energy Policy Act of 2005 (Pub. L. 109–58), DOE will submit a Report to Congress on GTCC, and await Congressional Action. The Report to Congress must include all GTCC disposal alternatives under consideration. Once Congressional Action has occurred, DOE may then issue a Record of Decision in the **Federal Register** and implement the disposal alternative(s).

Public Reading Rooms and Libraries

Copies of the Final EIS are available for public review at the locations listed below:

District of Columbia

U.S. Department of Energy, Freedom of Information Act Public Reading Room, 1000 Independence Avenue SW., Room 1G–033, Washington, DC 20585, (202) 586–5955.

Idaho

U.S. Department of Energy, Public Reading Room, 1776 Science Center Drive, Idaho Falls, ID 83401, (208) 526–0833.

Nevada

Nevada Site Office, U.S. Department of Energy, Public Reading Room, 755 East Flamingo Road, Room 103, Las Vegas, NV 89119, (702) 794–5106.

Amargosa Valley Library, 829 E. Farm Road, Amargosa, NV 89020, (775) 372–5340.

Clark County Library, 1401 E. Flamingo Road, Las Vegas, NV 89119, (702) 507–3400.

Indian Springs Library, 715 Gretta Lane, Indian Springs, NV 89018, (702) 879–3845.

Las Vegas Library, 833 N. Las Vegas Boulevard, Las Vegas, NV 89101, (702) 507–3500.

Pahrump Community Library, 701 S. East Street, Pahrump, NV 89048, (775) 727–5930.

Tonopah Public Library, 167 S. Central Street, Tonopah, NV 89049, (775) 482–3374.

New Mexico

DOE FOIA Reading Room, Government Information/Zimmerman Library, University of New Mexico, MSC05 3020, 1 University of New Mexico, Albuquerque, NM 87131–0001, (505) 277–7180.

Carlsbad Field Office, U.S. Department of Energy, WIPP Information Center, 4021 National Parks Highway, Carlsbad, NM 88220, (575) 234–7348 or (800) 336–9477.

Carlsbad Public Library, 101 South Halagueno Street, Carlsbad, NM 88220, (575) 885–6776.

Eunice Public Library, 1039 10th Street, Eunice, NM 88231, (575) 394–2336.

Española Public Library, 313 N Paseo de Oñate, Española, NM 87532, (505) 747–6087.

Mesa Public Library, 2400 Central Avenue, Los Alamos, NM 87544, (505) 662–8250.

Santa Fe Public Library, 145 Washington Street, Santa Fe, NM 87501, (505) 955–6780.

Santa Fe Public Library, Oliver La Farge Branch, 1730 Llano Street, Santa Fe, NM 87501, (505) 955–4860.

New Mexico State Library, 1209 Camino Carlos Rey, Santa Fe, NM 87507, (505) 476–9717.

Los Alamos National Laboratory, Public Reading Room, P.O. Box 1663, Mail Stop M9991, Los Alamos, NM 87545, Phone: (505) 667–0216.

J. Robert Oppenheimer Study Ctr & Res Library, Technical Area 3, Building 207, Los Alamos National Laboratory, Los Alamos, NM 87545.

Oregon

Portland State University, Government Information, Branford Price Millar Library, 1875 SW Park Avenue, Portland, OR 97201, (503) 725–5874.

South Carolina

University of South Carolina—Aiken, Gregg-Graniteville Library, 471 University Parkway, Aiken, SC 29801, (803) 641–3320.

South Carolina State Library, 1500 Senate Street, Columbia, SC 29211, (803) 734–8026.

Washington

U.S. Department of Energy, Public Reading Room, Consolidated Information Center, 2770 University Drive, Room 101L, Richland, WA 99352, (509) 372–7443.

University of Washington, Suzzallo-Allen Library, Government Publications Division, Seattle, WA 98195, (206) 543–1937.

Gonzaga University, Foley Center Library, 101–L 502 East Boone Avenue, Spokane, WA 99258, (509) 313–5931.

Issued in Washington, DC, on February 19, 2016.

Mark Senderling,

Director, Office of Disposition Planning & Policy, Office of Environmental Management, U.S. Department of Energy.

[FR Doc. 2016–04731 Filed 3–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Advanced Scientific Computing Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Advanced Scientific Computing Advisory Committee (ASCAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, April 4, 2016, 8:30 a.m.–5:30 p.m.; Tuesday, April 5, 2016, 8:30 a.m.–12:00 p.m.

ADDRESSES: American Geophysical Union (AGU), 2000 Florida Avenue NW., Washington, DC 20009–1277.

FOR FURTHER INFORMATION CONTACT: Christine Chalk, Office of Advanced Scientific Computing Research; SC–21/Germantown Building; U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–1290; Telephone (301) 903–7486.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: To provide advice and guidance on a continuing basis to the Office of Science and to the Department of Energy on scientific priorities within the field of advanced scientific computing research.

Purpose of the Meeting: This meeting is the semi-annual meeting of the Committee.

Tentative Agenda Topics

- View from Germantown
- Program Response to the report from the Next Generation Networking for Science Committee of Visitors
- Update on Exascale project activities
- Summary of workshops on technologies ''beyond exascale''
- Technical presentations
- Public Comment (10-minute rule)

The meeting agenda includes the program response to the report from the Committee of Visitors on the Next Generation Networking for Science program; an update on the budget, accomplishments and planned activities of the Advanced Scientific Computing Research program; an update on exascale computing project activities; information on recent workshops exploring potential technologies ''beyond exascale''—such as quantum computing and neom orphic computing; a technical presentation from an exascale researcher; and an opportunity for comments from the public. The meeting will conclude at noon on April 5, 2015. Agenda updates and presentations will be posted on the ASCAC Web site prior to the meeting at: *http://science.energy.gov/ascr/ascac/.*

Public Participation: The meeting is open to the public. Individuals and representatives of organizations who would like to offer comments and suggestions may do so during the meeting. Approximately 30 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed 10 minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Those wishing to speak should submit your request at least five days before the meeting. Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to Christine Chalk, U.S. Department of Energy, 1000 Independence Avenue SW., Washington DC 20585, email to *Christine.Chalk@science.doe.gov.*

Minutes: The minutes of this meeting will be available within 90 days on the Advanced Scientific Computing Web site at *http://science.energy.gov/ascr/ascac/.*

Issued at Washington, DC, on February 26, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–04854 Filed 3–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Biological and Environmental Research Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Biological and Environmental Research Advisory Committee (BERAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat.770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES:

Tuesday, March 22, 2016; 9:00 a.m.–6:00 p.m.

Wednesday, March 23, 2016; 8:30 a.m.–12:30 p.m.

ADDRESSES: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.

FOR FURTHER INFORMATION CONTACT: Dr. Sharlene Weatherwax, Designated

Federal Officer, BERAC, U.S. Department of Energy, Office of Science, Office of Biological and Environmental Research, SC–23/Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585–1290; Phone (301) 903–3251; Fax (301) 903–5051 or email: *sharlene.weatherwax@science.doe.gov.* The most current information concerning this meeting can be found on the Web site: *http://science.energy.gov/ber/berac/meetings/.*

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: To provide advice on a continuing basis to the Director, Office of Science of the Department of Energy, on the many complexes scientific and technical issues that arises in the development and implementation of the Biological and Environmental Research Program.

Tentative Agenda Topics

- Report from the Director, Office of Science
- Report from the Office of Biological and Environmental Research
- News from the Biological Systems Science and Climate and Environmental Sciences Divisions
- Multiple DOE National Laboratories report on their strategic plans and future visions
- Presentations on Microbiome, CESD Computational Requirements, ASR Aerosols, Trait Methods for Land Models
- Next Generation Ecosystem Experiments Tropics presentation
- BERAC member Science Talk
- New Business
- Public Comment

Public Participation: The day and a half meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Sharlene Weatherwax at *sharlene.weatherwax@science.doe.go* (email) or (301)903–5051 (fax). You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 45 days at the BERAC Web site: *http://science.energy.gov/ber/berac/meetings/berac-minutes/.*

Issued in Washington, DC, on February 26, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–04869 Filed 3–3–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–999–000]

Greenleaf Energy Unit 1 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Greenleaf Energy Unit 1 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 16, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 25, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04695 Filed 3–3–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–40–000]

Hoosier Energy Rural Electric Cooperative, Inc.; Notice of Filing

Take notice that on February 18, 2016, Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier), on behalf of itself and its eighteen participating electric distribution cooperative member-owners (collectively, the Participating Members) [1] pursuant to section 292.402 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 292.402, filed a petition for partial waiver of certain obligations imposed on Hoosier and the Participating Members under sections 292.303(a) and 292.303(b) of the Public Utility Regulatory Policies Act of 1978, as amended.[2]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the

[1] Hoosier's eighteen Participating Member-owners joining in this petition are: Bartholomew County REMC (Columbus, IN); Clark County REMC (Sellersburg, IN); Daviess-Martin County REMC (Loogootee, IN); Decatur County REMC (Greensburg, IN); Dubois REC, Inc. (Jasper, IN); Harrison REMC (Corydon, IN); Henry County REMC (New Castle, IN); Jackson County REMC (Brownstown, IN);.Johnson County REMC (Franklin, IN); Orange County REMC (Orleans, IN); RushShelby Energy (Manilla, IN); South Central Indiana REMC (Martinsville, IN); Southeastern Indiana REMC (Osgood, IN); Southern Indiana Power (Tell City, IN); Utilities District of Western Indiana REMC (Bloomfield, IN); Wayne-White Counties Electric Cooperative (Fairfield, IL); WIN Energy REMC (Vincennes, IN); and Whitewater Valley REMC (Liberty, IN).

[2] 16 U.S.C. 824a–3.

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on March 10, 2016.

Dated: February 25, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04694 Filed 3–3–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14755–000]

Ever Better Hydro Power, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 16, 2016, Ever Better Hydro Power, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Pittsfield Mill Dam Hydroelectric Project (Pittsfield Project or project) to be located on Suncook River, in the town of Pittsfield, in Merrimack County, New Hampshire. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) An existing 21-foot-high, 470-foot-long concrete and stone dam with a 150-foot-long ogee spillway, two 4.5-foot-wide, 7-foot-high stoplog bays, and two 6.25-foot-wide, 7.66-foot-high outlet gates; (2) an existing 20-acre impoundment with a normal storage capacity of 112 acre-feet at spillway crest elevation of about 474.5 feet national geodetic vertical datum (NGVD '29); (3) an existing gated intake structure and forebay leading to an existing 200-foot-long, 9-foot-diameter steel penstock; (4) an existing brick building housing a 415 kilowatt (kW) turbine-generator, along with a control panel and switchgear; (5) a new 75-foot-long, 13.8-kilovolt (kV) transmission line connecting the generator to Public Service Company of New Hampshire's existing distribution system; and (6) appurtenant facilities. The estimated annual generation of the proposed Pittsfield Project would be about 1,400 megawatt-hours. The existing dam is owned by New Hampshire Department of Environmental Services.

Applicant Contact: Mr. Douglas Troy, 5 Main Street, Pittsfield, NH 03263; phone: (603) 435–3598.

FERC Contact: John Ramer; phone: (202) 502–8969 or email: *john.ramer@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14755–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14755) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 25, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04697 Filed 3–3–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12532–006]

Pine Creek Mine, LLC; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Minor License.

b. *Project No.:* 12532–006.

c. *Date Filed:* February 12, 2016

d. *Applicant:* Pine Creek Mine, LLC

e. *Name of Project:* Pine Creek Mine Tunnel Hydroelectric Project

f. *Location:* The project is located at Pine Creek Mine adjacent to Morgan and Pine Creeks in Inyo County California. The project's mine access tunnel, mine plug, mine water storage cavity, penstock, generator, and most of its primary transmission line would be located under Federal land managed by the United States Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contacts:* Craig N. Rossell, Member, Pine Creek Mine LLC, 228 West Bonita Avenue Claremont, California 91711, (909) 482–1000; Lynn Goodfellow, 9050 Pine Creek Road, Bishop, California 93514 (760) 387–2076.

i. *FERC Contact:* Joseph Hassell, (202) 502–8079 or *joseph.hassell@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. *The Project Description:* The proposed Pine Creek Tunnel Hydroelectric Project would include: (1) The existing Pine Creek Mine site, mine

entrance tunnels, mine shafts, and concrete plug; (2) an existing 30-foot-long steel pipe that runs through the concrete plug, to be used as a proposed penstock; (3) a proposed Pelton turbine generating unit located in the mine tunnel with a total installed capacity of 1.5 megawatts; (4) a proposed underground power line that would run approximately 2,500 feet from the generating unit to the mine portal; and (5) another proposed 60-foot-long transmission line from the mine portal to an existing substation on the mine site. The proposed project would have an average annual generation of 5.6 gigawatt-hours.

Pine Creek Mine, LLC would seal the mine entrance tunnel to store approximately 200 feet of groundwater in the existing mine works. The groundwater would be released at approximately the same rate at which it recharges the mine, which is about 10 cubic feet per second.

l. *Locations of the Application:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in item (h) above.

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:*

The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis	May 2016.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions	July 2016.
Commission issues Draft EA	January 2017.
Comments on Draft Environmental Assessment (EA)	March 2017.
Modified terms and conditions	May 2017.
Commission issues Final EA	August 2017.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: February 25, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04696 Filed 3–3–16; 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 corporate filings:

Docket Numbers: EC16–11–000.

Applicants: Greeley Energy Facility, LLC.

Description: Second Supplement to October 13, 2015 Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action of Greeley Energy Facility, LLC.

Filed Date: 2/24/16.

Accession Number: 20160224–5077.

Comments Due: 5 p.m. ET 3/7/16.

Docket Numbers: EC16–80–000.

Applicants: 8point3 Energy Partners LP, Solar Star Colorado III, LLC.

Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Expedited Action of 8point3 Energy Partners LP and Solar Star Colorado III, LLC.

Filed Date: 2/25/16.

Accession Number: 20160225–5047.

Comments Due: 5 p.m. ET 3/17/16.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–58–000.

Applicants: Middlesex Energy Center, LLC.

Description: Middlesex Energy Center, LLC submits the Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 2/24/16.

Accession Number: 20160224–0001.

Comments Due: 5 p.m. ET 3/16/16.

Docket Numbers: EG16–59–000.

Applicants: San Roman Wind I, LLC.

Description: San Roman Wind I, LLC Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 2/25/16.

Accession Number: 20160225–5164.

Comments Due: 5 p.m. ET 3/17/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–996–000.

Applicants: Pacific Gas and Electric Company.

Description: Notice of Termination of Pacific Gas and Electric Company for Transmission Service for San Luis Unit, Rate Schedule No. 227.

Filed Date: 2/24/16.

Accession Number: 20160224–5028.

Comments Due: 5 p.m. ET 3/16/16.

Docket Numbers: ER16–1000–000.

Applicants: Madison Gas and Electric Company.

Description: Compliance filing: Certificate of Concurrence to be effective 2/22/2016.

Filed Date: 2/24/16.

Accession Number: 20160224–5139.

Comments Due: 5 p.m. ET 3/16/16.

Docket Numbers: ER16–1001–000.

Applicants: Commonwealth Edison Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ComEd submits Transmission Upgrade Agreement No. 4417 to be effective 2/25/2016.

Filed Date: 2/25/16.

Accession Number: 20160225–5061.

Comments Due: 5 p.m. ET 3/17/16.

Docket Numbers: ER16–1002–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2016–02–25_SA 2791 Notice of Termination Ameren-FutureGen GIA (J239) to be effective 4/5/2016.

Filed Date: 2/25/16.

Accession Number: 20160225–5114.

Comments Due: 5 p.m. ET 3/17/16.

Docket Numbers: ER16–1003–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

Description: § 205(d) Rate Filing: 2016–02–25_SA 2901 Ameren Illinois-ComEd Kewanee CA to be effective 2/4/2016.

Filed Date: 2/25/16.
Accession Number: 20160225–5144.
Comments Due: 5 p.m. ET 3/17/16.

Docket Numbers: ER16–1004–000.
Applicants: Roundtop Energy LLC.
Description: Compliance filing: Roundtop Energys Reactive Power Filing to be effective 4/1/2016.
Filed Date: 2/25/16.
Accession Number: 20160225–5177.
Comments Due: 5 p.m. ET 3/17/16.

Docket Numbers: ER16–1005–000.
Applicants: RE Mustang LLC.
Description: § 205(d) Rate Filing: Mustang Shared Facilities Agreement to be effective 4/25/2016.
Filed Date: 2/25/16.
Accession Number: 20160225–5182.
Comments Due: 5 p.m. ET 3/17/16.

Docket Numbers: ER16–1006–000.
Applicants: RE Mustang LLC.
Description: § 205(d) Rate Filing: Mustang LGIA Co Tenancy Agreement to be effective 4/25/2016.
Filed Date: 2/25/16.
Accession Number: 20160225–5183.
Comments Due: 5 p.m. ET 3/17/16.

Docket Numbers: ER16–1007–000.
Applicants: Amazon Energy, LLC.
Description: § 205(d) Rate Filing: Amazon Energy, LLC Notice of Succession to be effective 2/26/2016.
Filed Date: 2/25/16.
Accession Number: 20160225–5185.
Comments Due: 5 p.m. ET 3/17/16.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH16–5–000.
Applicants: Gaz Metro inc.
Description: Gaz Metro inc. FERC 65–B Waiver Notification.
Filed Date: 2/24/16.
Accession Number: 20160224–5150.
Comments Due: 5 p.m. ET 3/16/16.

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: February 25, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04693 Filed 3–3–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Central Valley Project, California-Oregon Transmission Project, Pacific Alternating Current Intertie, Third-Party Transmission Service; and Information on the Path 15 Transmission Upgrade-Rate Order No. WAPA–173

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Extension and Rate Order for Sierra Nevada Region's Power, Transmission, and Ancillary Services Formula Rates.

SUMMARY: The Western Area Power Administration (Western) extends, on an interim basis, the existing Central Valley Project power, transmission, and ancillary services formula rates; California-Oregon Transmission Project transmission formula rate; Pacific Alternating Current Intertie transmission formula rate; and third-party transmission service formula rate. This action extends Rate Schedules CV–F13, CPP–2, CV–T3, CV–NWT5, COTP–T3, PACI–T3, CV–TPT7, CV–UUP1, CV–SPR4, CV–SUR4, CV–RFS4, CV–EID4, and CV–GID1 through September 30, 2019. The interim rates will be in effect until the Federal Energy Regulatory Commission (FERC) places the formula rates into effect on a final basis or until superseded.

DATES: This action is effective October 1, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Subhash Paluru, Regional Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, telephone (916) 353–4418, email *paluru@wapa.gov*; or Ms. Regina Rieger, Rates Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, telephone (916) 353–4629, email *rieger@wapa.gov*.

SUPPLEMENTARY INFORMATION: On August 25, 2015, Western published a notice in the **Federal Register** [1] in which Western proposed to extend, without adjustment, the existing Central Valley Project power, transmission, and ancillary services formula rates; California-Oregon Transmission Project transmission formula rate; Pacific Alternating Current Intertie transmission formula rate; and third-party transmission service formula rate. Western proposed to extend Rate Schedules CV–F13, CPP–2, CV–T3, CV–NWT5, COTP–T3, PACI–T3, CV–TPT7, CV–UUP1, CV–SPR4, CV–SUR4, CV–RFS4, CV–EID4, and CV–GID1 through September 30, 2019. As part of the notice, Western provided a 30-day comment period ending on September 24, 2015. Western received three comments, each in support of the three-year rate extension. Formula rates previously confirmed and approved by FERC, for which no adjustment is contemplated, may be extended by the Deputy Secretary on an interim basis, following notice of proposed extension at least 30 days before expiration.[2]

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 Western's Administrator; (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 FERC. This extension is issued under the Delegation Order and DOE rate extension procedures at 10 CFR 903.23(a).

FERC confirmed and approved Rate Order No. WAPA–156,[3] Rate Schedules CV–F13, CPP–2, CV–T3, CV–NWT5, COTP–T3, PACI–T3, CV–TPT7, CV–UUP1, CV–SPR4, CV–SUR4, CV–RFS4, CV–EID4, and CV–GID1, for five years. These formula rates expire on September 30, 2016. The rates and revenue requirements resulting from the approved formula rate methodologies are recalculated each year, based on updated financial and operational data. The existing formula rates provide sufficient revenue to repay all annual expenses, including interest expense, and to repay capital investments within the allowable periods, thus ensuring repayment within the cost recovery criteria set forth in DOE Order RA 6120.2.

Upon consideration of Western's proposal and the comments received, I hereby approve, on an interim basis, Rate Order No. WAPA–173, which extends, without adjustment, the existing power, transmission, and ancillary service formula rates in the above Rate Schedules through

[1] See 80 FR 51556 (August 25, 2015).

[2] See 10 CFR 903.23(a).

[3] See *U. S. Dept. of Energy, Western Area Power Admin.,* Docket No. EF11–9–000, 137 FERC ¶ 62,201 (2011).

September 30, 2019. Rate Order No. WAPA–173 will be submitted to FERC for confirmation and approval on a final basis.

Dated: February 26, 2016.

Elizabeth Sherwood-Randall,

Deputy Secretary of Energy.

DEPARTMENT OF ENERGY

Deputy Secretary

In the Matter of: Western Area Power Administration Extension of Formula Rates for the Central Valley Project, California-Oregon Transmission Project, Pacific Alternating Current Intertie, and Third-Party Transmission Service; and Information on the Path 15 Transmission Upgrade, Rate Order No. WAPA–173.

Order Confirming, Approving, And Placing The Central Valley Project, California-Oregon Transmission Project, Pacific Alternating Current Intertie, And Third-Party Transmission Service Formula Rates Into Effect On An Interim Basis

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 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)), section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), 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 the 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 903.23(a).

Background

On December 2, 2011, FERC confirmed and approved the existing formula rates, Rate Order No. WAPA–156,[1] Rate Schedules CV–F13, CPP–2, CV–T3, CV–NWT5, COTP–T3, PACI–T3, CV–TPT7, CV–UUP1, CV–SPR4, CV–SUR4, CV–RFS4, CV–EID4, and CV–GID1. FERC approved the rates for five years through September 30, 2016. On August 25, 2015, Western published a notice in the **Federal Register** proposing to extend the existing formula Rate Schedules for three years, without adjustment.[2] In accordance with 10 CFR 903.23(a), Western provided for a consultation and comment period that ended on September 24, 2015. Western received three comments, each in support of the three-year rate extension.

Discussion

The power, transmission, and ancillary service formula rates, Rate Schedules CV–F13, CPP–2, CV–T3, CV–NWT5, COTP–T3, PACI–T3, CV–TPT7, CV–UUP1, CV–SPR4, CV–SUR4, CV–RFS4, CV–EID4, and CV–GID1, approved under Rate Order No. WAPA–156, expire on September 30, 2016. The existing formula rate methodologies are recalculated at least annually and provide adequate revenue to recover annual expenses, including interest expense, and repay capital investments within allowable time periods, thus ensuring repayment within the cost recovery criteria set forth in DOE Order RA 6120.2.

Rate Order No. WAPA–173 extends, without adjustment, the existing formula Rate Schedules CV–F13, CPP–2, CV–T3, CV–NWT5, COTP–T3, PACI–T3, CV–TPT7, CV–UUP1, CV–SPR4, CV–SUR4, CV–RFS4, CV–EID4, and CV–GID1 through September 30, 2019, thereby continuing to ensure project repayment within the cost recovery criteria.

Order

In view of the above and under the authority delegated to me, I hereby extend, on an interim basis, the existing power, transmission, and ancillary services formula Rate Schedules CV–F13, CPP–2, CV–T3, CV–NWT5, COTP–T3, PACI–T3, CV–TPT7, CV–UUP1, CV–SPR4, CV–SUR4, CV–RFS4, CV–EID4, and CV–GID1. Rate Order No. WAPA–173 extends, without adjustment, the existing formula rates through September 30, 2019. The formula rates shall be in effect on an interim basis, pending FERC's confirmation and approval of this extension or substitute rate on a final basis.

[1] See *U.S. Dept. of Energy, Western Area Power Admin.,* Docket No. EF11–9–000, 137 FERC ¶ 62,201 (2011).

[2] See 80 FR 51556 (August 25, 2015).

Dated: February 26, 2016.

Elizabeth Sherwood-Randall,

Deputy Secretary of Energy.

[FR Doc. 2016–04876 Filed 3–3–16; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9025–8]

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 (EISs)

Filed 02/22/2016 Through 02/26/2016, 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-nepa-public/action/eis/search.*

EIS No. 20160047, Final Supplement, NNSA, TN, Production of Tritium in a Commercial Light Water Reactor, Review Period Ends: 04/04/2016, Contact: Curtis Chambellan 505–845–5073.

EIS No. 20160048, Final, USAF, AK, United States Air Force F–35A Operational Beddown-Pacific, Review Period Ends: 04/04/2016, Contact: Toni Ristau 907–377–2116.

EIS No. 20160049, Final, DOE, NM, Disposal of Greater-than-Class-C (GTCC) Low-Level Radioactive Waste and GTCC-Like Waste, Review Period Ends: 04/04/2016, Contact: Theresa J. Kliczewski 202–586–3301.

EIS No. 20160050, Final, USFS, CA, Jess Project, Review Period Ends: 04/04/2016, Contact: Danika Carlson 530–468–1225.

EIS No. 20160051, Draft, DOC, PRO, Programmatic—Nationwide Public Safety Broadband Network for the Non-Contiguous United States, Comment Period Ends: 05/03/2016, Contact: Amanda Pereira 571–665–6141.

EIS No. 20160052, Final, USACE, CA, Cordova Hills, Review Period Ends: 04/04/2016, Contact: Lisa M. Gibson 916–557–5288.

EIS No. 20160053, Final Supplement, TVA, TN, Adoption—Production of Tritium in a Commercial Light Water Reactor, Contact: Charles P. Nicholson 865–632–3582. The Tennessee Valley Authority is adopting the U.S.

Department of Energy's National Nuclear Security Administration's FSEIS #20160047, filed with EPA on 02/24/2016. TVA is a cooperating agency for the project. Therefore, recirculation of the document is not necessary under Section 1306.3(c) of the CEQ Regulations.

Amended Notices

EIS No. 20150343, Draft, NPS, AZ, Backcountry Management Plan Grand Canyon National Park, Comment Period Ends: 04/04/2016, Contact: Rachel Bennett 928–638–7326. *Revision to FR Notice Published 12/11/2015;* Extending Comment Period from 03/04/2016 to 04/04/2016.

EIS No. 20160028, Final, FHWA, WI, I–94 East-West Corridor (70th St–16th St), Review Period Ends: 04/15/2016, Contact: Michael Davies 608–829–7500. *Revision to FR Notice Published 02/12/2016;* Extending Comment Period from 03/14/2016 to 04/15/2016.

Dated: March 1, 2016.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2016–04833 Filed 3–3–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0099; FRL–9943–25]

Flubendiamide; Notice of Intent To Cancel Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to section 6(e) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), EPA hereby announces its intent to cancel the registration of four (4) pesticide products containing the insecticide flubendiamide owing to the registrants' failure to comply with a required condition of their registrations. This document identifies the products at issue, summarizes EPA's basis for these actions, and explains how adversely affected persons may request a hearing and the consequences of requesting or failing to request such a hearing.

DATES: Under FIFRA section 6(e), affected registrants and other adversely affected persons must request a hearing within 30 days from the date that the affected registrant received EPA's Notice of Intent to Cancel. Please see Unit VII.A.2. for specific instructions.

ADDRESSES: All persons who request a hearing must comply with the Agency's Rules of Practice Governing Hearings, 40 CFR part 164. Requests for hearing must be filed with the Hearing Clerk in EPA's Office of Administrative Law Judges (''OALJ''), in conformance with the requirements of 40 CFR part 164. The OALJ uses different addresses depending on the delivery method. Please see Unit VII. for specific instructions.

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

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the Agency taking?

EPA is announcing its intent to cancel the registration of four (4) pesticide products containing the insecticide flubendiamide owing to the registrants' failure to comply with a required condition of their registrations. Specifically, EPA intends to cancel each of the following pesticide products, listed in sequence by EPA registration number.

- EPA Reg. No. 264–1025—BELT SC Insecticide.
- EPA Reg. No. 71711–26—FLUBENDIAMIDE Technical.
- EPA Reg. No. 71711–32—VETICA Insecticide.
- EPA Reg. No. 71711–33—TOURISMO Insecticide.

The following is a list of the names and addresses of record for all registrants of the products listed in this unit, in sequence by EPA company number (this number corresponds to the first part of the EPA registration numbers of the products).

- EPA Co. No. 264—Bayer CropScience LP, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709–2014.
- EPA Co. No. 71711—Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808–2951.

In addition, this document summarizes EPA's legal authority for the proposed cancellation (see Unit II.), the registrants' failure to comply with a required condition of registration (see Unit III.), EPA's existing stocks determination (see Unit IV.), scope of the ensuing cancellation proceeding if a hearing is requested (see Unit V.), timing of cancellation of registration (see Unit VI.), and procedural matters that explain how eligible persons may request a hearing and the consequences of requesting or failing to request such a hearing (see Unit VII.).

B. What is the Agency's authority for taking these actions?

The Agency's authority is contained in section 6(e) of FIFRA, 7 U.S.C. 136d(e).

C. Who is affected by this action?

This announcement will directly affect the pesticide registrants listed in Unit I.A. and others who may distribute, sell or use the products listed in Unit I.A. This announcement may also be of particular interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. EPA believes the stakeholders described above encompass those likely to be affected; however, more remote effects are possible, and the Agency has not attempted to describe all the other specific entities that may be affected by this action.

II. Legal Authority

FIFRA generally governs pesticide sale, distribution, and use in the United States and establishes a federal registration scheme that generally precludes distributing or selling any pesticide that has not been ''registered'' by EPA. 7 U.S.C. 136a(a). A FIFRA registration is a license that establishes the terms and conditions under which a pesticide may be lawfully sold, distributed, and used. See id. 7 U.S.C. 136a(c)(1)(A)–(F) and 136a(d)(1).

The flubendiamide products at issue in this proceeding were conditionally registered pursuant to FIFRA section 3(c)(7)(C) and EPA's regulations at 40 CFR 152.114 and 152.115. Those provisions allow that a conditional registration of an active ingredient not contained in any currently registered products be registered for a reasonably sufficient time for the registrant to generate and submit newly-required data on the condition that by the end of such time the Administrator determines the data do not meet or exceed risk criteria and subject to such other conditions as the Administrator may prescribe. The conditional registration provision was added to FIFRA to address the inequity created by the then-existing statutory scheme between existing registrants and new applicants, and to provide a ''middle ground'' in the registration process between totally denying registration and granting it. See

Woodstream Corp. v *Jackson,* 845 F. Supp. 2d. 174,181 (D.D.C. 2012). However, the utility of conditional registrations depends on affected registrants' compliance with the terms and conditions of their registrations. If registrants accept registrations subject to conditions, but then fail to honor those conditions, EPA could well become more restrictive in its use of the conditional registration authority, and society would lose some of the benefits offered by a flexible registration process.

FIFRA section 6(e) establishes procedures for cancellation of conditional registrations issued pursuant to FIFRA section 3(c)(7). Pursuant to FIFRA section 6(e), the Administrator is required to issue a notice of intent to cancel a conditional registration under FIFRA section 3(c)(7) if (1) during the period provided for the satisfaction of the condition, the Administrator determines that the registrant has failed to initiate and pursue appropriate action to satisfy any imposed condition, or (2) at the end of the period provided for satisfaction of any condition, the condition has not been satisfied. The Administrator is authorized to permit the sale and use of existing stocks of a pesticide whose conditional registration has been canceled to such extent and subject to such conditions as the Administrator may specify, if the Administrator determines that such sale or use is not inconsistent with the purposes of this Act and will not have unreasonable adverse effects on the environment.

If a hearing is requested by an adversely affected party, a hearing shall be conducted in accordance with FIFRA section 6(d) and 40 CFR part 164 (the regulations establishing the procedures for hearings under FIFRA). The scope of a hearing under FIFRA section 6(e) is quite narrow; FIFRA provides that the only matters for resolution at that hearing shall be whether the registrant has initiated and pursued appropriate action to comply with the condition or conditions within the time provided or whether the condition or conditions have been satisfied within the time provided, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with FIFRA. A decision after completion of the hearing is final. Consistent with the narrowness of the scope of hearing, the statute also provides that a hearing under FIFRA section 6(e) shall be held and a determination made within seventy-five (75) days after receipt of a request for hearing.

III. Registrants' Failure To Comply With a Required Condition of Registration

Flubendiamide is an insecticide which targets lepidoptera pests approved for use on corn, cotton, tobacco, tree fruits, nuts, vegetables, and vine crops. EPA has determined that the flubendiamide registrations listed in Unit I.A. should be cancelled because the registrants have failed to satisfy a required condition of their registrations.

EPA issued conditional registrations for each of the flubendiamide products identified in Unit I.A., beginning with the issuance of Flubendiamide Technical and Belt SC Insecticide on August 1, 2008. The Notices of Registration (''NOR'') issued on August 1, 2008, state that the product is conditionally registered in accordance with FIFRA section 3(c)(7), incorporating by reference conditions of registration set forth in EPA's preliminary acceptance letter (''PAL''). Vetica and Tourismo flubendiamide registrations were issued March 4, 2009, and the PAL applied to those registrations as well. The NOR states that ''release for shipment of these products constitutes acceptance of the conditions of registration as outlined in the preliminary acceptance letter for flubendiamide, dated July 31, 2008. If these conditions are not complied with, the registration will be subject to cancellation in accordance with section 6(e) of FIFRA.'' The Registrants subsequently released each of these products for shipment, thereby accepting the specified conditions of registration.

EPA's PAL for flubendiamide (which, as noted previously, included conditions of registration which were specifically incorporated into the NORs) was issued on July 31, 2008, and specified the conditions under which EPA would approve registration of the flubendiamide products. The flubendiamide registrants, Bayer CropScience LP, as authorized agent for Nichino America, Inc., agreed to these terms by concurring with the Registration Division's intended terms and conditions of registration. *Application for a New Section 3 Registration of Flubendiamide with Associated Tolerance, July 31, 2008.* At the time of registration, the product was conditionally registered subject to a time limit of 5 years. EPA required flubendiamide to be conditionally registered because of concerns regarding flubendiamide's mobility, stability/persistence, accumulation in soils, water columns and sediments, and the extremely toxic nature of the primary degradate NNI–001-des-iodo to invertebrates of aquatic systems; in light of these concerns, the conditional registrations required use of vegetative filter strips and submission of additional data to address the concerns. In addition, instead of the registrations automatically expiring on a date certain, a condition was added that obligated the registrants to expeditiously request voluntary cancellation of the registrations if EPA notified them that EPA determined the registrations did not meet the FIFRA standard for registration.

The Registrants understood and agreed by signing the PAL that if, after EPA review of the referenced conditional data, EPA were to make a determination that continued registration of flubendiamide products will result in unreasonable adverse effects on the environment, EPA would notify the Registrants, and within one (1) week of notification of this finding, the Registrants would submit a request for voluntary cancellation of all the flubendiamide registrations. Without that condition, the registration would likely not have been approved by EPA. Moreover, pursuant to the terms of the NORs for the four flubendiamide registrations, each Registrant accepted all conditions of their flubendiamide registrations—expressly including the conditions specified in the PAL—upon sale or distribution of pesticide products pursuant to those registrations. The Registrants were notified on January 29, 2016 that EPA had made such a finding and, under the terms of the time-limited/conditional registration, the Registrants were obligated to submit an appropriate request for voluntary cancellation to EPA by or before February 5, 2016. *Letter to Ms. Nancy Delaney, Regulatory Manager, Authorized Agent for Nichino America, Inc., c/o Bayer CropScience, from Jack E. Housenger, Director, Office of Pesticide Programs, January 29, 2016.* On February 5, 2016, Bayer submitted a letter to EPA on its behalf and as regulatory agent for Nichino, informing EPA that neither registrant would comply with the condition to submit voluntary cancellation requests for the flubendiamide registrations. *Response to Request to Submit Voluntary Cancellation Requests for Flubendiamide Technical Registration and Associated End Use Products, February 5, 2016.* Consistent with the position stated in the February 5, 2016 letter, neither Bayer nor Nichino has submitted a voluntary cancellation request in response to EPA's letter of January 29, 2016. Once EPA exercised

the registration condition set forth in the NOR, the registrants' failure to comply with that condition of registration by submitting requests for voluntary cancellation makes the flubendiamide products identified in Unit I.A. subject to cancellation under FIFRA section 6(e).

IV. EPA's Existing Stocks Determination

Existing stocks of cancelled pesticides are those products that were ''released for shipment'' before the effective date of cancellation. FIFRA sections 6(a)(1) and 6(e) allow the Agency to permit the continued sale and use of existing stocks of pesticides that have been cancelled, to the extent that the Administrator determines that such sale or use would not be inconsistent with the purposes of this Act. 7 U.S.C. 136d(a)(1). FIFRA section 6(a)(1) authorizes the Administrator to ''permit the continued sale and use of existing stocks of a pesticide whose registration is suspended or canceled . . . under such conditions, and for such uses as the Administrator determines that such sale or use is not inconsistent with the purposes of this Act.''

EPA's policy in regard to the disposition of existing stocks of cancelled pesticides appears in a policy statement issued in 1991 and amended in 1996. (56 FR 29362, June 26, 1991 (FRL–3846–4) and 61 FR 16632, April 16, 1996 (FRL–5363–8)). The existing stocks policy indicates that although registrants who fail to satisfy a general condition (*i.e.,* one which requires a registrant to submit required data when all other registrants of the similar product are required to do so) would typically be allowed to distribute and sell existing stocks of the cancelled pesticide for one year,

> On the other hand, if a registrant of a conditional registration fails to comply with a specific condition identified at the time the registration was issued, the Agency does not believe it is generally appropriate to allow any sale and use of existing stocks if the registration is cancelled. Accordingly, the Agency does not anticipate allowing a registrant to sell or distribute existing stocks of cancelled products that were conditionally registered if the registrant fails to demonstrate compliance with any specific requirements set forth in the conditional registration. 56 FR at 29366–67.

The registration condition in the instant case is specific and was identified at the time the registration was issued, so the Agency does not intend to allow any sale or distribution of existing stocks.

Neither FIFRA nor any other law gives the registrant or anyone else a right to continue to distribute or sell existing stocks of a cancelled pesticide. Per FIFRA section 6(a)(1), the disposition of existing stocks of cancelled pesticides is at the discretion of the Administrator. Inasmuch as the disposition of existing stocks of a cancelled pesticide is at EPA's discretion, EPA considers it inappropriate to reward registrants who disregard the terms and conditions of registration, like the condition at issue here, by allowing any distribution or sale of existing stocks. This is not a case where the registrants have made a diligent effort to comply with the condition of registration, only to fail through circumstances beyond their control. Rather, they simply refuse to comply with a condition they earlier chose to accept in order to obtain the registration initially. Their refusal to comply with the condition will likely delay the cancellation for a number of months, during which time they may not only continue to sell and distribute the previously-produced product that should by the terms and conditions of registration now be cancelled, but also to continue to produce, sell and distribute additional quantities until cancellation through the FIFRA section 6(e) proceeding. For these reasons, and consistent with EPA's existing stocks policy, EPA has determined that it would not be appropriate to allow any further sale or distribution, by any person, of existing stocks of the products identified in Unit I.A. after those registrations are cancelled, except to the extent that distribution is for purposes of returning material back up the channels of trade, for purposes of disposal, or for purposes of lawful export.

EPA has determined that use of existing stocks of the technical flubendiamide registration (EPA Reg. No. 71711–26) should be prohibited upon the cancellation of that registration. Technical products are used solely for the purpose of manufacturing other pesticide products. For the same reason discussed above with respect to sale and distribution of cancelled products, EPA believes it would be inappropriate to allow use of existing stocks of EPA Reg. No. 71711–26 to produce additional flubendiamide pesticide products unless those products are clearly designated solely for lawful export.

EPA believes it would be appropriate to allow continued use of existing stocks of the cancelled end-use flubendiamide products EPA Reg. Nos. 264–1025, 71711–32, and 71711–33, currently held by end users, provided that such use is consistent with the previously approved-labeling accompanying the product. The quantity of existing stocks of these products currently in the hands of end users is expected to be sufficiently low that the costs and risks associated with collecting them for disposal would be high compared to those associated with the use of the cancelled product in accordance with its labeling. When containers of flubendiamide have already been opened, transporting them can create a greater risk of spillage. Open containers also create additional burden when sent for disposal because proper disposal may require that the content be verified, adding additional expense. Because of the probable wide dispersal of product in user's hands, notification and subsequent supervision of users imposes significant costs on state and/or federal authorities. EPA may amend its position regarding use of existing stocks of end-use flubendiamide products at hearing if the quantity of those products in the hands of end users increases prior to cancellation. For these reasons, EPA intends to allow existing stocks of the end-use flubendiamide products EPA Reg. Nos. 264–1025, 71711–32, and 71711–33, in the hands of end users to be used until exhausted.

V. Scope of Proceeding

The scope of a hearing under FIFRA section 6(e) is quite narrow; FIFRA provides that the only matters for resolution at that hearing shall be whether the registrant has initiated and pursued appropriate action to comply with the condition or conditions within the time provided or whether the condition or conditions have been satisfied within the time provided, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with FIFRA. The Statute also provides that a hearing under FIFRA section 6(e) shall be held and a determination made within seventy-five days after receipt of a request for hearing.

A FIFRA section 6(e) proceeding is intended only to address whether conditions of registration have been met, not to assess the merits of conditions or whether the registrants disagree with the conditions of their approved registration. Similarly, the FIFRA section 6(e) proceeding is limited to whether the Agency's existing stocks determination ''is consistent'' with FIFRA, not whether the existing stock provisions of the NOIC strike an optimal balance between the risks and benefits associated with the distribution, sale and use of existing stocks of a cancelled pesticide. FIFRA section 6(e)(2)

provides that where a FIFRA section 6(e) cancellation hearing is requested, the scope of the hearing and the standard of review in regard to the Administrator's determination with respect to the disposition of existing stocks is limited to whether that determination is consistent with FIFRA.

Congress mandated a final decision within seventy-five (75) days, and a broader or more complex hearing could not reasonably be completed in such a limited timeframe. Accordingly, the only matters for resolution in any hearing requested regarding this matter shall be whether the registrants satisfied the condition of registration requiring them to submit timely requests for voluntary cancellation when notified by EPA of its determination that the registrations caused unreasonable adverse effects on the environment, and whether the proposed existing stocks provision is consistent with FIFRA.

VI. Timing of Cancellation of Registration

The cancellation of registration of each of the specific products identified in Unit I.A. will be final and effective thirty (30) days after the date of receipt by the registrant, unless a valid hearing request is received regarding that specific flubendiamide product.

In the event a hearing is held concerning a particular product, the cancellation of the registration for that product will not become effective except pursuant to a final order issued by the Environmental Appeals Board or (if the matter is referred to the Administrator pursuant to 40 CFR 164.2(g)) the Administrator, or an initial decision of the presiding Administrative Law Judge that becomes a final order pursuant to 40 CFR 164.90(b). Pursuant to FIFRA section 6(e)(2), such order shall issue within seventy-five (75) days after receipt of a request for hearing.

VII. Procedural Matters

This unit explains how eligible persons may request a hearing and the consequences of requesting or failing to request such a hearing.

A. Requesting a Hearing

1. Who can request a hearing? A registrant or any other person who is adversely affected by a cancellation as described in this document may request a hearing.

2. When must a hearing be requested? A request for a hearing by a registrant or other adversely affected person must be submitted in writing within thirty (30) days after the date of the registrant's receipt of the Notice of Intent to Cancel. Under FIFRA section 6(e), the time period for requesting a hearing is calculated from the date the affected registrant receives the Notice of Intent to Cancel, without regard to the date of issuance or publication in the **Federal Register**. EPA issued this Notice of Intent to Cancel and promptly sent it to each registrant by certified mail on February 29, 2016. Registrants will be able to calculate the deadline for their request based on their receipt of the Notice of Intent to Cancel. In order to assure that any requests for hearing from persons other than the registrants are received in a timely manner, persons other than the registrants who wish to submit a request for hearing are urged to assume that the registrants received the Notice of Intent to Cancel on March 1, 2016, and make sure that a request for hearing is received by EPA's Office of Administrative Law Judges on or before March 31, 2016.

3. How must a hearing be requested? All persons who request a hearing must comply with the Agency's Rules of Practice Governing Hearings under FIFRA, 40 CFR part 164. Among other requirements, these rules include the following requirements:

a. Each hearing request must specifically identify by registration or accession number each individual pesticide product concerning which a hearing is requested, 40 CFR 164.22(a);

b. Each hearing request must be accompanied by a document setting forth specific objections which respond to the Agency's reasons for proposing cancellation as set forth in this document and state the factual basis for each such objection, 40 CFR 164.22(a); and

c. Each hearing request must be received by the OALJ within the applicable 30-day period (40 CFR 164.5(a)).

Failure to comply with any one of these requirements will invalidate the request for a hearing and, in the absence of a valid hearing request, result in final cancellation of registration for the product in question by operation of law.

4. *Where does a person submit a hearing request?* Requests for hearing must be submitted to the OALJ. The OALJ uses different addresses depending on the delivery method. Please note that mail deliveries to federal agencies are screened off-site, and this security procedure can delay delivery. Documents that a party sends using the U.S. Postal Service must be addressed to the following OALJ mailing address: U.S. Environmental Protection Agency, Office of Administrative Law Judges, Mail Code 1900R, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

Documents that a party hand delivers or sends using a courier or commercial delivery service (such as Federal Express or UPS) must be addressed to the following OALJ hand delivery address: U.S. Environmental Protection Agency, Office of Administrative Law Judges, Ronald Reagan Building, Rm. M1200, 1300 Pennsylvania Ave. NW., Washington, DC 20460.

B. The Hearing

If a hearing concerning any product affected by this document is requested in a timely and effective manner, the hearing will be governed by the Agency's Rules of Practice Governing Hearings under FIFRA, 40 CFR part 164, and the procedures set forth in Unit VII. Any interested person may participate in the hearing, in accordance with 40 CFR 164.31.

Documents and transcripts will be available in the Administrative Law Judges' Electronic Docket Database available at *http://yosemite.epa.gov/oarm/alj/alj_web_docket.nsf.* The physical public docket for the hearing is located at the U.S. Environmental Protection Agency, Office of Administrative Law Judges, Ronald Reagan Building, Rm. M1200, 1300 Pennsylvania Ave. NW., Washington, DC 20460 and documents can be viewed from 8:30 a.m. to 4:30 p.m., Monday through Friday, except federal holidays.

List of Subjects

Environmental protection, Pesticides and pests, Cancellation.

Dated: February 29, 2016.

Louise P. Wise,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2016–04905 Filed 3–3–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9943–37-Region 1]

Proposed Cercla Administrative Cost Recovery Settlement: Former Athol Rod and Gun Club Superfund Site, Athol, Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comments.

SUMMARY: Notice is hereby given of a proposed administrative cost settlement for recovery of response costs concerning the Former Athol Rod and Gun Club Superfund Site, located in Athol, Worcester County, Massachusetts with the Settling Party the Town of

Athol. The proposed settlement requires the Settling Party to pay the Environmental Protection Agency (EPA) $275,000, plus interest, to the Hazardous Substance Superfund to settle EPA's past response costs, which currently amount to $3,434,307.47. In exchange, EPA will provide the Settling Party with a covenant not to sue for past costs. The settlement has been approved by the Environmental and Natural Resources Division of the United States Department of Justice. For 30 days following the date of publication of this notice, the Agency will receive written comments relating to the settlement for recovery of response costs. The Agency will consider all comments received and may modify or withdraw its consent to this cost recovery settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the Athol Public Library, 568 Main Street, Athol, MA 01331 and at the Environmental Protection Agency—Region I, 5 Post Office Square, Suite 100, Boston, MA 02109–3912.

DATES: Comments must be submitted by April 4, 2016.

ADDRESSES: Comments should be addressed to Peter DeCambre, Enforcement Counsel, U.S. Environmental Protection Agency, 5 Post Office Square, Suite 100 (OES04–2), Boston, MA 02109–3912 (Telephone No. 617–918–1890) and should reference the Former Athol Rod and Gun Club Site, U.S. EPA Docket No: 01–2016–0003.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed settlement may be obtained from Stacy Greendlinger, Office of Site Remediation and Restoration, U.S. Environmental Protection Agency, Region I, 5 Post Office Square, Suite 100 (OSRR02–2), Boston, MA 02109–3912, (617) 918–1403; *greendlinger.stacy@epa.gov.* Technical questions can also be directed to Stacy Greendlinger. For legal questions, Peter DeCambre, Office of Environmental Stewardship, U.S. Environmental Protection Agency, Region I, 5 Post Office Square, Suite 100 (OES04–3), Boston, MA 02109–3912, (617) 918–1890; *decambre.peter@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposed administrative settlement for recovery of past response costs concerning the Former Athol Rod and Gun Club Superfund Site, located in Athol, Worcester County, Massachusetts is made in accordance with Section 122(h)(l) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA covenants not to sue or take administrative action against the Settling Party, the Town of Athol, pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), for Past Response Costs. In exchange, the Settling Party agrees to pay EPA $275,000, plus interest running from the effective date of the Settlement Agreement through the date of payment. The Town will pay $100,000 thirty days after the effective date of the Settlement Agreement, and $87,500 a year later, and a final $87,500 a year plus interest for each installment. For 30 days following the date of publication of this notice, the Agency will receive written comments relating to the settlement for recovery of response costs.

Dated: February 1, 2016.

Bryan Olson,

Director, Office of Site Remediation and Restoration.

[FR Doc. 2016–04903 Filed 3–3–16; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Farm Credit System Insurance Corporation Board; Regular Meeting

SUMMARY: Notice is hereby given of the regular meeting of the Farm Credit System Insurance Corporation Board (Board).

DATES: The meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on March 10, 2016, from 1:00 p.m. until such time as the Board concludes its business.

ADDRESSES: Farm Credit System Insurance Corporation, 1501 Farm Credit Drive McLean, Virginia 22102. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit System Insurance Corporation Board, (703) 883–4009, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit System Insurance Corporation Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- December 10, 2015—Regular Meeting

B. Quarterly Business Reports

- FCSIC Financial Reports
- Report on Insured and Other Obligations
- Quarterly Report on Annual Performance Plan

C. New Business

- Report on Investment Portfolio
- Presentation of 2015 Audit Results

Closed Session

- FCSIC Report on System Performance

Executive Session

- Executive Session of the FCSIC Board Audit Committee with the External Auditor

Dated: March 1, 2016.

Dale L. Aultman,

Secretary, Farm Credit System Insurance Corporation Board.

[FR Doc. 2016–04816 Filed 3–3–16; 8:45 am]

BILLING CODE 6710–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0942]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 3, 2016. 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 to *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: 3060–0942.

Title: Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 20 respondents; 20 responses.

Estimated Time per Response: 2–15 hours.

Frequency of Response: Annual reporting requirements, third party disclosure requirements and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 1, 4(i), and (j), 201–209, 218–222, 254 and 403.

Total Annual Burden: 56 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. If the Commission requests respondents to submit information to the Commission that the respondents believe are confidential, respondents may wish request confidential treatment of such information pursuant to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission is requesting an extension of a currently approved collection from the Office of Management and Budget (OMB). There is no change in the reporting, recordkeeping and/or third party disclosure requirements.

The Report and Order, FCC 00–193, required the Commission to take action to further accelerate the development of competition in the local and long-distance telecommunications markets, and to further establish explicit universal service support that will be sustainable in an increasingly competitive marketplace, pursuant to the mandate of the Telecommunications Act of 1996. The Order required price cap local exchange carriers (LECs) to modify their annual access tariff filings by: (1) Subtracting from their July 2000 tariff filings the estimated universal service support that they were to receive from Universal Service Administrative Company (USAC) over that year; (2) consolidating the access revenues that they examined to determine whether to charge the subscriber line charge (SLC) cap or the actual cost of their access lines; (3) if they choose to deaverage their SLC, adding up the components of their averaged traffic sensitive charges to test whether the charges have reached the target rate; and (4) calculating their SLC rates by Unbundled Network Element Zone. *See* 47 CFR 61.45–61.49. The Commission requires price cap LECs who choose not to follow the voluntary portions of the CALLS Proposal to submit cost support information, which the Commission would use to set their access rate levels.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2016–04839 Filed 3–3–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0775]

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 May 3, 2016. 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: 3060–0775.

Title: Section 64.1903, Obligations of Independent Incumbent Local Exchange Carriers (LECs) Subject to Rate of Return Regulation.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 255 respondents; 255 responses.

Estimated Time per Response: 500 hours–6,056 hours.

Frequency of Response: Recordkeeping requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in *47 U.S.C. 151, 152, 154, 201, 202, 251, 271, 272,* and *303(r)* of the Communications Act of 1934, as amended.

Total Annual Burden: 155,280 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this collection to the Office of Management and Budget (OMB) for approval of an extension of an existing collection in order to obtain the three year clearance from them.

The Commission imposed recordkeeping requirements on independent local exchange carriers (LECs). Independent incumbent LECs wishing to offer international, interexchange services must comply with the requirements of the Competitive Carrier Fifth Report and Order, CC Docket Nos. 96–149, 96–61 and 00–175. One of the requirements is that the independent incumbent LEC's international, interexchange affiliate (for facilities-based providers of international, interexchange services) must maintain books of account separate from such LEC's local exchange and other activities. See *47 CFR 64.1903* for the specific recordkeeping requirements. In May of 2013, the Commission granted, in part, a petition for forbearance from the separate affiliate requirement, 47 CFR 64.1903, for independent incumbent local exchange carriers (LECs) that are subject to price cap regulation and adopted a Second Further Notice of Proposed Rulemaking to consider modifying or eliminating the separate affiliate requirement for independent incumbent LECs that are subject to rate-of-return regulation, *see Petition of USTelecom for Forbearance Under* 47 U.S.C. 160(C) From Enforcement of Certain Legacy Telecommunications Regulations, 28 FCC Rcd. 7627 (2013). Accordingly, there has been a change to recordkeeping requirement and the Commission's previous burden estimates.

This recordkeeping requirement is used by the Commission to ensure that independent incumbent LECs that provide international, interexchange services do so in compliance with the Communications Act, as amended, and with Commission policies and regulations.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2016–04840 Filed 3–3–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 21, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Thomas R. Bernau, Des Moines, Iowa, and John W. Bernau, Manchester, Iowa, each individually and as co-trustees of the Kay J. A. Bernau Marital Election Trust and the Kay J. A. Bernau Marital Trust; and together as a family control group acting in concert with the Bernau Family Control Group consisting of the William R. and Kay J. A. Bernau Family Trust for Thomas R. Bernau and the William R. and Kay J. A. Bernau Family Trust for John W. Bernau,* all of Iowa City, Iowa; to retain voting shares of Country Bancorporation, and thereby indirectly retain voting shares of Peoples Savings Bank, both in Crawfordsville, Iowa; Walker State Bank, Walker, Iowa; Center Point Bank and Trust Company, Center Point, Iowa; Peoples Trust and Savings Bank, Riverside, Iowa; Hiawatha Bank and Trust Company, Hiawatha, Iowa; White State Bank, South English, Iowa; The Exchange State Bank, Springville, Iowa; Lone Tree Service Company, Lone Tree, Iowa, and Farmers and Merchants Savings Bank, Iowa City, Iowa.

Board of Governors of the Federal Reserve System, March 1, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–04819 Filed 3–3–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Acting Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW.,Washington, DC 20503.

Final approval under OMB delegated authority of the implementation of the following report:

Collection title: Application for Membership for the Community Advisory Council.

Agency form number: FR 1401.

OMB control number: 7100-to be assigned.

Frequency: Annual.

Reporters: Persons seeking to be considered for Community Advisory Council (CAC) membership.

Estimated annual reporting hours: 1,100 hours.

Estimated average hours per response: 1 hour.

Estimated number of respondents: 1,100.

General description of information collection: The CAC Application is required to obtain a benefit and is a collection of information from persons seeking to be considered for membership on the CAC. It is authorized pursuant to the Federal Reserve's general authority to establish the CAC, which is derived from sections 2A and 10 of the Federal Reserve Act (12 U.S.C. 225a and 244).

Information provided on the Application for Membership will be kept confidential under exemption (b)(6) of the Freedom of Information Act (FOIA) to the extent that the disclosure of information ''would constitute a clearly unwarranted invasion of personal privacy.'' (5 U.S.C. 552(b)(6)).

Abstract: The CAC was established to provide information, advice, and recommendations to the Board on policy matters and issues affecting consumers and communities. The Application for Membership would be used to obtain information about the experience and qualification of persons seeking to be considered for CAC membership. The Application for Membership would collect a candidate's contact information, current employment, areas of expertise, a resume, which typically includes information about employment history, education, and training, and a statement explaining why they are interested in serving on the CAC and what they believe are their primary qualifications. Candidates could voluntarily elect to provide additional information to support their application, such as copies of publications or letters of recommendation.

Current Actions: On November 25, 2015 the Federal Reserve published a notice in the **Federal Register** (80 FR 73765) requesting public comment for 60 days on the implementation of the Application for Membership for the Community Advisory Council. The comment period for this notice expired on January 25, 2016. The Federal Reserve did not receive any comments. The Application will be implemented as proposed.

Board of Governors of the Federal Reserve System, March 1, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–04818 Filed 3–3–16; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0274; Docket 2015–0001; Sequence 18]

Submission for OMB Review; Public Buildings Service; Art-in-Architecture Program National Artist Registry, GSA Form 7437

AGENCY: Public Buildings Service, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Art-in Architecture Program National Artist Registry, GSA Form 7437. A notice was published in the **Federal Register** at 80 FR 79897 on December 23, 2015. One comment was received.

The Art-in-Architecture Program is the result of a policy decision made in January 1963 by GSA Administrator Bernard L. Boudin, who served on the Ad Hoc Committee on Federal Office Space in 1961–1962.

The program has been modified over the years, most recently in 2009, when a requirement was instituted that all artists who want to be considered for any potential GSA commission must be included on the National Artists Registry, which serves as the qualified list of eligible artists. The program continues to commission works of art from living American artists. One-half of one percent of the estimated construction cost of new or substantially renovated Federal buildings and U.S. courthouses is allocated for commissioning works of art.

DATES: Submit comments on or before April 4, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Gibson, Office of the Chief Architect, Art-in-Architecture & Fine Arts Division (PCAC), 1800 F Street NW., Room 5400 PCAC, Washington, DC 20405, at telephone 202–501–0930 or via email at *jennifer.gibson@gsa.gov.*

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0274, Art-in-Architecture Program National Artist Registry, GSA Form 7437''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0274, Art-in-Architecture Program National Artist Registry, GSA Form 7437'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 3090–0274, Art-in-Architecture Program National Artist Registry, GSA Form 7437.

Instructions: Please submit comments only and cite Information Collection 3090–0274, Art-in-Architecture Program National Artist Registry, GSA Form 7437, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

SUPPLEMENTARY INFORMATION:

A. Purpose

The Art-in-Architecture Program actively seeks to commission works from the full spectrum of American artists and strives to promote new media and inventive solutions for public art. The GSA Form 7437, Art-in-Architecture Program National Artist Registry, will be used to collect information from artists across the country to participate and to be considered for commissions.

B. Discussion and Analysis

From GSA Form 7437

Instructions: Return this form with a current resume and up to 20 digital images of the artist's work created within the last ten years to the address below. Please use jpeg format 10 x 7.5 inches at 72 dpi. On a separate sheet, for each image please include the name of artist, title of work, date, medium/materials, and dimensions.

Comment: In the National Artist Registry Instructions, #2 states that artist is to submit 20 images of work within the last 10 years. On Form GSA 7437, instructions state the artist is to submit 20 images of work within the last 5 years.

Response: GSA Form 7437 instructions should be changed to say that the artist is to submit 20 images of work within the last ten years.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

C. Annual Reporting Burden

Respondents: 300.
Responses per Respondent: 1.
Total Responses: .25.
Hours per Response: .25.
Total Burden Hours: 75.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0274, Art-in-Architecture Program National Artist Registry, GSA Form 7437, in all correspondence.

Dated: February 29, 2016.

David A. Shive,

Chief Information Officer.

[FR Doc. 2016–04803 Filed 3–3–16; 8:45 am]

BILLING CODE 6820–34–P

OFFICE OF GOVERNMENT ETHICS

Agency Information Collection Activities; Submission for OMB Review; Proposed Collection; Comment Request for Unmodified Qualified Trust Model Certificates and Model Trust Documents

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: The U.S. Office of Government Ethics (OGE) is publishing this first round notice and seeking comment on the twelve executive branch OGE model certificates and model documents for qualified trusts. OGE intends to submit these forms to the Office of Management and Budget (OMB) for review and approval of a three-year extension under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). OGE is proposing no changes to these forms at this time.

DATES: Written comments by the public and the agencies on this proposed extension are invited and must be received on or before May 3, 2016.

ADDRESSES: You may submit comments to OGE on this paperwork notice by any of the following methods:

Email: usoge@oge.gov. Include reference to ''Qualified trust model certificates and model trust documents paperwork comment'' in the subject line of the message.

Fax: 202–482–9237.

Mail, Hand Delivery/Courier: U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005–3917, Attention: Paul D. Ledvina, Agency Clearance Officer.

Instructions: All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Comments may be posted on OGE's Web site, *www.oge.gov.* Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Ledvina at the U.S. Office of Government Ethics; telephone: 202–482–9247; TTY: 800–877–8339; FAX: 202–482–9237; Email: *pledvina@oge.gov.* The model Certificate of Independence and model Certificate of Compliance for qualified trusts are codified in appendixes A and B to 5 CFR part 2634. Appendix C of 5 CFR 2634 provides the Privacy Act Statement and Public Burden Statement for the model certificates. Copies of the ten qualified trust model documents are available on OGE's Web site, *www.oge.gov.* Electronic copies of these documents may also be obtained, without charge, by contacting Mr. Ledvina.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics intends to submit, after this first round notice and comment period, all twelve qualified trust model certificates and model documents described below (all of which are included under OMB paperwork control number 3209–0007) for a three-year extension of approval by OMB under the Paperwork Reduction Act (44 U.S.C. chapter 35). At that time, OGE will publish a second paperwork notice in the **Federal Register** to inform the public and the agencies. The current paperwork approval for the model certificates and model trust documents, last granted by OMB in 2013, is scheduled to expire at the end of November 2016. OGE is proposing no changes to the twelve qualified trust certificates and model documents at this time.

OGE is the supervising ethics office for the executive branch of the Federal Government under the Ethics in Government Act of 1978 (EIGA). Presidential nominees to executive branch positions subject to Senate confirmation and any other executive branch officials may seek OGE approval for EIGA qualified blind or diversified trusts as one means to be used to avoid conflicts of interest.

OGE is the sponsoring agency for the model certificates and model trust documents for qualified blind and diversified trusts of executive branch officials set up under section 102(f) of the Ethics in Government Act, 5 U.S.C. app. § 102(f), and OGE's implementing financial disclosure regulations at subpart D of 5 CFR part 2634. The various model certificates and model trust documents are utilized by OGE and settlors, trustees and other fiduciaries in establishing and administering these qualified trusts.

There are two categories of information collection requirements that OGE plans to submit for renewed paperwork approval, each with its own related reporting model certificates or model trust documents which are subject to paperwork review and approval by OMB. The OGE regulatory citations for these two categories, together with identification of the forms used for their implementation, are as follows:

i. Qualified trust certifications—5 CFR 2634.404(f) and (g), 2634.405(c) and (d), 2634.407, 2634.408(d)(4), 2634.410, 2634.414 and appendixes A and B to part 2634 (the two implementing forms, the Certificate of Independence and Certificate of Compliance, are codified respectively in the cited appendixes); and

ii. Qualified trust communications and model provisions and agreements—5 CFR 2634.404(f), 2634.407(a), 2634.408(a)–(c), 2634.407 and 2634.414 (the ten implementing forms are the: (A)

Blind Trust Communications (Expedited Procedure for Securing Approval of Proposed Communications); (B) Model Qualified Blind Trust Provisions; (C) Model Qualified Diversified Trust Provisions; (D) Model Qualified Blind Trust Provisions (For Use in the Case of Multiple Fiduciaries); (E) Model Qualified Blind Trust Provisions (For Use in the Case of an Irrevocable Pre-Existing Trust); (F) Model Qualified Diversified Trust Provisions (Hybrid Version); (G) Model Qualified Diversified Trust Provisions (For Use in the Case of Multiple Fiduciaries); (H) Model Qualified Diversified Trust Provisions (For Use in the Case of an Irrevocable Pre-Existing Trust); (I) Model Confidentiality Agreement Provisions (For Use in the Case of a Privately Owned Business); and (J) Model Confidentiality Agreement Provisions (For Use in the Case of Investment Management Activities)).

The communications formats and the confidentiality agreements (items ii.(A), (I) and (J) above), once completed, would not be available to the public because they contain sensitive, confidential information. All the other completed model trust certificates and model trust documents (except for any trust provisions that relate to the testamentary disposition of trust assets) are retained and made publicly available based upon a proper request under EIGA (by filling out an OGE Form 201 access form) until the periods for retention of all other reports (usually the OGE Form 278 Public Financial Disclosure Reports) of the individual establishing the trust have lapsed (generally six years after the filing of the last other report). See 5 CFR 2634.603(g)(2) of OGE's executive branch financial disclosure regulation.

The U.S. Office of Government Ethics administers the qualified trust program for the executive branch. At the present time, there are no active filers using the trust model certificates and documents. However, OGE intends to submit to OMB a request for extension of approval for two reasons. First, under OMB's implementing regulations for the Paperwork Reduction Act, at 5 CFR 1320.3(c)(4)(i), any recordkeeping, reporting or disclosure requirement contained in a sponsoring agency rule of general applicability is deemed to meet the minimum threshold of ten or more persons. Second, OGE does anticipate possible limited use of these forms during the forthcoming three-year period 2016–2019. Therefore, the estimated burden figures, representing branchwide implementation of the forms, will remain the same as previously reported by OGE in its prior first and second round paperwork renewal notice for the trust forms in 2013 and 2014 (77 FR 76293–76294 (December 27, 2012) and 78 FR 40144–40146 (December 1, 2009)). The estimate is based on the amount of time imposed on a trust administrator or private representative.

i. Trust Certificates:

A. Certificate of Independence: Total filers (executive branch): 5; private citizen filers (100%): 5; private citizen burden hours (20 minutes/certificate): 2.

B. Certificate of Compliance: Total filers (executive branch): 10; private citizen filers (100%): 10; private citizen burden hours (20 minutes/certificate): 3; and

ii. Model Qualified Trust Documents:

A. Blind Trust Communications: Total users (executive branch): 5; private citizen users (100%): 5; communications documents (private citizens): 25 (based on an average of five communications per user, per year); private citizen burden hours (20 minutes/communication): 8.

B. Model Qualified Blind Trust: Total users (executive branch): 2; private citizen users (100%): 2; private citizen burden hours (100 hours/model): 200.

C. Model Qualified Diversified Trust: Total users (executive branch): 1; private citizen users (100%): 1; private citizen burden hours (100 hours/model): 100.

D–H. Of the five remaining model qualified trust documents: Total users (executive branch): 2; private citizen users (100%): 2; private citizen burden hours (100 hours/model): 200.

I–J. Of the two model confidentiality agreements: Total users (executive branch): 1; private citizen users (100%): 1; private citizen burden hours (50 hours/agreement): 50.

However, the total annual reporting hour burden on filers themselves is zero and not the 563 hours estimated above because OGE's estimating methodology reflects the fact that all respondents hire private trust administrators or other private representatives to set up and maintain the qualified blind and diversified trusts. Respondents themselves, typically incoming private citizen Presidential nominees, therefore incur no hour burden. The estimated total annual cost burden to respondents resulting from the collection of information is $1,000,000. Those who use the model documents for guidance are private trust administrators or other private representatives hired to set up and maintain the qualified blind and diversified trusts of executive branch officials who seek to establish such qualified trusts. The cost burden figure is based primarily on OGE's knowledge of the typical trust administrator fee structure (an average of 1 percent of total assets) and OGE's experience with administration of the qualified trust program. The $1,000,000 annual cost figure is based on OGE's estimate of an average of five possible active trusts anticipated to be under administration for each of the next two years with combined total assets of $100,000,000. However, OGE notes that the $1,000,000 figure is a cost estimate for the overall administration of the trusts, only a portion of which relates to information collection and reporting. For want of a precise way to break out the costs directly associated with information collection, OGE is continuing to report to OMB the full $1,000,000 estimate for paperwork clearance purposes.

Public comment is invited on each aspect of the model qualified trust certificates and model trust documents, and underlying regulatory provisions, as set forth in this notice, including specific views on the need for and practical utility of this set of collections of information, the accuracy of OGE's burden estimate, the potential for enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology).

Comments received in response to this notice will be summarized for, and may be included with, the OGE request for extension of the OMB paperwork approval for the set of the various existing qualified trust model certificates, the model communications package, and the model trust documents. The comments will also become a matter of public record.

Approved: February 29, 2016.

Walter M. Shaub, Jr.,

Director, Office of Government Ethics.

[FR Doc. 2016–04822 Filed 3–3–16; 8:45 am]

BILLING CODE 6345–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting for the aforementioned committee:

Time and Date: 8:30 a.m.–3:00 p.m., EDT, March 30, 2016.

Place: Patriots Plaza I, 395 E Street SW., Room 9000, Washington, DC 20201.

Status: The meeting is open to the public, limited only by the space available. The meeting room accommodates approximately 33 people. The public is welcome to participate during the public comment period, 12:30 p.m.–12:45 p.m. EDT, March 30, 2016. Please note that the public comment period ends at the time indicated above or following the last call for comments, whichever is earlier. Members of the public who want to comment must sign up by providing their name by mail, email, or telephone, at the addresses provided below by March 18, 2016. Each commenter will be provided up to five minutes for comment. A limited number of time slots are available and will be assigned on a first come-first served basis. Written comments will be accepted to attendees who do not have the opportunity to speak at the meeting, and will also be accepted from those unable to attend the public session. The meeting is also open to the public via webcast. If you wish to attend in person or by webcast, please see the NIOSH Web site to register (*http://www.cdc.gov/niosh/bsc/*) or call (404–498–2539) at least five business days in advance of the meeting. Teleconference is available toll-free; please dial (888) 397–9578, Participant Pass Code 63257516.

Purpose: The Secretary, the Assistant Secretary for Health, and by delegation the Director, Centers for Disease Control and Prevention, are authorized under Sections 301 and 308 of the Public Health Service Act to conduct directly or by grants or contracts, research, experiments, and demonstrations relating to occupational safety and health and to mine health. The Board of Scientific Counselors provides guidance to the Director, National Institute for Occupational Safety and Health on research and prevention programs. Specifically, the Board provides guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings and disseminating results. The Board evaluates the degree to which the activities of the National Institute for Occupational Safety and Health: (1) Conform to appropriate scientific standards, (2) address current, relevant needs, and (3) produce intended results.

Matters for Discussion: NIOSH Director's update; Diacetyl in Coffee Roasting; Burden, Need, and Impact Framework for Research and National Occupational Research Agenda (NORA) 3; Translation Research, and the NIOSH Center for Maritime Safety and Health Studies.

Agenda items are subject to change as priorities dictate.

An agenda is also posted on the NIOSH Web site (*http://www.cdc.gov/niosh/bsc/*). Members of the public who wish to address the NIOSH BSC are requested to contact the Executive Secretary for scheduling purposes (see contact information below). Alternatively, written comments to the BSC may be submitted via an on-line form at the following Web site: *http://www.cdc.gov/niosh/bsc/contact.html.*

Contact Person for More Information: Paul J. Middendorf, Ph.D., Executive Secretary, BSC, NIOSH, CDC, 1600 Clifton Road NE., MS–E20, Atlanta, GA 30329–4018, telephone (404)498–2500, fax (404)498–2526.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2016–04713 Filed 3–3–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–16BZ]

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

Monitoring and Reporting for the Core State Violence and Injury Prevention Program Cooperative Agreement—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) seeks new OMB approval to collect information from awardees funded under the Core State Violence and Injury Prevention Program cooperative agreement program (Core SVIPP). CDC's National Center for Injury Prevention and Control (NCIPC) is committed to working with its partners to promote action that reduces injuries, violence, and disabilities, by providing leadership in identifying priorities, promoting prevention strategies, developing useful tools, and monitoring the effectiveness of Injury and Violence Prevention (IVP) program activities. Unintentional and violence-related injuries and their consequences are the leading causes of death for the first four decades of life, regardless of gender, race, or socioeconomic status.

More than 192,000 individuals in the United States die each year as a result of unintentional injuries and violence, and more than 31 million others suffer non-fatal injuries requiring emergency department visits each year. Support

and guidance for programs addressing IVP have been provided through cooperative agreement funding and technical assistance administered by NCIPC. Awardees report progress and activity information to NCIPC on an annual schedule using three documents: Annual Progress Report, Evaluation and Performance Management Plan, and Injury Indicator Spreadsheet. Burden is expected to vary based on awardee funding type. For example all awardees who successfully compete will be funded for the BASE component. However, awardees will also have the opportunity to compete to be funded for one or both of the Enhanced components. It is expected that those funded for Enhanced components will have a greater burden, given the requirement to report on more domains of activity.

Information to be collected will provide crucial data for program performance monitoring and provide CDC with the capacity to respond in a timely manner to requests for information about the program from the Department of Health and Human Services (HHS), the White House, Congress, and other sources. Information to be collected will also strengthen CDC's ability to monitor awardee progress, provide data-driven technical assistance, and disseminate the most current surveillance data on unintentional and intentional injuries.

The total estimated annualized burden for this collection is 3,120 hours. OMB approval is requested for three years. The only cost to respondents will be time spent on responding to the progress reports.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Core SVIPP BASE Awardees	Initial Population—Annual Progress Report	20	1	22
	Annual Progress Report	20	1	11
	Evaluation and Performance Management Plan.	20	1	2
	Injury Indicator Spreadsheet	20	1	14
Core SVIPP 1—Enhanced Component Awardees.	Initial Population—Annual Progress Report	5	1	73
	Annual Progress Report	5	1	58
	Evaluation and Performance Management Plan.	5	1	3
	Injury Indicator Spreadsheet	5	1	14
Core SVIPP 2—Enhanced Component Awardees.	Initial Population—Annual Progress Report	5	1	146
	Annual Progress Report	5	1	116
	Evaluation and Performance Management Plan.	5	1	4
	Injury Indicator Spreadsheet	5	1	14

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. 2016–04796 Filed 3–3–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10110, CMS–10387, CMS–10400 and CMS–10593]

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: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by April 4, 2016.

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:* Reinstatement of a previously approved collection; *Title of Information Collection:* Skilled Nursing Facility (SNF) Prospective Payment System and Consolidated Billing; *Use:* We are requesting approval of a reinstatement of a Change of Therapy OMRA for Skilled Nursing Facilities (SNFs). As described in CMS–1351–F, we finalized the assessment effective October 1, 2011. The SNFs are required to submit this assessment. The COT OMRA is comprised of a subset of resident assessment information developed for use by SNFs to satisfy a Medicare payment requirement. The burden associated with this is the SNF staff time required to complete the COT OMRA, SNF staff time to encode the data, and SNF staff time spent in transmitting the data. The SNFs are required to complete a COT OMRA when a SNF resident was receiving a sufficient level of rehabilitation therapy to qualify for an Ultra High, Very High, High, Medium, or Low Rehabilitation category and when the intensity of therapy (as indicated by the total reimbursable therapy minutes (RTM) delivered, and other therapy qualifiers such as number of therapy days and disciplines providing therapy) changes to such a degree that it would no longer reflect the RUG–IV classification and payment assigned for a given SNF resident based on the most recent assessment used for Medicare payment. The COT OMRA is a type of required PPS assessment which uses the same item set as the End of Therapy (EOT) OMRA. *Form Number:* CMS–10387 (OMB Control Number: 0938–1140); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other For-profits and Not-for-profit institutions); *Number of Respondents:* 15,421; *Total Annual Responses:* 678,524; *Total Annual Hours:* 701,119. (For policy questions regarding this collection contact Penny Gershman at 410–786–6643).

2. *Type of Information Collection Request:* Reinstatement of a previously approved collection; *Title of Information Collection:* Manufacturer Submission of Average Sales Price (ASP) Data for Medicare Part B Drugs and Biologicals; *Use:* In accordance with Section 1847A of the Social Security Act (the Act), Medicare Part B covered drugs and biologicals not paid on a cost or prospective payment basis are paid based on the average sales price (ASP) of the drug or biological, beginning in Calendar Year (CY) 2005. The ASP data reporting requirements are specified in Section 1927 of the Act. The reported ASP data are used to establish the Medicare payment amounts. The reporting template was revised in CY 2011 in order to facilitate accurate collection of ASP data. An accompanying user guide with instructions on the template's use was also created and included an explanation of the data elements in the template. *Form Number:* CMS–10110 (OMB Control Number: 0938–0921); *Frequency:* Quarterly; *Affected Public:* Private sector (Business or other For-profits); *Number of Respondents:* 180; *Total Annual Responses:* 720; *Total Annual Hours:* 34,560. (For policy questions regarding this collection contact Amy Gruber at 410–786–1542).

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Establishment of Exchanges and Qualified Health Plans; *Use:* The Patient Protection and Affordable Care Act, Public Law 111–148, enacted on March 23, 2010, and the Health Care and Education Reconciliation Act, Public Law 111–152, enacted on March 30, 2010 (collectively, ''Affordable Care Act''), expand access to health insurance for individuals and employees of small businesses through the establishment of new Affordable Insurance Exchanges (Exchanges), including the Small Business Health Options Program (SHOP).

As directed by the rule *Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers* (77 FR 18310) (Exchange rule), each Exchange will assume responsibilities related to the certification and offering of Qualified Health Plans (QHPs). To offer insurance through an Exchange, a health insurance issuer must have its health plans certified as QHPs by the Exchange. A QHP must meet certain minimum certification standards, such as network adequacy, inclusion of Essential Community Providers (ECPs), and non-discrimination. The Exchange is responsible for ensuring that QHPs meet these minimum certification standards as described in the Exchange rule under 45 CFR parts 155 and 156, based on the Affordable Care Act, as well as other standards determined by the Exchange. The reporting requirements and data collection in the Exchange rule address Federal requirements that various entities must meet with respect to the establishment and operation of an Exchange; minimum requirements that health insurance issuers must meet with respect to participation in a State based or Federally-facilitated Exchange; and requirements that employers must meet with respect to participation in the SHOP and compliance with other provisions of the Affordable Care Act. This proposed information collection was published in the **Federal Register** on November 23, 2015 (80 FR 72968). No comments were received. *Form Number:* CMS–10400; *Frequency:* Monthly, Annual; *Affected Public:* Private Sector; *Number of Respondents:* 11,004; *Number of Responses:* 11,485; *Total Annual Hours:* 55,775. (For policy questions regarding this collection, contact Leigha Basini at 301–492–4380.)

4. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Establishment of an Exchange by a State and Qualified Health Plans; *Use:* The Patient Protection and Affordable Care Act, Public Law 111–148, enacted on March 23, 2010, and the Health Care and Education Reconciliation Act, Public Law 111–152, enacted on March 30, 2010 (collectively, ''Affordable Care Act''), expand access to health insurance for individuals and employees of small businesses through the establishment of new Affordable Insurance Exchanges (Exchanges), including the Small Business Health Options Program (SHOP). As directed by the rule *Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers* (77 FR 18310) (Exchange rule), each Exchange will assume responsibilities related to the certification and offering of Qualified Health Plans (QHPs). To offer insurance through an Exchange, a health insurance issuer must have its health plans

certified as QHPs by the Exchange. A QHP must meet certain minimum certification standards, such as network adequacy, inclusion of Essential Community Providers (ECPs), and non-discrimination. The Exchange is responsible for ensuring that QHPs meet these minimum certification standards as described in the Exchange rule under 45 CFR parts 155 and 156, based on the Affordable Care Act, as well as other standards determined by the Exchange. The reporting requirements and data collection in the Exchange rule address Federal requirements that various entities must meet with respect to the establishment and operation of an Exchange; minimum requirements that health insurance issuers must meet with respect to participation in a State based or Federally-facilitated Exchange; and requirements that employers must meet with respect to participation in the SHOP and compliance with other provisions of the Affordable Care Act. Comments have been received, however; there were no comments that impacted the burden, and therefore no additional changes were made. *Form Number:* CMS–10593 (OMB Control Number: 0938–NEW); *Frequency:* Annually, Monthly; *Affected Public:* Private Sector; Business or other for-profit; *Number of Respondents:* 20; *Total Annual Responses:* 400; *Total Annual Hours:* 36,900. (For policy questions regarding this collection contact Christy Woods at 301–492–5140.)

Dated: March 1, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–04841 Filed 3–3–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10152]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are require; to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by May 3, 2016.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10152 Data Collection for Medicare Beneficiaries Receiving NaF–18 Positron Emission Tomography (PET) To Identify Bone Metastasis in Cancer

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

1. *Type of Information Collection Request:* Extension of a previously approved collection; *Title:* Data Collection for Medicare Beneficiaries Receiving NaF–18 Positron Emission Tomography (PET) to Identify Bone Metastasis in Cancer; *Use:* In Decision Memorandum #CAG–00065R, issued on February 26, 2010, the Centers for Medicare and Medicaid Services (CMS) determined that the evidence is sufficient to conclude that for Medicare beneficiaries receiving NaF–18 PET scan to identify bone metastasis in cancer is reasonable and necessary only when the provider is participating in and patients are enrolled in a clinical study designed to information at the time of the scan to assist in initial antitumor treatment planning or to guide subsequent treatment strategy by the identification, location and quantification of bone metastases in beneficiaries in whom bone metastases are strongly suspected based on clinical symptoms or the results of other diagnostic studies. Qualifying clinical studies must ensure that specific hypotheses are addressed; appropriate data elements are collected; hospitals and providers are qualified to provide the PET scan and interpret the results; participating hospitals and

providers accurately report data on all Medicare enrolled patients; and all patient confidentiality, privacy, and other Federal laws must be followed. Consistent with section 1142 of the Social Security Act (the Act), the Agency for Healthcare Research and Quality (AHRQ) supports clinical research studies that CMS determines meets specified standards and address the specified research questions. To qualify for payment, providers must prescribe certain NaF–18 PET scans for beneficiaries with a set of clinical criteria specific to each solid tumor. The statuary authority for this policy is section 1862(a)(1)(E) of the Act. The need to prospectively collect information at the time of the scan is to assist the provider in decision making for patient management. *Form Number:* CMS–10152 (OCN: 0938–0968); *Frequency:* Annual; *Affected Public:* Private Sector (Business or other for-profits); *Number of Respondents:* 25,000; *Total Annual Responses:* 25,000; *Total Annual Hours:* 2,084 hours. (For policy questions regarding this collection contact Stuart Caplan at 410–786–8564.)

Dated: March 1, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–04861 Filed 3–3–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0321]

Risk Assessment of Foodborne Illness Associated With Pathogens From Produce Grown in Fields Amended With Untreated Biological Soil Amendments of Animal Origin; Request for Scientific Data, Information, and Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments and for scientific data and information.

SUMMARY: The Food and Drug Administration (FDA or we) is requesting scientific data, information, and comments that would assist the Agency in its plan to develop a risk assessment for produce grown in fields or other growing areas amended with untreated biological soil amendments of animal origin (including raw manure). The risk assessment will evaluate and, if feasible, quantify the risk of human illness associated with consumption of produce grown in fields or other growing areas amended with untreated biological soil amendments of animal origin that are potentially contaminated with enteric pathogens, such as *Escherichia coli* O157:H7 or *Salmonella.* The risk assessment also will evaluate the impact of certain interventions, such as use of a time interval between application of the soil amendment and crop harvest, on the predicted risk. The risk assessment is intended to inform policy decisions with regard to produce safety.

DATES: Submit either electronic or written comments and scientific data and information by May 3, 2016.

ADDRESSES: You may submit comments and scientific data and information as follows:

Electronic Submissions

Submit electronic comments and scientific data and information in the following way:

• *Federal eRulemaking Portal*: *http://www.regulations.gov.* Follow the instructions for submitting comments. Comments and scientific data and information submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments and scientific data and information, that information will be posted on *http://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions)*: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments and scientific data and information submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–N–0321 for ''Risk Assessment of Foodborne Illness Associated with Pathogens from Produce Grown in Fields Amended with Untreated Biological Soil Amendments of Animal Origin; Request for Comments, Scientific Data, and Information''. Received comments and scientific data and information will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available submit your comments and scientific data and information only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments and scientific data and information. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and scientific data and information and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments and scientific data and information to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments and scientific data and information received, go to *http://*

www.regulations.gov and insert the docket number, 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: Jane Van Doren, Center for Food Safety and Applied Nutrition (HFS–005), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2927.

SUPPLEMENTARY INFORMATION:

I. Background

A. What are the food safety concerns related to untreated biological soil amendments of animal origin?

Biological soil amendments of animal origin (BSAAO) can be a source of contamination of produce with pathogens that can cause human illness. Human pathogens in BSAAO, once introduced to the growing environment, may be inactivated at a rate that is dependent upon a number of environmental, regional, and other agricultural and ecological factors. The rate of pathogen population decline over time is also influenced by the types of BSAAO and application methods. Furthermore, the types of produce and whether or not BSAAO may come into contact with a harvestable portion of the crop influences the likelihood of pathogen transfer from the amended soil to produce (Ref. 1).

Some produce farms use untreated BSAAO for various reasons, including that they are inexpensive, readily available, and rich nutrient sources for growing crops. Whether it is feasible for a farm to use untreated BSAAO as a principal nutrient source depends on numerous factors, including whether there is a required time interval between application and harvest and the length of such an interval (which may affect the nutrients retained or available from BSAAO), and crop nutrient demand (*i.e.,* the nutrients needed to support crop growth). Typical examples of untreated BSAAO are raw cattle manure, poultry litter, swine slurry, and horse manure. FDA acknowledges that required application intervals for certain uses of untreated BSAAO could influence the number of crop cycles a farm is able to undertake each year and/or the choices farms make regarding which type of amendment to apply (*e.g.,* raw manure, composted manure, or other nutrient sources).

B. How did FDA's rule on produce safety address BSAAO?

In January 2013, based in part upon authority provided by the FDA Food Safety Modernization Act, we published a proposed Produce Safety Rule entitled ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption'' (78 FR 3504, January 16, 2013). Among other provisions related to BSAAO, the proposed rule included at § 112.56(a)(1)(i) (21 CFR 112.56(a)(1)(i)) a 9-month minimum application interval for untreated BSAAO applied in a manner that does not contact covered produce during application and minimizes the potential for contact with covered produce after application (78 FR 3504 at 3637). In response to public comments, we withdrew this proposed 9-month minimum application interval in a supplemental proposed rulemaking that we published on September 29, 2014 (79 FR 58434 at 58457 through 58461). In the supplemental proposed rule, we acknowledged the limited body of currently available scientific evidence relating to the proposed 9-month interval and the need for additional research in this area, and described our planned risk assessment and research agenda (79 FR 58434 at 58460 through 58461). Accordingly, we deferred our decision on an appropriate minimum application interval.

On November 27, 2015, we published a final Produce Safety Rule entitled ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption,'' (80 FR 74354). The final rule is now codified at 21 CFR part 112. In the preamble to the final rule, we restated our decision with respect to the appropriate minimum BSAAO application interval (80 FR 74354 at 74463). We reserved one of the provisions in the final rule's Subpart F (Biological Soil Amendments of Animal Origin and Human Waste) because we continue to believe that a quantitative application interval standard is necessary and anticipate locating such a future standard in that provision. As finalized, the Produce Safety Rule establishes that there is no minimum application interval required when untreated BSAAO are applied in a manner that does not contact covered produce during or after application (§ 112.56(a)(1)(ii)), and the minimum application interval is [reserved] when applied in a manner that does not contact produce during application and minimizes the potential for contact with produce after application (§ 112.56(a)(1)(i)).

II. FDA's Risk Assessment

FDA, in consultation with the U.S. Department of Agriculture, is conducting a risk assessment to evaluate the risk of human illness associated with the consumption of produce grown in growing areas amended with untreated BSAAO that are potentially contaminated with enteric pathogens such as *E. coli* O157:H7 or *Salmonella.* The risk assessment will evaluate the impact of different agricultural and ecological conditions and certain interventions, such as use of a time interval or intervals between application of untreated BSAAO and crop harvest, on the predicted risk. The risk assessment will take into account available data and information on relevant steps in the produce food safety continuum including: The initial prevalence and levels of pathogens in untreated BSAAO; the methods used to apply untreated BSAAO to soils; pathogen survival (and growth) in untreated BSAAO and soils amended with untreated BSAAO; pathogen transfer to produce grown in amended soils; pathogen survival and growth on produce; and pathogen survival, growth, and cross-contamination during storage and other steps in the supply chain (*e.g.,* washing). The risk assessment will include characterization of the variability and uncertainty of pathogen survival and growth under different agricultural and ecological conditions (*e.g.,* soil types, application methods, or geographic locations/climatic factors) and time intervals between application of untreated BSAAO and crop harvest. The risk assessment is intended to inform policy decisions with regard to produce safety.

III. Issues for Consideration

FDA is requesting comments and scientific data and other information relevant to this risk assessment. We are particularly interested in scientific data and information concerning, but not limited to, the following factors that may affect the risk of human illness associated with the consumption of produce grown in fields or other growing areas amended with untreated BSAAO (including raw manure):

1. Data on the prevalence and levels of pathogens.

a. The frequency of detecting the presence of pathogens in untreated BSAAO and soil amended with BSAAO, such as *Salmonella* in poultry litter, and *E. coli* O157:H7 and other pathogenic Shiga-toxin producing *E. coli* in cattle manure. Samples may be obtained at different stages of untreated BSAAO storage prior to application, or after

application. If available, for each data point, we also invite information regarding the following:

▪ The type of untreated BSAAO (*e.g.,* animal origin and content);

▪ how the untreated BSAAO, including raw manure, was sampled and handled prior to analysis;

▪ the size of the analytical unit (*i.e.,* detection limit) and test method;

▪ the number of positives, the total number of samples, and the time period in which the testing was conducted; and

▪ sampling protocol (*e.g.,* simple random, stratified random, targeted).

b. The pathogen concentration, *i.e.,* the number of pathogen cells per amount (unit volume or weight), in contaminated untreated BSAAO or soil amended with untreated BSAAO, especially cattle manure and poultry litter. If available, for each data point, we ask that the data be provided in unaggregated form and that Most Probable Number (MPN) patterns as well as raw data (*e.g.,* number of positive and negative tubes per serial dilution) be provided.

2. Data and information on survival of pathogens (*e.g., Salmonella, E. coli* O157:H7), and pathogen transfer to produce.

a. Kinetic data that describe the survival (or inactivation) or growth of pathogens in untreated BSAAO, especially cattle manure and poultry litter;

b. Kinetic data that describe the survival (or inactivation) or growth of pathogens in soil amended with untreated BSAAO, especially cattle manure and poultry litter, as influenced by soil type, untreated BSAAO type, application method, geographic locations/climatic factors (*e.g.,* temperature, days of sunlight, intensity of solar irradiation, moisture, rainfall) and other factors;

c. The mechanisms for pathogen transfer from soils to specific types or categories of produce, such as leafy greens, or to produce generally, and associated transfer coefficients, including irrigation and rain water splash, direct contact between produce and soil, machinery or people or animals contaminated by soil and directly contacting produce during growth and harvest of produce;

d. Pathogen transfer rates (*i.e.,* transfer coefficients) from amended soils to specific types or categories of produce, such as leafy greens, or to produce generally, as influenced by soil type, untreated BSAAO type, application method, climate factors, commodity type or any other pertinent factors not listed here;

e. The survival of pathogens on produce in the field or other growing area before harvest; and

f. The variability in the survival of different *Salmonella* serotypes, different subtypes of *E. coli* O157:H7, or other pathogens of public health significance in amended soils under field, greenhouse, or laboratory conditions.

3. On-farm practices with regard to the use of untreated BSAAO, including, but not limited to, the following aspects.

a. The extent to which untreated BSAAO are used in different regions in the United States, as well outside the United States in regions that export produce to the United States;

b. The types of untreated BSAAO and the soil type, and associated physical and chemical parameters (including but not exclusive to nutrient content, moisture and pH); and the crops typically grown in each BSAAO-amended soil type;

c. Characterization of the proportion of produce farms that have one or more soil types per geographical location;

d. The amount of untreated BSAAO applied per unit surface (*e.g.,* per acre) or the ratio of untreated BSAAO/soil, including typical ratio and variability by commodity type, including, for example, row crops such as leafy greens;

e. The time of year, number of applications, and amount of untreated BSAAO that are applied;

f. The method of application (*e.g.,* surface, incorporated), and whether or not the amended soil is covered (*e.g.,* with plastic mulch);

g. Produce commodity type and cropping cycles;

h. Climate conditions and irrigation practices after soil is amended, before and after planting; and

i. The crop density (*e.g.,* the number of rows per bed, and the distance between adjacent rows in a bed), distance between two crop beds (furrow width), and the influence of such factors on pathogen transfer.

4. Harvesting, handling, and storage conditions that may affect pathogen detection and levels, survival, growth, or inactivation between harvest and retail sale along the farm-to-fork continuum.

a. The harvesting practices and the average conditions as well as the range of climactic conditions prior to harvesting (*e.g.,* time and temperature, rain events) under which produce is handled in the field and in packing operations;

b. The survival, growth, or inactivation of pathogens on produce (including, for example, specific commodities or categories such as leafy greens, or produce generally) during transportation and storage;

c. Typical storage conditions (*e.g.,* time, temperature) for produce (including, for example, specific commodities or categories, such as leafy greens, or produce generally), from harvest until consumer purchase and whether and how those storage conditions affect pathogen levels; and

d. The types and concentration of antimicrobial chemicals or other treatments, if any, applied to the water used for wash or transport of produce during farm or other distribution operations prior to retail, and the efficacy of these treatments in reducing pathogen levels, as well as the likelihood of cross-contamination during wash or transport.

5. Storage conditions such as times and temperatures that may affect pathogen growth and/or survival during transportation and storage of produce in the consumer's home, and consumer handling practices with respect to produce after purchase, including data and information on consumer washing practices.

We are also interested in other comments concerning, but not limited to, the types of untreated BSAAO, produce commodities, relevant agricultural and ecological conditions, and appropriate mitigation strategies that the Agency should consider in the risk assessment.

IV. Reference

The following reference is on display in the Division of Dockets Management (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *http://www.regulations.gov.* FDA has verified the Web site address, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. Food and Drug Administration, 2015. ''Final Qualitative Assessment of Risk to Public Health from On-Farm Contamination of Produce.'' Available at: *http://www.fda.gov/downloads/Food/FoodScienceResearch/RiskSafetyAssessment/UCM470780.pdf.* Accessed January 20, 2016.

Dated: February 29, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04712 Filed 3–3–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0386]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Registration and Product Listing for Owners and Operators of Domestic Tobacco Product Establishments and Listing of Ingredients in Tobacco Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Registration and Product Listing for Owners and Operators of Domestic Tobacco Product Establishments and Listing of Ingredients in Tobacco Products'' 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 July 29, 2015, the Agency submitted a proposed collection of information entitled ''Registration and Product Listing for Owners and Operators of Domestic Tobacco Product Establishments and Listing of Ingredients in Tobacco Products'' 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 0910–0650. The approval expires on January 31, 2019. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: February 29, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04703 Filed 3–3–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0701]

Intent to Review a Nonclinical Study Data Reviewer's Guide Template

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; request for comments.

SUMMARY: The Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), is establishing a public docket to collect comments related to a proposed Nonclinical Study Data Reviewer's Guide (SDRG) template. As part of FDA's ongoing collaboration with the Pharmaceutical Users Software Exchange (PhUSE), an independent, non-profit consortium addressing computational science issues, a PhUSE working group developed the PhUSE Nonclinical SRDG template. The purpose of this review is to evaluate the template and determine whether FDA will recommend its use either as is, or in a modified form, for regulatory submissions of nonclinical study data. FDA is seeking public comment on the use of the PhUSE Nonclinical SDRG template for regulatory submissions.

DATES: Although you can comment on the PhUSE Nonclinical SRDG template at any time, to ensure that the Agency considers your comments in this review, please submit either electronic or written comments by May 3, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–N–0701 for ''Intent to Review a Nonclinical Study Data Reviewer's Guide Template.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR

56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, 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: Crystal Allard, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, Rm. 1518, Silver Spring, MD 20993–0002, 301–796–8856, *crystal.allard@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is a participating member of PhUSE, an independent, non-profit consortium of academic, regulatory, non-profit, and private sector entities. PhUSE provides a global platform for the discussion of topics encompassing the work of biostatisticians, data managers, statistical programmers, and e-clinical information technology professionals, with the mission of providing an open, transparent, and collaborative forum to address computational science issues. As part of this collaboration, PhUSE working groups develop and periodically publish proposals for enhancing the review and analysis of human and animal study data submitted to regulatory agencies. You can learn more about PhUSE working groups at *http://www.phuse.eu/cs-working-groups.aspx.* (FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.)

In December 2014, FDA published the Study Data Technical Conformance Guide (the ''Guide,'' available at *http://www.fda.gov/ForIndustry/DataStandards/StudyDataStandards/default.htm*), which contains technical recommendations to sponsors for the submission of animal and human study data and related information in a standardized electronic format. In section 2.2 of the Guide, FDA recommends that each submitted study contain a Study Data Reviewer's Guide containing any special considerations or directions that may facilitate review of the study data. FDA notes in the Guide that the PhUSE SDRG template is an example of how to create an SDRG but does not specifically recommend its use. Although the Guide does not specify specific SDRGs for clinical and nonclinical studies, PhUSE project groups have created separate clinical and nonclinical studies templates. This notice applies specifically to the nonclinical SDRG template. A separate notice was issued for the clinical SDRG template in July 2015 (see ''Intent to Review a Study Data Reviewer's Guide Template'' (80 FR 43779, July 23, 2015)).

FDA now intends to review the PhUSE Nonclinical SDRG template, a deliverable of the working group effort described previously in this document, with the potential result that FDA could recommend the use of the template in its current form, or in a modified form, for use in the regulatory submission of study data in conformance with the Guide. FDA invites public comment on all matters regarding the use of the PhUSE Nonclinical SDRG template.

II. Electronic Access

The PhUSE Nonclinical SDRG template is available at *http://www.phusewiki.org/wiki/index.php?title=Study_Data_Reviewer's_Guide.*

Dated: February 29, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04791 Filed 3–3–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3287]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Medical Device User Fee Small Business Qualification and Certification

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 4, 2016.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0508 and title ''Medical Device User Fee Small Business Qualification and Certification.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medical Device User Fee Small Business Qualification and Certification

OMB Control Number 0910–0508—Extension

Section 101 of the Medical Device User Fee and Modernization Act (MDUFMA) (Pub. L. 107–250) amends the Federal Food, Drug, and Cosmetic Act, to provide for user fees for certain medical device applications. FDA published a **Federal Register** notice on August 3, 2015 (80 FR 46033), announcing fees for fiscal year (FY) 2016. To avoid harming small businesses, MDUFMA provides for reduced or waived fees for applicants who qualify as a small business. This means there are two levels of fees; a standard fee and a reduced or waived small business fee. You can qualify for a small business fee discount under MDUFMA if you reported gross receipts or sales of no more than $100 million on your Federal income tax return for the most recent tax year. If you have any affiliates, partners, or parent firms, you must add their gross receipts or sales to yours, and the total must be no more than $100 million. If your gross receipts or sales are no more than $30 million, including all of your affiliates, partners, and parent firms, you will also qualify for a waiver of the fee for your first (ever) premarket application (product development protocol, biologics licensing application, or premarket report). An applicant must pay the full standard fee unless it provides evidence demonstrating to FDA that it meets the small business criteria (Form FDA 3602, ''FY 2016 MDUFMA Small Business Qualification Certification—For a Business Headquartered in the United

States''). The evidence required by MDUFMA is a copy of the most recent Federal income tax return of the applicant, and any affiliate, partner, or parent firm. FDA will review these materials and decide whether an applicant is a small business within the meaning of MDUFMA.

The 2007 Amendments provide an alternative way for a foreign business to qualify as a small business eligible to pay a significantly lower fee when a medical device user fee must be paid (Form FDA 3602A, ''FY 2016 MDUFMA Foreign Small Business Qualification Certification—For a Business Headquartered Outside the United States''). Before passage of the 2007 Amendments, the only way a business could qualify as a small business was to submit a Federal (U.S.) income tax return showing its gross receipts or sales that did not exceed a statutory threshold, currently, $100 million. If a business could not provide a Federal income tax return, it did not qualify as a small business and had to pay the standard (full) fee. Because many foreign businesses have not, and cannot, file a Federal (U.S.) income tax return, this requirement has effectively prevented those businesses from qualifying for the small business fee rates. Thus, foreign governments, including the European Union, have objected. In lieu of a Federal income tax return, the 2007 Amendments will allow a foreign business to qualify as a small business by submitting a certification from its national taxing authority, the foreign equivalent of our Internal Revenue Service. This certification, referred to as a ''National Taxing Authority Certification,'' must: (1) Be in English; (2) be from the national taxing authority of the country in which the business is headquartered; (3) provide the business' gross receipts or sales for the most recent year, in both the local currency and in U.S. dollars, and the exchange rate used in converting local currency to U.S. dollars; (4) provide the dates during which the reported receipts or sales were collected; and (5) bear the official seal of the national taxing authority.

Both Forms FDA 3602 and FDA 3602A are available in the guidance document, ''FY 2016 Medical Device User Fee Small Business Qualification and Certification; Guidance for Industry, Food and Drug Administration Staff, and Foreign Governments'' available on the Internet at: *http://www.fda.gov/ucm/groups/fdagov-public/@fdagov-meddev-gen/documents/document/ucm456779.pdf*. This guidance describes the criteria FDA will use to decide whether an entity qualifies as a MDUFMA small business and will help prospective applicants understand what they need to do to meet the small business criteria for FY 2016.

The estimated burden is based on the number of applications received in the last 3 years and includes time required to collect the required information. Based on our experience with Form FDA 3602, FDA believes it will take each respondent 1 hour to complete the form. Based on our experience with Form FDA 3602A, FDA also believes that it will take each respondent 1 hour to complete.

In the **Federal Register** of September 17, 2015 (80 FR 55854), FDA published a 60-day notice requesting public comment on the proposed collection of information. Although one comment was received, it was not responsive to the four collection of information topics solicited and therefore will not be discussed in this document.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

FDA Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
FDA 3602—FY 2016 MDUFA Small Business Qualification and Certification For a Business Headquartered in the United States	3,600	1	3,600	1	3,600
FDA 3602A—FY 2016 MDUFA Foreign Small Business Qualification and Certification For a Business Headquartered Outside the United States	1,400	1	1,400	1	1,400
Total					5,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: February 29, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04704 Filed 3–3–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–0435]

Labeling for Permanent Hysteroscopically-Placed Tubal Implants Intended for Sterilization, Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Labeling for Permanent Hysteroscopically-Placed Tubal Implants Intended for Sterilization.'' This draft guidance addresses the inclusion of a boxed warning and a patient decision checklist in the product labeling for permanent hysteroscopically-placed tubal implants intended for female sterilization and as well as the content and format of those materials. This draft guidance is being issued in response to information provided to FDA, including in comments made at a 2015 Panel meeting and in comments submitted to the associated public docket, that women are not receiving or understanding information relating to the risks and benefits of this type of device. This draft

guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by May 3, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–0435 for ''Labeling for Permanent Hysteroscopically-Placed Tubal Implants Intended for Sterilization.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, 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.

Submit written requests for a single copies of the guidance to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request. See **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Jason Roberts, Division of Reproductive, Gastro-Renal, and Urological Devices, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G218, Silver Spring, MD 20993–0002, 240–402–6400.

SUPPLEMENTARY INFORMATION:

I. Background

Female sterilization is a commonly performed surgical procedure that permanently prevents a woman from becoming pregnant by occluding her fallopian tubes. Traditionally, surgery has been performed by bilateral tubal ligation (BTL) through a laparotomy, a mini-laparotomy, transvaginal approach or at the time of cesarean delivery, and, more recently, laparoscopy. During BTL, the fallopian tubes are cut or physically occluded by using various procedures or medical instruments, such as electrosurgical coagulation, implantable clips, or rings. On November 4, 2002, FDA approved the Essure System for Permanent Birth Control, the first permanent hysteroscopically-placed tubal implant, as an alternative, non-incisional method of providing female sterilization. As the number of hysteroscopic sterilizations with such devices has increased, additional information, including reports of adverse events, has accumulated. Some of these events have resulted in surgery and/or removal of the implants.

The **Federal Register** on July 22, 2015 (80 FR 43440), announced a meeting of a public advisory committee of the FDA to seek expert scientific and clinical opinion on the risks and benefits of the Essure System for Permanent Birth Control. On September 24, 2015, FDA convened its Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee to discuss available data regarding benefits, risks, and potential mitigation strategies to prevent or reduce the frequency/severity of the adverse events reported in association with this device (Ref. 1). FDA is issuing this draft guidance document after considering the input of the Panel members and other stakeholders. FDA believes that the labeling described in this guidance will help to ensure that women are receiving and understanding information about the risks and benefits of these devices so that they can make informed decisions regarding use of these devices. In addition to issuing this guidance, FDA continues to determine what, if any, further actions are warranted in response to these reported adverse events.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Labeling for Permanent Hysteroscopically-Placed Tubal Implants Intended for Sterilization.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Labeling for Permanent Hysteroscopically-Placed Tubal Implants Intended for Sterilization'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500051 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 801, regarding labeling have been approved under OMB control number 0910–0485.

V. Reference

The following reference is on display in the Division of Dockets Management (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it are also available electronically at *http://www.regulations.gov.* FDA has verified the Web site address, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. Meeting Materials of the Obstetrics and Gynecology Devices Panel (2015), available at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/ObstetricsandGynecologyDevices/ucm463457.htm.*

Dated: February 29, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04790 Filed 3–3–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Announcement of Requirements and Registration for the Opioid Overdose Prevention Challenge

Authority: 15 U.S.C. 3719.

AGENCY: SAMHSA, HHS.

ACTION: Notice.

SUMMARY: In summarizing the challenge that will be issued by your agency, please answer the following four questions:

(1) What action is being taken?

The Substance Abuse and Mental Health Services Administration (SAMHSA) has issued a challenge to developers to help support patients in recovery who are receiving medication assisted treatment for opioid use disorder with an innovative app that provides features and information that support their recovery.

(2) Why is this action necessary?

Addressing the opioid epidemic is a top priority for the U.S. Department of Health and Human Services and the Secretary is committed to evidence-informed interventions to turn the tide against opioid drug-related overdose and misuse. To that end, Substance Abuse and Mental Health Services Administration (SAMHSA) is issuing a three-month challenge to spur developers to create an app that provides additional recovery support to patients receiving outpatient medication-assisted treatment for opioid use disorder.

(3) What is the objective of the challenge?

To provide support to people in recovery from opioid use disorder receiving medication assisted-treatment so that they can maintain treatment and achieve long-term recovery.

(4) What is the intended effect of this action?

An increase in the number of individuals with opioid use disorders maintaining recovery; and a reduction in the number of deaths from opioid overdose.

DATES: The challenge starts on March 4, 2016 10:00 a.m. ET. The challenge ends on May 27, 2016 11:59 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Danielle Tarino Rivkin, Health Information Technology Team, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services, Public Health Advisor, SAMHSA/CSAT, 5600 Fishers Lane, Rockville, MD 20857, Phone: 240.276.2857, Email: *Danielle.Tarino@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition: Opioid Recovery Support.

Eligibility Rules for Participating in the Competition

To satisfy the mandatory provisions of the COMPETES Act, use the following language:

A. The Competition is open only to:

(i) Individuals who are at least 18 years of age at the time of entry, and are citizens or permanent residents of the United States as of the time of entry;

(ii) teams of eligible individuals where each team member meets the eligibility requirements for individual Contestants; and

(iii) corporations (including not-for-profit corporations and other nonprofit organizations), limited liability companies, partnerships, and other legal entities that, at the time of entry, are domiciled (or incorporated) in the United States, have been duly organized or incorporated and validly exist, and employ no more than one hundred (100) people (''Organizations'').

B. Each team or Organization shall appoint one individual (the ''Representative'') to represent and act, including entering a Submission, on behalf of said team or Organization. The Representative must meet the eligibility requirements for an individual Contestant and must be duly authorized to submit on behalf of the team or Organization. The Representative represents and warrants that: (i) He/she is duly authorized to act on behalf of the team or Organization; and (ii) each member of the team (or in the case of Organization, each participating member) has read the Official Rules and agrees to abide by these Official Rules. The Representative will ensure that each member of the team or Organization reads, agrees to, and complies with the Official Rules.

C. An individual may join more than one team or Organization, and an individual who is part of a team or Organization may also enter the Competition on an individual basis.

D. The following individuals, teams, and Organizations are not eligible regardless of whether or not they meet the criteria set forth above:

(i) The Sponsor, the Administrator, and any advertising agency, contractor or other organization involved with the design, production, promotion, execution, or distribution of the Competition (collectively ''Promotion Entities''); all employees, representatives and agents of such Promotion Entities; and all members of any such employee, representative or agent's immediate family or household;

(ii) any individual involved with the design, production, promotion, execution, or distribution of the Competition and each member of any such individual's immediate family or household;

(iii) any company or individual that employs any Judge or that otherwise has a material business relationship or affiliation with any Judge;

(iv) any parent company, subsidiary, or other affiliate of any company described above.

E. This Challenge falls under the COMPETES Act. As such, if a Contestant is a federal grantee, they may not use federal funds to develop COMPETES Act challenge applications unless consistent with the purpose of their grant award.

F. If Contestant is a federal contractor, they may not use federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act challenge submission.

G. For purposes hereof:

(i) The members of an individual's immediate family include such individual's spouse, children and step-children, parents and step-parents, and siblings and step-siblings; and

(ii) the members of an individual's household include any other person that shares the same residence as such individual for at least three (3) months out of the year.

H. A Contestant will not be deemed ineligible because the individual or entity used federal facilities or consulted with federal employees during a competition if the facilities and employees are made available to all Contestants participating in the competition on an equitable basis.

Registration Process for Participants

(i) Beginning on March 4, 2016 at 10:00 a.m. Eastern Time, visit *http://samhsaopioidrecoveryapp.devpost.com/* (the ''Competition Web site'') and click ''Sign Up'' to create a Devpost account, or click ''Log In'' and log in with an existing Devpost account. There is no charge for creating a Devpost account.

(ii) After a Contestant signs up on the Competition Web site, a confirmation email will be sent to the email address provided by the Contestant. The Contestant should use the confirmation email to verify their email address.

(iii) Contestant should indicate their agreement in participating by clicking ''Register'' on the Competition Web site in order to receive important Competition updates.

(iv) In the event of a dispute pertaining to this Competition, the authorized account holder of the email address used to sign up for the Devpost account used to enter the Submission will be deemed to be the Contestant (in case of an individual) and the Contestant's Representative, in the case of a team or Organization. The ''authorized account holder'' is the natural person or legal entity assigned an email address by an Internet access provider, online service provider or other organization responsible for assigning email addresses for the domain associated with the submitted address. Contestants generally and potential winners may be required to show proof of being the authorized account holder.

Amount of the Prize: 1st prize: $15,000 cash; 2nd prize: $7,500 cash; 3rd prize: $5,000 cash.

Payment of the Prize: Prize payment will be paid by contractor.

Basis Upon Which Winner Will Be Selected

A. All eligible Submissions will be judged by an expert panel of impartial judges (the ''Judges'') selected by the Sponsor. The internal panel will judge these Submissions on the criteria identified in these Official Rules to select finalist Submissions. Finalist Submissions will then be judged by the expert judging panel determined by the Sponsor. The judging panel is not required to test the Application and may choose to judge based solely on the text description and video provided in the Submission. The Sponsor and the Administrator reserve the right to divide and assign the criteria identified below in these Official Rules among different members of the internal and expert judging panels. The Sponsor and the Administrator reserve the right to substitute or modify the judging panel at any time for any reason.

B. All Judges shall be and remain fair and impartial. Any Judge may recuse him or herself from judging a Submission if the Judge, the Sponsor or the Administrator considers that it is inappropriate, for any reason, for the Judge to evaluate a specific Submission or group of Submissions.

C. A Contestant's likelihood of winning will depend primarily on the number and quality of all of the Submissions, as determined by the Judges using the criteria in these Official Rules. The judging period is May 30, 2016 at 10:00 a.m. Eastern Time through July 1, 2016 at 11:59 p.m. Eastern Time (the ''Judging Period'').

D. Criteria:

Judging Criteria:

a. Quality of Idea (Includes the degree to which the proposed app can support patient recovery by addressing the required and optional insights, the creativity of the idea and the innovation of the proposed app to support recovery).

b. Implementation of Idea (Includes how well the idea was implemented including the user experience, design and technical functionality).

c. Potential Impact (Includes the patient value and potential impact the application can have for individuals in recovery).

E. If deemed necessary by the judging panel, each of the top five finalists may be asked to participate in a virtual or in-person meeting with federal staff to discuss their Application and demonstrate its operation. The purpose of these meetings will be to further evaluate the Contestant's product, provide any additional information to SAMHSA, and clarify any concerns or questions raised by the review panel.

F. Tie Breakers. In the event of a tie between two or more Submissions, the panel of Judges will vote on the tied submissions.

G. The Sponsor reserves the right, in its sole discretion, to

a. cancel, suspend, or modify the Challenge, and/or

b. not award any prizes if no submissions are deemed worthy.

H. All decisions made by the Sponsor regarding adherence to contest rules are final.

I. All selection of contest winners is final.

Additional Information

B. Submission

(i) Contestants must create a working software application. Apps must be developed as either:

a. iOS or Android, as a downloadable app.

Contestants can submit an app developed for just one operating system

(OS) but the 1st place winner must develop for both iOS and Android within six months of winning the prize

OR

b. an HTML5 mobile web application accessible via a mobile browser (Chrome or Safari) on the device.

(i) The 1st place winner will need to host the HTML5 mobile web app for at least 2 years from delivery of signed affidavit by prizewinner

c. both a. and b. above.

(ii) During the Competition Submission Period, Contestant must visit the Competition Web site and confirm that he or she has, or if Contestant is a Representative, all members of their team or Organization have, read and agree to the Official Rules. Then, Contestant must submit its Submission by providing the following items included in subsections a-n below:

a. The name of the Application;

b. a brief text description (no more than 350 words) of the Application and how it functions; including a list of the features and how they address the insights provided in Attachment A. If any additional resources have been provided in the Application by the Contestant, the Contestant will submit an Excel or .csv file with a list of all the additional resources that includes the title of the resource; the source of the resource; and a link to the resource if applicable. Additionally, if Application uses any additional copyrighted material, contestant must have written consent to use it. The Administrator and/or Sponsor reserves the right to request additional documentation from Contestants to verify this information.

c. a text description of testing instructions for the app;

d. at least one image (screenshot) of the working Application;

e. a link to a video uploaded to Devpost.com and YouTube.com that clearly demonstrates the Application's functionality and features (by walking through the Application);

f. the Application platform (iOS, Android, HTML5 Web);

g. for Android applications: The Android APK file and any other associated files needed to run the app or a link to the app in the Google Play store;

h. for IOS applications:

If your Application is available on the iTunes App Store provide a link in the ''Web site URL'' field on ''Enter a Submission'' form. If you charge a fee for downloading your Application, you must provide a promo code.

If your Application is not yet publicly available on the iTunes App Store, you must send a test build to the Administrator before the end of the Challenge Submission Period using one of the following methods: The iOS App file registered to the reviewers unique device ID (UDID), the Sponsor will provide UDIDs upon request (see contact info at the end of the rules section). For more details see: *https://developer.apple.com/library/ios/documentation/IDEs/Conceptual/AppDistributionGuide/TestingYouriOSApp/TestingYouriOSApp.html*.

OR, provide a link to the app in the Apple iTunes store;

OR contestants can use one of the following options:

Beta by Crashalytics You may send the Administrator a beta test via Crashalytics. Use the Administrator's testing email (*challenges@abtassoc.com*) and UDID's (Sponsor will provide UDIDs upon request) to provision a build and send the Administrator a link via the ''Share Links'' button. Add the testing link to the Enter a Submission form under ''iOS Build Link''. Beta by Crashalytics is a free service. Please review the how-to for their Beta Distribution tool.

Diawi Send the beta file via Diawi. After uploading your file, Diawi creates a unique short URL to access the installation page (for ex: aBcDeF). When opened in Safari on the iOS device, the page will display a link to install the application. Note that you will need to include provisioning for one or more of the UDIDs the Sponsor will provide upon request.

i. for Web or HTML5 mobile Web: A link to a Web site where the application can be accessed free of charge;

j. step-by-step testing instructions including the minimum operating system or Web browser version required for testing and login instructions, if a login is required;

k. the submitter type (individual, team, or organization);

l. the Organization name, if the submitter is an Organization; and

m. the Contestant Representative's phone number;

n. the Contestant's email address.

(Note that items a-n above, are collectively a ''Submission.'')

(2) For sake of clarity, all parts of the Submission must be entered at the same time on the Competition Web site. All Submissions must be received by no later than 11:59 p.m. Eastern Time on May 27, 2016. Applications that cannot be accessed for judging during the Judging Period will be disqualified.

(3) Once a Submission has been submitted and the Competition Submission Period has ended, a Contestant may not make any changes or alterations to the Submission until the end of the Judging Period. Contestants may save draft versions of their Submission before entering it on the Competition Web site.

(4) The Sponsor and/or the Administrator, at their sole discretion, may permit a Contestant to modify part of the Submission after the Competition Submission Deadline for the purpose of removing material that potentially infringes a third party mark or right, discloses personally identifiable information, or is otherwise inappropriate or deemed not relevant by the administrator. The modified Submission must remain substantively the same as the original Submission with the only modification being what is permitted by the Sponsor and/or Administrator. Any modifications beyond what is permitted may result in disqualification.

(5) Applications cannot be changed after the Competition Submission Period and before the end of the Judging Period, unless the Contestant has provided an installation file and testing instructions on the Enter an Application form on the Competition Web site.

(6) Upon award the winner must submit a project directory with all supporting assets, such as uncompiled code, data, images, etc., belonging to the application for review.

5. Submission Requirements

A. Language Requirements

All Submission materials must be in English.

B. Text Description, Image and Video Requirements

(i) The text description must describe the Application's key features and functionality, and must outline how the features address the insights specified by the Administrator in Attachment A.

(ii) The image(s) must be photographs or screenshots of your working Application.

(iii) The video portion of the Submission:

a. Should be no longer than five (5) minutes;

b. must clearly demonstrate the Application's features and functionality, especially those that address the required assets and insights; and

c. must not include music or other copyrighted material or use third party trademarks unless the Contestant has written permission to use such material.

(iv) If the video is primarily promotional rather than a demonstration of the Application's functionality and features (by walking through the Application), the

Submission may be disqualified at the Sponsor's and/or Administrator's sole discretion.

(v) Please provide a description of ideas for how you could promote the app if you are a prizewinner (350 words max).

C. Content Requirements

(i) The Submission must only address insights provided.

(ii) The Submission must include the required information contained in the INSERT ASSET FILE NAME. This includes APIs and resources. The ASSET FILE NAME will indicate whether content is optional or required. Entries may not substantially alter the meaning, intent, or otherwise misrepresent the content in whole or in part. The intention of this clause is to ensure that the integrity of the content is maintained.

(iii) The Submission must target individuals in recovery from opioid misuse who are receiving outpatient medication-assisted treatment.

(iv) The submission features should be designed to encourage repeat usage of the app.

(v) A Submission must not include an audio or visual performance, including but not limited to music, dance, or other performing art, third-party copyrighted material or trademarks, unless the Contestant has written permission to use such material.

(vi) The Submission must not use HHS's or SAMHSA's logos or official seals and must not claim endorsement.

D. Application Requirements

In addition to the requirements described above in Sections 5(A)–5(C):

(i) The Application must be able to be successfully installed and capable of running consistently as described on the platform for which it is intended.

(ii) Applications may be newly created or existing applications modified to meet the requirements of the Competition.

(iii) Applications must be designed for use with existing modern smartphones.

(iv) Applicants using HTML5 should limit the data burden on users and where possible the submissions should leverage local storage and client-side cache options.

(v) Applications must not collect or store personally identifiable information (PII) or protected health information (PHI) as defined in 45 CFR 160.103.

(vi) Applications must not collect or require input of end user email addresses within the Application.

(vii) The Prizewinners must offer the Application to the public for free for a period of at least one (1) year. Each Application must be available free of charge for testing, evaluation and use by the Competition Sponsor, Administrator and judges during the Competition and until the Judging Period ends at 11:59 p.m. Eastern Time on July 1, 2016. For one year following the prize distribution, prize winners will be required to provide to the Sponsor a report of monthly data on the number of app downloads.

(viii) Contestants must acknowledge, as a prerequisite to any subsequent acquisition by federal contract or other method, they may be required to make their product compliant with Section 508 accessibility and usability requirements at their own expense. Any electronic information technology that is ultimately obtained by HHS for its use, development, or maintenance must meet Section 508 accessibility and usability standards. Past experience has demonstrated that it can be costly for solution-providers to ''retrofit'' solutions if remediation is later needed. The HHS Section 508 Evaluation Product Assessment Template, available at *www.hhs.gov/od/vendors/index.html,* provides a useful roadmap for developers to review. It is a simple, Web-based checklist utilized by HHS officials to allow vendors to document how their products do or do not meet the various Section 508 requirements.

(ix) Submissions requiring approval from a third party, such as an app store, in order to be accessible to the public, must be submitted to such third party or app store for review before the end of the Competition Submission Period. For any software that is not a web or mobile Web Application run on a web browser (tablet and desktop Applications), Contestants will be required to provide an installation file containing the Application.

E. General Requirements

(i) Submissions must not:

a. Violate any law or regulation;

b. depict hatred;

c. be in bad taste;

d. denigrate (or be derogatory towards) any person or group of persons or any race, ethnic group or culture;

e. threaten a specific community in society, including any specific race, ethnic group or culture;

f. incite violence or be likely to incite violence;

g. contain vulgar or obscene language or excessive violence;

h. contain pornography, obscenity or sexual activity; or

i. disparage the Sponsor or Administrator.

(ii) Submissions must not attempt to duplicate a prior Submission already submitted in this Competition. Sponsor or Administrator reserves the right in its sole discretion to disqualify any Submission that is a duplicate or substantially similar to another Submission.

(iii) Submissions must be free of malware. Contestant agrees that the Sponsor and the Administrator may conduct testing on the Application to determine whether malware or other security threats may be present. Submission not complying with these requirements may be disqualified.

(iv) Each Application will be tested by the Administrator, the Sponsor or their designees. Submissions may be disqualified if the Application does not function as depicted in the video or expressed in the text description, at the Sponsor's and/or Administrator's sole discretion.

(v) Prizewinners may be required to submit the source code and any relevant data of their Application to the Administrator and/or Sponsor upon request at any time.

(vi) A Contestant may submit more than one Submission. However, each Submission must be unique, as determined by Sponsor and/or the Administrator in their sole discretion. If a Contestant enters two or more Submissions that are substantially similar, the Sponsor and Administrator reserve the right to disqualify Submissions or require the Contestant to choose one Submission to enter into the Competition.

(vii) Submissions must not include any email addresses, phone numbers, addresses, or social security numbers in the Submission name, text description, video, or images.

(viii) Contestants must not imply endorsement of their Application by the Sponsor in any of the Submission components or in any advertising or media, including Web sites and app stores, featuring the Contestant's Application.

(ix) Submissions must: (a) Be the original work product of the Contestant; (b) be solely owned by Contestant and with no other person or entity having any right or interest in it; and (c) not violate the Intellectual Property rights or other rights including but not limited to copyright, trademark, patent, contract, and/or privacy rights, of any other person or entity. A Contestant may contract with a third party for technical assistance to create the Submission provided the Submission components are solely the Contestant's work product and the result of the Contestant's ideas

and creativity, and the Contestant owns all rights to them.

(x) By entering a Submission, Contestant represents, warrants and agrees that the Submission (including, without limitation, the Application) is the original work of the Contestant and complies with the Official Rules.

Contestant further represents, warrants and agrees that any use of the Submission by the Sponsor, Administrator and/or Judges (or any of their respective partners, subsidiaries and affiliates) as authorized by these Official Rules, shall not:

a. Infringe upon, misappropriate or otherwise violate any intellectual property right or proprietary right including, without limitation, any statutory or common law trademark, copyright or patent, nor any privacy rights, moral rights nor any other rights of any person or entity; or

b. constitute or result in any misappropriation or other violation of any person's publicity rights or right of privacy.

Summer King,

Statistician.

[FR Doc. 2016–04815 Filed 3–3–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5907–N–10]

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: GSA: Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040 Washington, DC 20405, (202) 501–0084; 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: February 25, 2016.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 03/04/2016

Suitable/Available Properties

Land

New Jersey

49 Acres
Woodbridge Avenue
Edison NJ 08817
Landholding Agency: GSA
Property Number: 54201610006
Status: Excess
GSA Number: NJ–0944–AA
Comments: 49 acres, contact GSA for more information.

Unsuitable Properties

Building

Mississippi

Bldg.: 1210 Multi-Purpose Office
Stennis Space Center
Hancock County MS 39529
Landholding Agency: NASA
Property Number: 71201610001
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area.

Land

Virginia

96 Acres
Naval Air Station Oceana
Virginia Beach VA 23460
Landholding Agency: Navy
Property Number: 77201610022
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area.

[FR Doc. 2016–04497 Filed 3–3–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5916–N–03]

60-Day Notice of Proposed Information Collection: Public Housing Agency (PHA) Lease and Grievance Requirements

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: Comments Due Date: May 3, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Public Housing Agency (PHA) Lease and Grievance Requirements.

OMB Approval Number: 2577–0006.

Type of Request: Revision of a currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: The Public Housing lease and grievance procedures are a recordkeeping requirement on the part of Public Housing agencies (PHAs) as they are required to enter into and maintain lease agreements for each individual or family that occupies a Public Housing unit. Also, both PHAs and tenants are required to follow the protocols set forth in the grievance procedures for both an informal and formal grievance hearing. This information collection is a revision of the previous submission. The reduction in burden hours is attributable to a fewer number of tenants in public housing covered by these lease and grievance procedures.

Respondents (*i.e.* affected public): Public Housing Authorities (PHAs).

Estimated Number of Respondents: 945,539.

Estimated Number of Responses: 1,359,284.

Frequency of Response: 1.

Average Hours per Response: .25.

Total Estimated Burdens: 330,939 hours.

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 as amended.

Dated: February 23, 2016.

Merrie Nichols-Dixon,

Deputy Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2016–04776 Filed 3–3–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5910–N–02]

60-Day Notice of Proposed Information Collection: Border Community Capital Initiative and Semi-Annual Reporting

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* May 3, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC

20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Thann Young, Office of Rural Housing and Economic Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7240, Washington, DC 20410; email Thann Young at *Thann.Young@hud.gov* or telephone 202–708–2290. 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.

A. Overview of Information Collection

Title of Information Collection: Border Community Capital Initiative.

OMB Approval Number: 2506–0196.

Type of Request: Extension of Collection.

Form Numbers: OMB 83–1 SF 424; HUD 424CB; HUD 424–CBW; SF–LLL; HUD 2880; HUD 2990; HUD 2991; HUD 2993; HUD 2994A; HUD 27061; and HUD 27300.

Description of the need for the information and proposed use: The Border Community Capital Initiative (''Border Initiative'') is a collaborative effort among three federal agencies—the Department of Housing and Urban Development (HUD), the Department of the Treasury—Community Development Financial Institutions Fund (CDFI Fund) and the Department of Agriculture—Rural Development (USDA–RD). The Initiative's goal is to increase access to capital for affordable housing, business lending and community facilities in the chronically underserved and undercapitalized U.S./Mexico border region. Specifically, it will provide direct investment and technical assistance to community development lending and investing institutions that focus on affordable housing, small business and community facilities to benefit the residents of colonias.

HUD, USDA–RD and the CDFI Fund have all identified lack of capacity among organizations serving the colonias and similar persistent poverty communities as a limiting factor in the effectiveness of federal programs. Inconsistent availability of limited public funding in any one region or community plays a role in this, because organizations specializing in affordable housing, small business support and community facilities cannot sustain themselves and grow. All of the agencies recognize that the targeted border communities and populations receive insufficient services because they lack organizations with the capacity to effectively respond to community needs. Conversely, higher-capacity organizations working along the border consistently cite lack of access to capital as a major barrier to expansion.

The Border Initiative focuses on improving colonias communities and creating asset building opportunities for colonias residents by helping local financial institutions improve their capacity to raise capital, and to lend and invest it in their communities. Strengthening local community development lenders and investors will also widen the channels through which larger private institutions and federal agencies can reach potential home owners, renters, business owners, facilities operators and service providers who need their support.

The list of federally recognized Indian tribes can be found in the notice published by the Department of the Interior on Friday, January 29, 2016 (**Federal Register**/Vol. 81, **Federal Register**/Vol. 81, No. 19).

Respondents (*i.e.* affected public): Public.

Estimated Number of Respondents: 50.

Estimated Number of Responses: 50.

Frequency of Response: Occasion.

Average Hours per Response: 100.

Total Estimated Burdens: 2,801.

	Respondents	Annual responses	Total responses	Burden per response	Total annual hours	Burden cost per instrument
HUD–424CB	50	1	50	.2	10	$250.00
HUD–424CBW	50	1	50	.2	10	250.00
HUD–2880	50	1	50	.05	2.5	62.50
HUD–2990	50	1	50	.05	2.5	62.50
HUD–2991	50	1	50	.05	2.5	62.50
HUD–2993	50	1	50	.05	2.5	62.50
HUD–2994A	50	1	50	.05	2.5	62.50
HUD–27061	50	1	50	.05	2.5	62.50
HUD–27300	50	1	50	.05	2.5	62.50
	600		600		2,801	937.50

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: February 23, 2016.

Harriet Tregoning,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2016–04777 Filed 3–3–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–FHC–2016–N029; 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 public meeting of the Trinity River Adaptive Management Working Group (TAMWG). 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 Trinity Management Council (TMC). The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

DATES: *Public meeting:* TAMWG will meet from 8:30 a.m. to 5 p.m. Pacific Time on Tuesday, March 29, 2016, and from 8:30 a.m. to 5 p.m. Pacific Time on Wednesday, March 30, 2016, and from 9 a.m. to 12 p.m. Pacific Time on Thursday, March 31, 2016.

Deadlines: For deadlines on submitting written material, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at the Trinity Alps Performing Art Center, 101 Arbuckle Court, Weaverville, CA 96093.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polos, by mail at U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521; by telephone at 707–822–7201; or by email at *joe_polos@fws.gov;* or Elizabeth W. Hadley, Redding Electric Utility, by mail at 777 Cypress Avenue, Redding, CA 96001; by telephone at 530–339–7308 or by email at *ehadley@reupower.com.* Individuals with a disability may request an accommodation by sending an email to either 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 Trinity River Adaptive Management Working Group will hold a 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

The TAMWG will hold a concurrent meeting with the Trinity River Science Symposium/Decision Support System workshop. The goal workshop is to advance the development and use of a decision support system for the Trinity River Restoration Program (TRRP).

The workshop will consist of oral presentations and panel discussions related to four key elements:

(1) Providing background on DSS and example applications,

(2) Communicating the status of DSS development for the TRRP and how it can be used in the near term to support decision making,

(3) Identifying and initiating an approach to resolve key organization and administrative challenges to DSS development, and

(4) Initiating next steps recommended by the Science Advisory Board for implementation of a DSS, such as a workplan, schedule, and identification of task leaders.

A detailed addendum will be posted on the TAMWG Web site (*http://www.fws.gov/arcata/fisheries/tamwg.html*) when it is finalized.

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 meeting.	March 22, 2016.

Submitting Written Information or Questions

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 listed in ''Public Input,'' 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, one electronic copy with original signature, and one electronic copy 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 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: February 29, 2016.

Joseph C. Polos,

Supervisory Fish Biologist, Arcata Fish and Wildlife Office, Arcata, California.

[FR Doc. 2016–04795 Filed 3–3–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVW00000.L5110000.GN0000.LVEMF1504350.15X MO#4500088392]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Marigold Mine Plan of Operations—Mackay Optimization Project Amendment, Humboldt County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Humboldt River Field Office, Winnemucca, Nevada intends to prepare an Environmental Impact Statement (EIS) to analyze the potential impacts of approving an expansion to the existing gold mining operation in Humboldt County, Nevada. This notice is announcing the beginning of the scoping process to solicit public comments and identify issues to be considered in the EIS. The notice also serves to initiate public consultation, as required under the National Historic Preservation Act.

DATES: This notice initiates the public scoping process for the EIS. Comments on issues may be submitted in writing until April 4, 2016. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers, and the BLM Web site at: *http://www.blm.gov/nv/st/en/fo/*

wfo.html. In order to be included in the Draft EIS, all comments must be received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. We will provide additional opportunities for public participation upon publication of the Draft EIS.

ADDRESSES: You may submit comments related to the Marigold Mine—Mackay Optimization Project by any of the following methods:

- *Web site: http://www.blm.gov/nv/st/en/fo/wfo.html*
- *Email: wfoweb@blm.gov.* Include Marigold Mine EIS Comments in the subject line.
- *Fax:* 775–623–1503.
- *Mail:* BLM Winnemucca District, Humboldt River Field Office, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445.

Documents pertinent to this proposal may be examined at the Humboldt River Field Office.

FOR FURTHER INFORMATION CONTACT: Jeanette Black, telephone 775–623–1500; address BLM Winnemucca District, Humboldt River Field Office, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445; email *jblack@blm.gov.* Contact Ms. Black to have your name added to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The applicant, Marigold Mining Company, a wholly-owned subsidiary of Silver Standard Resources Inc., has requested to modify its approved Plan of Operations by expanding its operations at the existing Marigold Mine, which is located adjacent to Battle Mountain approximately 35 miles southeast of Winnemucca, Humboldt County, Nevada; and 13 miles northwest of Battle Mountain, Lander County, Nevada. The mine is currently authorized up to a disturbance of 5,720 acres (approximately 3,275 acres of private land and 2,445 acres of public land), which was permitted under a series of Environmental Impact Statements and Environmental Assessments from July 1988 through October 2013.

The proposed action is for the BLM to approve as proposed the company's changes to its Plan of Operations. The proposed changes presented under this Plan of Operations modification would encompass 1,893 acres of new disturbance (approximately 843 acres of public land and 1,050 acres of private land), and include a re-classification of the type of authorized disturbance of approximately 706 acres of which 306 acres are public land and 400 acres are private land. If approved, the proposed modification would increase the mine life by up to 10 years. All proposed disturbance would be within the existing approved Plan boundary and includes the following: Combine four of the existing and authorized open pits (Target 1, Target 2, Target 3, and East Hill) to become a single open pit to be renamed the Mackay Pit; combine the existing and approved Terry Zone and Section 8 Pits to become the Mackay North Pit; increase the size of the authorized Section 5 North Pit; dewater the Mackay Pit and Mackay North Pit at a rate of up to 6,000 gallons per minute (gpm) with an average rate of about 1,500 to 2,000 gpm; construct and operate six rapid infiltration basins (RIBs); construct and operate new production, dewatering, and monitoring wells with associated roads, power, and pipelines; create one new waste rock storage area (WRSA) (Section 5 North) and expand the Northeast and Northwest Expansion WRSAs; construct heap leach processing pad (HLP) cells 22, 23, and 24; construct new process ponds on existing disturbance; construct two new carbon column trains on existing disturbance; relocate the county road called Buffalo Valley Road to accommodate the mine changes; re-establish a private land access road to land holdings in Section 30; relocate the existing 120-kV power line (right-of-way held by NV Energy); and move the planned location of the authorized but not yet constructed utility corridor.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the process for developing the EIS. At present, the BLM has identified the following preliminary issues: (a) The formation of a pit lake after completion of mining activities, and ensuring that there is neither degradation of waters of the state nor undue or unnecessary degradation of public lands; (b) potential impacts to wildlife habitat; and (c) potential impacts to cultural sites. Application of mitigation hierarchy strategies will be addressed for on-site, regional, and compensatory mitigation appropriate to the types of impacts and resource objectives.

The BLM will utilize and coordinate the NEPA scoping process to help fulfill the public involvement process under the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and the NHPA.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175, Secretarial Order 3317, and other policies. Tribal concerns, including but not limited to, impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed Marigold Mine Plan of Operations—Mackay Optimization Project that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7.

Stephen Sappington,

Field Manager, Humboldt River Field Office.

[FR Doc. 2016–04806 Filed 3–3–16; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOS01000.L12200000.DP0000]

Notice of Intent To Amend the Resource Management Plan for the Tres Rios Field Office and Prepare an Associated Environmental Assessment, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management

Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) Tres Rios Field Office, Dolores, Colorado, intends to prepare a Resource Management Plan (RMP) Amendment with an associated Environmental Assessment (EA) for the Tres Rios Field Office to evaluate the management of 18 potential Areas of Critical Environmental Concern (ACEC) and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the RMP Amendment with an associated EA. Comments on issues may be submitted in writing until April 4, 2016. The BLM will announce the date(s) and location(s) of any scoping meetings at least 15 days in advance through local news media, newspapers and the BLM Web site at: *www.blm.gov/co/st/en/BLM_Information/nepa/TRFO_NEPA.html.* The BLM must receive all comments prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later, in order to include them in the analysis. We will provide additional opportunities for public participation as appropriate.

ADDRESSES: You may submit comments on issues and planning criteria related to the Tres Rios Field Office RMP ACEC Amendment EA by any of the following methods:

- *Web site: www.blm.gov/co/st/en/BLM_Information/nepa/TRFO_NEPA.html.*
- *Email: BLM_CO_TRFO_ACEC@blm.gov.*
- *Fax:* (970) 240–5367.
- *Mail:* BLM, 2465 S. Townsend Ave., Montrose, CO 81401.

Documents pertinent to this proposal may be examined at the Tres Rios Field Office, Dolores Public Lands Center, 29211 Highway 184, Dolores, CO 81323.

FOR FURTHER INFORMATION CONTACT: Gina Jones, District NEPA Coordinator; telephone (970) 240–5381; address 2465 S. Townsend Ave. Montrose, CO 81401; email *BLM_CO_TRFO_ACEC@blm.gov.* Contact Gina Jones to have your name added to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Tres Rios Field Office, Dolores, Colorado, intends to prepare an RMP Amendment with an associated EA for the Tres Rios Field Office, announces the beginning of the scoping process, and seeks public input on issues and planning criteria. The amendment planning area is located in Dolores, Montezuma, Montrose, San Juan and San Miguel counties in southwest Colorado and encompasses approximately 130,000 acres of Federal surface public land. The BLM is considering amending the Tres Rios RMP to address 18 areas found to have relevance and importance consistent with *BLM Manual 1613—Areas of Critical Environmental Concern.* The RMP Amendment and associated EA will evaluate these areas to determine if they should be designated as an ACEC, and if so, what management prescriptions are necessary to protect the relevant and important values of each area. There are suitable Wild and Scenic River segments and lands with wilderness characteristics units within the nominated ACEC areas. These resources will be considered throughout the analysis process. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. BLM personnel; Federal, State and local agencies; and other stakeholders identified preliminary issues for the plan amendment area. Preliminary issues include those resources within the analysis area that would meet the relevance and importance criteria as set forth in BLM Manual 1613 and require special management attention to address resource conflicts. See the plan amendment Web site at *www.blm.gov/co/st/en/BLM_Information/nepa/TRFO_NEPA.html* to view maps and additional information on the previously nominated areas being considered. The areas nominated include:

- Anasazi Culture (currently designated as an ACEC): Approximately 1,200 acres;
- Cement Creek: Approximately 450 acres;
- Cinnamon Pass: Approximately 560 acres;
- Coyote Wash: Approximately 650 acres;
- Disappointment Valley: Approximately 2,700 acres;
- Dolores River Canyon: Approximately 12,000 acres;
- Dry Creek Basin: Approximately 35,000 acres;
- Grassy Hills: Approximately 450 acres;
- Gypsum Valley (currently designated as ACEC): Approximately 13,200 acres (combined Big Gypsum Valley and Little Gypsum Valley);
- Lake Como: Approximately 100 acres;
- McIntyre Canyon: Approximately 3,000 acres;
- Mesa Verde Entrance: Approximately 1,300 acres;
- Muleshoe Bench: Approximately 700 acres;
- Northdale: Approximately 4,000 acres;
- Silvey's Pocket: Approximately 700 acres;
- Slick Rock: Approximately 3,600 acres;
- Snaggletooth: Approximately 24,000 acres; and
- Spring Creek Basin: Approximately 25,500 acres.

Preliminary planning criteria include:

1. The BLM will continue to manage the Tres Rios Field Office in accordance with FLPMA and other applicable laws and regulations. Section 202(c)(3) of FLPMA mandates the agency to give priority to the designation and protection of ACECs in the planning process;
2. The BLM will comply with NEPA, including preparing appropriate environmental analysis for the proposed action;
3. Planning decisions will strive for compatiblility with existing plans and policies of adjacent Federal, State, local and tribal agencies as long as the decisions are consistent with Federal law governing the administration of public land;
4. The planning area only includes areas that meet the relevance and importance criteria defined in BLM Manual 1613; and
5. The BLM will follow the procedures for ACEC planning in BLM Manual 1613.

You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. Please submit comments by the close of the 30-day scoping period or within 15 days after the last public meeting, whichever is later.

The BLM will use and coordinate the NEPA scoping process to help fulfill the public involvement process under the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. The BLM will give tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, due consideration. The BLM invites Federal, State and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action the BLM is evaluating, to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in developing the environmental analysis as a cooperating agency.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed. The BLM will evaluate identified issues to be addressed in the plan, and will place them into one of three categories:

1. Issues to be resolved in the Plan Amendment;

2. Issues to be resolved through policy or administrative action; or

3. Issues beyond the scope of this Plan Amendment.

The BLM will provide an explanation in the Preliminary EA as to why an issue was placed in category two or three. The BLM also encourages the public to identify any management questions and concerns that should be addressed in the amendment process. The BLM will collaborative with interested parties to identify the management decisions best suited to local, regional, and national needs and concerns.

The BLM will use an interdisciplinary approach to develop the Plan Amendment in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: Rangeland management, minerals and geology, outdoor recreation, archaeology, paleontology, wildlife and fisheries, lands and realty, hydrology, soils, sociology and economics.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2.

Ruth Welch,

BLM Colorado State Director.

[FR Doc. 2016–04805 Filed 3–3–16; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS01000.L58530000.ES0000 241A; N–93838–01; 14–08807; MO# 4500088787 TAS:14X5232]

Notice of Realty Action: Recreation and Public Purposes Lease (N–93838), Transfer of Interest and Change of Use of Public Lands in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Las Vegas Field Office, received notification from the City of Las Vegas to transfer their interest of a previously approved Recreation and Public Purposes (R&PP) Act lease to Opportunity Village. Opportunity Village, (a nonprofit) proposes to change the use of the original R&PP lease from a park site to a park, unemployment resource center, and arts enrichment center with appurtenances for children and adults with intellectual disabilities.

DATES: Comments regarding the transfer of interest and the change of use must be submitted to the BLM on or before April 18, 2016.

ADDRESSES: Send written comments to the BLM Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130, or email: *kthorpe@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Kerri-Anne Thorpe, 702–515–5196, or *kthorpe@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The transfer of interest requested by the City of Las Vegas to Opportunity Village and the change of use from a park site to a park, unemployment resource center, and arts enrichment center with appurtenances for children and adults with intellectual disabilities is consistent with the BLM Las Vegas Resource Management Plan dated October 5, 1998, and would be in the public interest. The change of use area was previously analyzed under Environmental Assessments NV–050–30 dated June 30, 1983, and NV–S010–2009–0012–EA dated December 30, 2008. The environmental consequences of the new use were reviewed in Determination of NEPA Adequacy DOI–BLM–NV–S010–2016–0008–DNA dated January 11, 2016. On February 18, 2015, the City of Las Vegas relinquished 16.61 acres to allow Opportunity Village to apply for an R&PP lease for park, unemployment resource center, and arts enrichment center with appurtenances for children and adults with intellectual disabilities. The parcel of land is located on the corner of Thom and Rome Boulevard in Las Vegas, Nevada, and is legally described as:

Mount Diablo Meridian, Nevada

T. 19 S., R. 60 E.,
Sec. 24, lot 5.
The area described contains 16.61 acres.

The change of use area would be from a park site to a park, unemployment resource center, and arts enrichment center with appurtenances for children and adults with intellectual disabilities. The appurtenances include a storage building, loading dock, refuse enclosure, parking lots, landscaping, lighting, walkways, drainage, irrigation, utilities, and ancillary improvements. Additional detailed information pertaining to this application, plan of development, and site plan is in case file N–93838, which is located at the BLM, Las Vegas Field Office at the address listed above.

The land is not required for any Federal purpose. The Opportunity Village, a qualified applicant under the R&PP Act, has not applied for more than the 640 acre limitation consistent with 43 CFR 2741.7(a)(5), and has submitted a statement in compliance with the regulation at 43 CFR 2741.4(b).

The change of use of the public land shall be subject to valid existing rights as previously published. Upon publication of this notice in the **Federal Register**, the land above will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease and/or subsequent conveyance under the R&PP Act, leasing under the mineral laws, and disposals under the mineral material disposal laws.

Interested parties may submit written comments on the suitability of the land for use as a park, unemployment resource center, and arts enrichment center with appurtenances for children and adults with intellectual disabilities.

Interested parties may also submit written comments regarding the specific use proposed in the application and plan of development, and whether the BLM followed proper administrative procedures in reaching the decision to change the use from a park to a park, unemployment resource center, and arts enrichment center with appurtenances for children and adults with intellectual disabilities under the R&PP Act, or any other factor not directly related to the suitability of the land for R&PP use.

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.

Any adverse comments will be reviewed by the BLM Nevada State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the decision will become effective on May 3, 2016.

Authority: 43 CFR 2741.5(h).

Vanessa L. Hice,

Assistant Field Manager, Las Vegas Field Office.

[FR Doc. 2016–04807 Filed 3–3–16; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–987]

Certain Hospital Beds, and Components Thereof Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 1, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Stryker Corporation of Kalamazoo, Michigan. Supplements were filed on February 18, 2016 and February 22, 2016. The complaint as supplemented alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain hospital beds, and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,082,630 (''the '630 patent''); U.S. Patent No. 7,690,059 (''the '059 patent''); U.S. Patent No. 7,784,125 (''the '125 patent''); and U.S. Patent No. 8,701,229 (''the '229 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2015).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 29, 2016, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain hospital beds, and components thereof by reason of infringement of one or more of claims 15–18 and 20 of the '630 patent; claims 1–2, 5–7, 12 and 15–16 of the '059 patent; claims 10 and 19 of the '125 patent; and claims 1–4, 12, 14, and 19 of the '229 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Stryker Corporation, 2825 Airview Boulevard, Kalamazoo, MI 49002.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Umano Médical Inc., 230, boulevard Nilus-Leclerc, L'Islet, Québec G0R 2C0, Canada.

Umano Médical World Inc., 230, boulevard Nilus-Leclerc, L'Islet, Québec G0R 2C0. Canada.

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 1, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–04820 Filed 3–3–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–554 and 731–TA–1309 (Preliminary)]

Certain Biaxial Integral Geogrid Products From China

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 materially injured by reason of imports of certain biaxial integral geogrid products from China, provided for in subheading 3926.90.99 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 government of China.

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 January 13, 2016, Tensar Corporation, Morrow, Georgia filed a petition 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 biaxial integral geogrid products from China. Accordingly, effective January 13, 2016, 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 No. 701–TA–554 and antidumping duty investigation No. 731–TA–1309 (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 January 20, 2016 (81 FR 3157). The conference was held in Washington, DC, on February 3, 2016, 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 February 29, 2016. The views of the Commission are contained in USITC Publication 4596 (March 2016), entitled *Certain Biaxial Integral Geogrid Products from China: Investigation Nos. 701–TA–554 and 731–TA–1309 (Preliminary).*

By order of the Commission.

Issued: February 29, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–04701 Filed 3–3–16; 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)).

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On February 26, 2016, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of California in the lawsuit entitled *United States and North Coast Unified Air Quality Management District* v. *Blue Lake Power, LLC,* Civil Action No. 3:16–cv–00961.

The United States and the North Coast Unified Air Quality Management District (''District'') filed this lawsuit under the Clean Air Act. The complaint seeks injunctive relief and civil penalties for violations of the Clean Air Act's Prevention of Significant Deterioration provisions, 42 U.S.C. 7470–92, and the North Coast Unified Air Quality Management District Rules at Defendant Blue Lake Power, LLC's biomass-fired electric generating plant in Blue Lake, California. Specifically, the complaint alleges that, when defendant restarted the plant in 2010, it failed to obtain appropriate permits and failed to install and operate required pollution control devices to reduce emissions of carbon monoxide (CO), oxides of nitrogen (NO_X), and/or particulate matter with a diameter of 10 microns (PM_{10}) at its facility.

The proposed consent decree requires the defendant to perform injunctive relief and pay a $5,000 civil penalty to be shared between the United States and the District. The defendant is required to install and operate pollution control equipment at its facility, meet emission limitations for CO, NO_X, and PM_{10}, and adopt operational procedures to reduce additional emissions of particulate matter from the facility. In addition, Blue Lake Power will contribute $10,000 to the District's wood stove replacement program in order to mitigate the adverse effects of past particulate matter emissions from the facility.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and North Coast Unified Air Quality Management District* v. *Blue Lake Power LLC,* D.J. Ref. No. 90–5–2–1–11038. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By e-mail ..	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://*

www.justice.gov/enrd/consent-decrees. We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $11.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–04721 Filed 3–3–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Confidentiality and Disclosure of State Unemployment Compensation Information and State Income and Eligibility Verification Provisions of the Deficit Reduction Act, Extension Without Change

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the 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 [44 U.S.C. 3506(c)(2)(A)] (PRA). The PRA helps to ensure that respondents can provide data in the desired format with minimal reporting burden (time and financial resources), collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data about the regulatory requirements of the Confidentiality and Disclosure of State Unemployment Compensation Information final rule and State Income and Eligibility Verification System (IEVS) provisions of the Deficit Reduction Act of 1984, which expires September 30, 2016.

DATES: Submit written comments to the office listed in the addressee's section below on or before May 3, 2016.

ADDRESSES: Send written comments to Patricia Mertens, Office of Unemployment Insurance, Room S–4524, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3182 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–2874. Email: *mertens.patricia@dol.gov.* To obtain a copy of the proposed information collection request (ICR), please contact the person listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The Deficit Reduction Act of 1984 established an Income and Eligibility Verification System (IEVS) for the exchange of information among state agencies administering specific programs. The programs include Temporary Assistance for Needy Families, Medicaid, Food Stamps, Supplemental Security Income, Unemployment Compensation and any state program approved under Titles I, X, XIV, or XVI of the Social Security Act. Under the Act, programs participating must exchange information to the extent that it is useful and productive in verifying eligibility and benefit amounts to assist the child support program and the Secretary of Health and Human Services in verifying eligibility and benefit amounts under Titles II and XVI of the Social Security Act.

On September 27, 2006, the ETA of the Department of Labor issued a final rule regarding the Confidentiality and Disclosure of State Unemployment Compensation Information. This rule supports and expands upon the requirements of the Deficit Reduction Act of 1984 and subsequent regulatory changes.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension without changes.

Title: Confidentiality and Disclosure of State Unemployment Compensation Information Final Rule and State Income and Eligibility Verification provisions of the Deficit Reduction Act of 1984.

OMB Number: 1205–0238.

Affected Public: State Workforce Agencies.

Estimated Total Annual Respondents: 53 state agencies.

Annual Frequency: As needed.

Estimated Total Annual Responses: 904,957.

Average Estimated Response Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 18,672 hours.

Total Annual Estimated Burden Cost for Respondents: $862,901.96.

We will summarize and/or include in the request for OMB approval of the ICR, the comments received in response to this comment request; they will also become a matter of public record.

Portia Wu,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2016–04691 Filed 3–3–16; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice of Special Enrollment Rights Under Group Health Plans

ACTION: Notice.

SUMMARY: On February 29, 2016, the Department of Labor (DOL) will submit the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Notice of Special Enrollment Rights under Group Health Plans,'' to the Office of Management and Budget (OMB) for review and approval for

continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 4, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201601-1210-002* or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Notice of Special Enrollment Rights under Group Health Plans information collection. Under regulations 29 CFR 2590.701–6(c), a group health plan must provide an individual who is offered coverage under the plan a notice describing the plan's special enrollment rights at or before the time coverage is offered. The regulations provide detailed sample language describing special enrollment rights for use in the notice. Employee Retirement Income Security Act of 1974 section 734 authorizes this information collection. *See* 29 U.S.C. 1191c.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0101.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 23, 2015 (80 FR 72990).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0101. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Notice of Special Enrollment Rights under Group Health Plans.

OMB Control Number: 1210–0101.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 2,300,000.

Total Estimated Number of Responses: 8,600,000.

Total Estimated Annual Time Burden: 1 hour.

Total Estimated Annual Other Costs Burden: $75,000.

Dated: February 26, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–04685 Filed 3–3–16; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Annual Report for Multiple Employer Welfare Arrangements

ACTION: Notice.

SUMMARY: On February 29, 2016, the Department of Labor (DOL) will submit the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Annual Report for Multiple Employer Welfare Arrangements,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 4, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=* 201602-1210-001 or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–

395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Annual Report for Multiple Employer Welfare Arrangements (MEWA), Form M–1, information collection. The Health Insurance Portability and Accountability Act of 1996, codified as Part 7 of Title I of the Employee Retirement Income Security Act of 1974 (ERISA), was enacted to improve the portability and continuity of health care coverage for group health plan participants and beneficiaries. In the interest of assuring compliance with Part 7, ERISA section 101(g) further permits the Secretary of Labor to require a MEWA, as defined in ERISA section 3(40), to report to the Secretary in such form and manner as the Secretary might determine. *See* 29 U.S.C. 1021(g), 1002(40). The DOL published a final rule providing for such reporting on an annual basis, together with Form M–1 to be used by a MEWA for the annual report. The reporting requirement enables the Secretary to determine whether the requirements of ERISA Part 7 are being carried out. The Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 119) and the Health Care and Education Reconciliation Act of 2010 (Pub. L.111–152, 124 Stat. 1029) amended ERISA section 101(g) to provide that a MEWA providing benefits consisting of medical care (within the meaning of ERISA section 733(a)(2), 29 U.S.C. 1191b(a)(2)), that is not a group health plan, must register with the Secretary prior to operating in a State.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0116.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 23, 2015 (80 FR 72990).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0116. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Annual Report for Multiple Employer Welfare Arrangements.

OMB Control Number: 1210–0116.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 456.

Total Estimated Number of Responses: 456.

Total Estimated Annual Time Burden: 95 hours.

Total Estimated Annual Other Costs Burden: $81,900.

Dated: February 26, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–04686 Filed 3–3–16; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Employer Welfare Arrangement Administrative Law Judge Administrative Hearing Procedures

ACTION: Notice.

SUMMARY: On February 29, 2016, the Department of Labor (DOL) will submit the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Multiple Employer Welfare Arrangement Administrative Law Judge Administrative Hearing Procedures,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 4, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201601-1210-001* or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to

send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Multiple Employer Welfare Arrangement (MEWA) Administrative Law Judge (ALJ) Administrative Hearing Procedures information collection requirements codified in regulations 29 CFR 2571.3. Employee Retirement Income Security Act of 1974 (ERISA) section 521 provides that the Secretary of Labor may issue ex parte cease and desist orders when it appears to the Secretary that the alleged conduct of a MEWA under ERISA section 3(40) is fraudulent or creates an immediate danger to the public safety or welfare or is causing or can be reasonably expected to cause significant, imminent, and irreparable public injury. *See* 29 U.S.C. 1151, 2002(40). ERISA section 521(b) provides that a person who is adversely affected by the issuance of a cease and desist order may request an administrative hearing regarding the order. *See* 29 U.S.C. 1151(b). The regulatory provision that is the subject of this ICR describes the procedures before an ALJ when a person seeks an administrative hearing for review of such an order.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0148.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 23, 2015 (80 FR 72991).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0148. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Multiple Employer Welfare Arrangement Administrative Law Judge Administrative Hearing Procedures.

OMB Control Number: 1210–0148.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 10.

Total Estimated Number of Responses: 10.

Total Estimated Annual Time Burden: 20 hours.

Total Estimated Annual Other Costs Burden: $595,700.

Dated: February 26, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–04687 Filed 3–3–16; 8:45 am]

BILLING CODE 4510–29–P

OFFICE OF MANAGEMENT AND BUDGET

Calendar Year (CY) 2015 Cost of Outpatient Medical, Dental, and Cosmetic Surgery Services Furnished by Department of Defense Medical Treatment Facilities; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice.

SUMMARY: By virtue of the authority vested in the President by section 2(a) of Public Law 87–603 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget (OMB) by the President through Executive Order No. 11541 of July 1, 1970, the rates referenced below are hereby established. These rates are for use in connection with the recovery from tortiously liable third persons for the cost of outpatient medical, dental and cosmetic surgery services furnished by military treatment facilities through the Department of Defense. They are the same rates as the outpatient medical, dental and cosmetic surgery services reimbursement rates that were set on July 1, 2015 for billing medical insurers, but require a different approval authority for the purpose of billing for tort liability. The rates were established in accordance with the requirements of OMB Circular A–25, requiring reimbursement of the full cost of all services provided. The CY 2015 outpatient medical, dental and cosmetic surgery rates referenced are effective upon publication of this notice in the **Federal Register** and will remain in effect until further notice. Previously published inpatient rates remain in effect until further notice. Pharmacy rates are updated periodically. A full disclosure of the rates is posted at *Health.mil* Web site in the Defense Health Agency Uniform Business Office section (*http://health.mil/Military-Health-Topics/Business-Support/Uniform-Business-Office*).

Shaun Donovan,

Director, Office Management and Budget.

[FR Doc. 2016–04856 Filed 3–3–16; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (16–020)]

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. 7,168,935 B2 titled ''Solid Freeform Fabrication Apparatus and Methods,'' NASA Case No. MSC–23518–1; U.S. Patent No. 8,344,281 B2 titled ''Use of Beam Deflection to Control an Electron Beam Wire Deposition Process,'' NASA Case No. LAR–17245–1; U.S. Patent No. 8,452,073 B2 titled ''Closed-Loop Process Control for Electron Beam Freeform Fabrication and Deposition Processes,'' NASA Case No. LAR–17766–1, to COSM Advanced Manufacturing Systems LLC, having its principal place of business in Peabody, Massachusetts. The fields of use may be limited to, but not necessarily limited to, aerospace. 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, MS 30, NASA Langley Research Center, Hampton, VA 23681; (757) 864–3230 (phone), (757) 864–9190 (fax).

FOR FURTHER INFORMATION CONTACT: Jennifer L. Riley, Patent Attorney, Office of Chief Counsel, MS 30, NASA Langley Research Center, Hampton, VA 23681; (757) 864–5057; 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. 2016–04705 Filed 3–3–16; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 16–017]

National Environmental Policy Act; Center Master Plan Update; Kennedy Space Center

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Availability of the Draft Programmatic Environmental Impact Statement (DPEIS) for the Center Master Plan (CMP) Update covering Center-wide Operations, Kennedy Space Center (KSC), Titusville, Florida.

SUMMARY: Pursuant to the National Environmental Policy Act, as amended, (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), and NASA's NEPA policy and procedures (14 CFR part 1216, subpart 1216.3), NASA has prepared and issued a DPEIS for its continued operation of the Kennedy Space Center, located near Titusville, Florida. The U.S. Fish and Wildlife Service (USFWS), National Park Service (NPS), Federal Aviation Administration (FAA), and Space Florida have served as Cooperating Agencies in preparing the DPEIS.

The purpose of this notice is to apprise interested agencies, organizations, tribal governments, and individuals of the availability of the DPEIS and to invite comments on the document. In cooperation with USFWS and NPS, NASA will hold public meetings as part of the DPEIS review process. The meeting locations and dates are provided under **SUPPLEMENTARY INFORMATION** below.

DATES: Interested parties are invited to submit comments on environmental issues and concerns, preferably in writing, within forty-five (45) days from the date of publication in the **Federal Register** of the U.S. Environmental Protection Agency's Notice of Availability of the DPEIS. Once known, this date will be published on the project Web site: *http://environmental.ksc.nasa.gov/projects/peis.htm.*

ADDRESSES: Comments submitted by mail should be addressed to National Aeronautics and Space Administration, Kennedy Space Center, ATTN: Donald Dankert, Environmental Management Branch, SI–E3, Kennedy Space Center, FL 32899. Comments may be submitted via email to *ksc-dl-centerwide-eis@mail.nasa.gov.*

The DPEIS may be reviewed at the following locations:

(a) Titusville Public Library, 2121 S. Hopkins Avenue Titusville, Florida 32780 (321–264–5026)
(b) Cape Canaveral Public Library, 201 Polk Avenue, Cape Canaveral, Florida 32920 (321–868–1101)
(c) Cocoa Beach Public Library, 550 North Brevard Avenue, Cocoa Beach, Florida 32931(321–868–1104)
(d) Merritt Island Public Library, 1195 North Courtenay Parkway, Merritt Island, Florida 32953 (321–455–1369)
(e) Port St. John Public Library, 6500 Carole Avenue, Port St. John, Florida 32927 (321–633–1867)
(f) New Smyrna Beach Public Library, 1001 S. Dixie Freeway, New Smyrna Beach, FL 32168 (386–424–2910)
(g) NASA Headquarters Library, Room 1J20, 300 E Street SW., Washington, DC 20546–0001 (202–358–0168)

A limited number of hard copies and compact discs of the DPEIS are available, on a first request basis, by contacting the NASA point of contact listed under **FOR FURTHER INFORMATION.** The DPEIS is available on the internet in Adobe® portable document format at *http://environmental.ksc.nasa.gov/projects/peis.htm.* The **Federal Register** Notice of Intent to prepare the Programmatic Environmental Impact Statement (PEIS), issued on May 20, 2014, is also available on the internet at the same Web site address, as well as at: *https://www.gpo.gov/fdsys/pkg/FR-2014-05-20/pdf/2014-11565.pdf.*

FOR FURTHER INFORMATION CONTACT: Mr. Donald Dankert, Environmental Management Branch, NASA Kennedy Space Center, Mail Code: SI–E3, Kennedy Space Center, FL 32899, Email: *Donald.J.Dankert@nasa.gov,* Telephone: (321) 861–1196.

SUPPLEMENTARY INFORMATION: The PEIS has been prepared to evaluate the potential environmental impacts from proposed Center-wide KSC operations,

activities, and facilities for a two-decade planning horizon. These operations, activities, and facilities are described in the 2012 CMP, which has a planning horizon of 2012–2032. The CMP considers a range of future scenarios for repurposing existing facilities, recapitalizing infrastructure, reorganizing the management of KSC and its land resources, and various kinds of partnerships (some of which are already in place).

In the coming years, KSC will remain the world's preeminent launch facility for Government and commercial space access. KSC will support NASA, and ultimately our Nation's competitiveness, by investing in next-generation technologies and encouraging innovation. KSC will foster partnerships—intergovernmental, commercial, academic, and international—to expand its ability to support both public and private space initiatives. These institutional efforts and initiatives necessitate changes to the infrastructure, facilities, and operations at KSC over the coming decades which are identified in a new CMP Update that has been developed by the Center Planning and Development Office.

Alternatives

The DPEIS evaluates the environmental consequences of three alternative means of managing KSC for the coming two decades:

(1) Proposed Action—KSC would continue to transition to a multi-user spaceport. A number of new facilities would be constructed, including two seaports and horizontal and vertical launch and landing facilities. There would be changes in the acreage of designated land-use categories at KSC.

(2) Alternative 1—This was added as a direct response to concerns expressed in comments received during the PEIS public scoping period in June 2014, as well as other observations and data acquired from stakeholders and other agencies during the scoping process. Alternative 1 is similar to the Proposed Action in many regards, but is differentiated in several key respects: Primarily, differences in the siting and size of vertical and horizontal launch and landing facilities. Also, the two new seaports would not be constructed. At this time, Alternative 1 is NASA's preferred alternative.

(3) No Action Alternative—KSC management would continue its emphasis on dedicated NASA programs and would not maximize its transition in the coming years towards a multi-user spaceport with fully-integrated NASA programs and non-NASA users. Rather, each NASA program would continue to be operated as an independent entity to a significant degree, to be funded separately, and to manage activities and buildings in support of its own program. Under this scenario there would continue to be a non-NASA presence at KSC.

Public Meetings

NASA and its Cooperating Agencies plan to hold two public meetings in Florida to solicit comments on the DPEIS.

The public meetings are currently scheduled for:

—Tuesday, March 29, 2016, 5:00 p.m. to 8:00 p.m. at the at the Eastern Florida State College Titusville Campus, John Henry Jones Gymnasium;

—Wednesday, March 30, 2016, 5:00 p.m. to 8:00 p.m. at the New Smyrna Beach High School Gymnasium, 1015 Tenth Street New Smyrna Beach.

The meeting format will include an open-house workshop from 5:00 p.m. to 6:00 p.m. KSC staff and the Environmental Impact Statement (EIS) contractor will provide an overview of the DPEIS findings from 6:00 p.m. to 6:15 p.m., followed by a public comment period from 6:15 p.m. to 8:00 p.m. The open-house workshop will consist of poster stations describing the proposed project, the NEPA process, and the DPEIS findings. NASA KSC and cooperating agencies' staff will be present during the open-house workshop portion to accept comments.

NASA will consider all comments received during the comment period in developing its Final EIS and comments received and responses to comments will be included in the final document. In conclusion, written public input on environmental issues and concerns associated with NASA's DPEIS analyzing its CMP Update are hereby requested.

Cheryl E. Parker,

Federal Register Liaison Officer.

[FR Doc. 2016–04454 Filed 3–3–16; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–28641; NRC–2015–0054]

Department of the Air Force; Hill Air Force Base, Utah

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The Nuclear Regulatory Commission (NRC) is considering an amendment to Master Materials License 42–23539–01AF, Docket No. 030–28641, issued to the Department of the Air Force (the licensee). This amendment will allow the licensee to decommission a former magnesium-thorium alloy disposal trench at Hill Air Force Base, Utah, in accordance with instructions provided in an NRC-approved decommissioning plan. The NRC conducted an environmental impact assessment in support of this licensing action. Based on the results of this assessment, the NRC concluded that a Finding of No Significant Impact (FONSI) is appropriate.

DATES: The license amendment will be issued on March 4, 2016.

ADDRESSES: Please refer to Docket ID NRC–2015–0054 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–2015–0054. 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 in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jack E. Whitten, Region IV, U.S. Nuclear Regulatory Commission, 1600 E. Lamar Blvd., Arlington, TX 76011; telephone: 817–200–1197, email: *Jack.Whitten@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering the issuance of an amendment to Materials License 42–23539–01AF, issued to the Department of the Air Force (licensee), to approve a proposed Decommissioning Plan (DP) for remediation of a magnesium-thorium alloy burial pit located at Hill Air Force Base, Utah. As required by part 51 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC performed an environmental assessment of the proposed activity. Based on the results of the environmental assessment that follows, the NRC has determined not to prepare an environmental impact statement for the license amendment, and is issuing a Finding of No Significant Impact (FONSI).

A detailed Environmental Assessment (EA) for this project was prepared by the NRC and can be found in ADAMS under Accession No. ML16013A246. A summary of the environmental assessment is provided below. In addition, the NRC staff analyzed the radiological and industrial safety impacts to workers and the public. The resulting Safety Evaluation Report can be found in ADAMS under Accession No. ML16013A248.

Background Information

The U.S. Atomic Energy Commission (AEC) issued Source Material License C–3650 (Docket No. 040–00204) to the Marquardt Aircraft Company of Van Nuys, California, in January 1957 for possession of magnesium-thorium alloy. In June 1961, Marquardt requested AEC approval to burn machine chips and small pieces of magnesium-thorium scrap material in trenches at the Little Mountain Test Annex (LMTA) at Hill Air Force Base, Utah. Docket file records (ADAMS Accession No. ML16021A132) indicate that 500 pounds (226.8 kilograms) of scrap alloy was buried in June 1959, 1,500 pounds (680.4 kilograms) of alloy was buried in February 1960, and 3,600 pounds (1,633 kilograms) of alloy was incinerated within the burial pit in August 1961. No other records of disposals were provided in the AEC's docket file.

In September 1961, License C–3650 expired, and License STB–434 was issued to the licensee. The AEC subsequently terminated License STB–434 in April 1971. During the time frame that the two licenses were active, regulation 10 CFR 20.304 allowed licensees to dispose of certain radioactive wastes by burial. The AEC allowed License STB–434 to be terminated in 1971 without consideration of the magnesium-thorium alloy that had been incinerated and buried at LMTA. Effective January 28, 1981, approximately 10 years after termination of the license, NRC regulations in 10 CFR part 20 were amended (45 FR 71761) to delete Section 20.304.

In November 1993, an NRC inspector visited the LMTA to independently ascertain whether the magnesium-thorium alloy burial trench was still present at the facility (ADAMS Accession No. ML16021A132). The inspector identified two apparent disposal pits, based on changes in topography and changes in background radiation exposure rates. In response, the licensee and its contractors conducted five separate investigations from 1993–2013 to determine the extent of surface and subsurface radiological contamination at the site. The investigations confirmed that the surface and subsurface soils were contaminated with thorium-232. The licensee estimated that the volume of soil to be remediated was approximately 2,420 cubic yards (1,850 cubic meters), including swelling and over-excavation factors.

The licensee submitted a draft decommissioning Plan (DP) to the NRC by Memorandum dated May 12, 2014 (ADAMS Accession No. ML14197A685). This submittal included a final status survey plan and derived concentration guideline level evaluation for Site WR–111, the licensee's designation for the burial trench. In response to preliminary comments from NRC staff, the licensee provided supplemental information by Memorandum dated September 12, 2014. [The September 12, 2014, submittal contained non-publicly available information. The submittal was redacted by the Air Force and re-released as publicly available on December 18, 2014, ADAMS Accession No. ML15030A218]. This supplemental information included a licensee request for a waiver from the environmental impact assessment process.

In support of this request for a waiver, the licensee submitted an environmental assessment (EA) and FONSI (ADAMS Accession No. ML15030A218) to the NRC dated March 2014 involving a proposed emergency power unit overhaul complex at the LMTA. This particular EA included the area encompassing the magnesium-thorium decommissioning project at LMTA, but this EA did not specifically address the proposed decommissioning project at Site WR–111 itself. Citing regulation 32 CFR part 989, appendix B, the licensee requested a categorical exclusion from further analysis of those actions that are similar to other actions which have been determined to have an insignificant impact in a similar setting as established in an environmental impact statement or an environmental assessment resulting in a FONSI. In other words, the licensee requested a categorical exclusion from the environmental assessment process for Site WR–111 based on the completion of a similar EA and FONSI for the LMTA in March 2014.

The NRC staff acknowledges the licensee's request for a categorical exclusion; however, NUREG–1748, Environmental Review Guidance for Licensing Actions Associated with NMSS Programs (ADAMS Accession No. ML032450279), Section 1.6.1, states that another agency's EA can be adopted by the NRC, but the NRC is responsible for preparing its own EA in accordance with the requirements of 10 CFR 51.32–35. The NRC must prepare a site-specific EA and FONSI (as appropriate) to ensure that the site-specific aspects have been addressed.

Facility Description

The LMTA is a 740-acre (300-hectare) facility managed by Hill Air Force Base. The property is located approximately 15 miles northwest of Hill Air Force Base in a remote section of Weber County, Utah. The disposal trench (Site WR–111) is located in the southeastern corner of LMTA. The area of the trench is estimated to be 170 feet (52 meters) by 170 feet (52 meters). There are no buildings or structures within or immediately adjacent to the WR–111 site.

The current land use is military and industrial, with extensive rangeland present around the property. Industrial properties are located approximately 1 mile (1.6 kilometers) to the northeast of the WR–111 site. The nearest residence is situated about 2 miles (3.2 kilometers) east of the site. The land use is not expected to change in the near future, and the Federal Government plans to continue to control the LMTA property for research and development activities.

The groundwater at the WR–111 site is reported to occur between 34–57 feet (10.4–17.4 meters) below ground surface. Four monitoring wells were installed around the site in 2006, in part, to determine if the contents of the disposal trench have infiltrated into the groundwater. The licensee's contractor sampled the wells in November 2006. Based on these sample results, the licensee's contractor concluded that the buried thorium waste was not leaching into the local groundwater.

II. Environmental Assessment

Description of the Proposed Action

The NRC's proposed action is to amend License 42–23539–01AF, approving the proposed DP, as supplemented. The licensee would then be authorized to conduct decommissioning as specified in the NRC-approved DP. Concurrently with the approval of the DP, the NRC plans to approve the licensee's proposed site-specific soil cleanup criteria and final status survey plan.

The decommissioning work includes excavating the trench with heavy equipment, packaging and transporting the excavated material to an offsite location for permanent disposal, conducting radiological surveys to confirm that the site has been completely remediated, and backfilling the trench with clean material. After completion of decommissioning, the NRC is expected to review the licensee's proposed final status survey results and conduct an independent radiological survey to confirm the licensee's final status survey results.

Need for the Proposed Action

The purpose of the proposed action is to reduce the residual radioactivity at Site WR–111 to levels that allow release of the property for unrestricted use. If the licensee conducts site remediation in accordance with instructions provided in the DP, the licensee will be in compliance with the radiological criteria for license termination, as specified in regulation 10 CFR part 20, subpart E. Approval of the DP would allow the NRC to fulfill its responsibilities under the Atomic Energy Act to ensure protection of the public health and safety and environment.

Environmental Impacts of the Proposed Action

In its EA and FONSI dated March 14, 2014, the Air Force summarized the potential impacts of the proposed construction of four buildings and demolition of two buildings at the LMTA to support the overhaul of emergency power units used in fighter aircraft. The Air Force identified and analyzed four environmental effects—air quality, solid and hazardous wastes, biological resources, and water quality. The NRC staff reviewed the licensee's environmental impact assessment with an emphasis on the potential impacts that may occur while conducting decommissioning work at Site WR–111.

The first environmental impact is air quality. This impact was analyzed by the Air Force because the location of the project (Weber County, Utah) is not in complete attainment status with Federal clean air standards. For this reason, the Air Force attempts to control emissions originating from Hill Air Force Base. The potential air quality impacts resulting from decommissioning Site WR–111 would include fugitive dust from ground disturbance and emissions from construction/transportation equipment.

At Site WR–111, the primary short-term health hazard to site workers is the potential for airborne radioactivity during excavation remediation. In response, the licensee's contractor committed to implement engineering controls to suppress dust and to conduct air sampling. If the air samplers indicate the presence of airborne radioactive dust, the work will be suspended until the cause of the radioactive dust is identified and corrected. The contractor also committed to cover soil piles as practical and use silt fencing as needed. Another potential impact on air quality involves emissions from equipment and vehicles that are used to excavate the trenches, ship the radioactive wastes for disposal, and transport workers to and from the jobsite. The NRC staff concluded that the overall air quality impact will be minimal due to the limited duration of the project.

The second environmental impact is solid and hazardous wastes. The licensee plans to manage and dispose of the radioactive wastes in accordance with instructions provided in the DP and associated work plan. Non-radioactive hazardous wastes are not expected to be encountered during decommissioning. In addition, liquid hazardous wastes are not expected to be created. The contractor will sample the radioactive wastes for non-radiological hazardous waste constituents to ensure that the wastes are acceptable for shipment to the chosen disposal site.

The third environmental impact involves biological resources. At the WR–111 site, the decommissioning work will result in temporary loss of habitat and displacement of animal species, specifically, mule deer and rodents. However, the footprint of the decommissioning project is small, 1 acre (0.4 hectares), and the contractor and licensee plan to restore the property after completion of work. Therefore, the short-term decommissioning of Site WR–111 would have a minimal impact on biological resources.

The fourth analyzed environmental impact involves water quality. There are no surface water sources in the vicinity of the proposed work area; therefore, the work should have no impact on surface waters. The work should not have an impact on groundwater because the groundwater table is below the depth of the excavation. There may be a potential impact from storm water during work activities, but the contractor has developed procedures to respond to potential rainwater runoff during work activities.

The Air Force eliminated several issues from further study, such as cultural resources. Cultural resources include archaeological, architectural, and traditional cultural properties. In the Air Force's assessment, it explained that four previous cultural surveys were conducted in the area, and no cultural resources were identified. The NRC staff noted that the location of the disposal trench had already been disturbed; therefore, excavation of the radioactive material from the trench will not result in the disturbance of any new area not already disturbed.

Other issues eliminated from further study by the Air Force included impacts on geology and surface soils, occupational safety and health, noise, accident potential, airfield encroachment, and socio-economic resources. The NRC staff reviewed these potential impacts and concluded that none would be significantly affected by the decommissioning of Site WR–111. For example, occupational safety and health was eliminated from consideration because the contractor will use trained individuals and approved procedures to control the work.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). The no-action alternative assumes that the status quo is maintained. With respect to the WR–111 site, the no-action alternative means that the licensee would not be allowed to conduct decommissioning work, and the disposal trench would continue to remain onsite at the LMTA.

The no-action alternative is not acceptable because it violates the NRC's Timeliness Rule regulations that are specified in 10 CFR part 30.36. The Timeliness Rule requires licensees to decommission their facilities in a timely manner when licensed activities have permanently ceased. In addition, the radioactive contamination at Site WR–111 currently exceeds the radiological criteria for license termination as specified in subpart E to 10 CFR part 20. Approval of the no-action alternative would prevent the licensee from conducting decommissioning work as necessary to release the site for

unrestricted use under subpart E requirements.

Agencies and Persons Consulted

In accordance with its stated policy, the NRC consulted with the Utah Department of Environmental Quality, Division of Waste Management and Radiation Control, regarding the environmental assessment and safety evaluation impacts of the proposed action (ADAMS Accession No. ML15338A187). On January 6, 2016, the State agency informed the NRC that it had no comments on the proposed action (ADAMS Accession No. ML16008B076).

As part of its 2014 environmental assessment process for the overhaul complex, the Air Force consulted with local Tribes and the Utah Division of State History. The Air Force provided documentation of their responses as attachments to its EA. The Utah Division of State History and the Hopi Tribe concurred with the finding of no adverse impacts, and the Navajo Nation concluded that the proposed project would not have an impact on Navajo traditional cultural properties (ADAMS Accession Nos. ML15282A470 and ML15282A476). The NRC staff did not consult with these State and tribal entities, due to the results of the Air Force's consultations.

The NRC staff determined that the proposed action will not affect listed species or critical habitats based on the results of previous consultations provided by the Air Force to the NRC. Therefore, no further consultations are required under Section 7 of the Endangered Species Act. Likewise, the NRC staff determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties, in part, because there are no structures located at or adjacent to Site WR–111. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff concluded that the proposed decommissioning project at Site WR–111 at Hill Air Force Base, Utah, will have a minimal impact on the environment. The NRC staff considered air quality, solid and hazardous wastes, biological resources, water quality, cultural resources, and worker safety. In addition, the staff determined that the affected environment and the environmental impacts associated with the decommissioning of Site WR–111 are bounded by the impacts evaluated by NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (ADAMS Accession No. ML042310492).

Based on the analysis contained in this EA, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment and has determined not to prepare an environmental impact statement for the proposed action. Accordingly, the NRC has determined that a Finding of No Significant Impact (FONSI) is appropriate.

Dated at Arlington, Texas, this 17th day of February 2016.

For the Nuclear Regulatory Commission.

Jack E. Whitten,

Chief, Nuclear Materials Safety Branch B, Division of Nuclear Materials Safety, Region IV Office.

[FR Doc. 2016–04863 Filed 3–3–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–608; NRC–2013–0053]

SHINE Medical Technologies, Inc.; SHINE Medical Isotope Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Construction permit and record of decision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing notice of the issuance of Construction Permit CPMIF–001 to SHINE Medical Technologies, Inc. (SHINE) and record of decision, located in Janesville, Wisconsin.

ADDRESSES: Please refer to Docket ID NRC–2013–0053 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–2013–0053. 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.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.
- *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: Steven Lynch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1524, email: *Steven.Lynch@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 2.106 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is providing notice of the issuance of Construction Permit, CPMIF–001 to SHINE and, issuance of the Record of Decision (ROD) under 10 CFR 51.102(c). The construction permit, which is immediately effective, authorizes SHINE to construct a facility that will house eight utilization facilities and one production facility designed for the production of medical radioisotopes, as described in SHINE's application for construction permit, in Janesville, Wisconsin. With respect to the application for the construction permit filed by SHINE, the NRC finds that the applicable standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations have been met. The NRC finds that any required notifications to other agencies or bodies have been duly made and that, among other things, there is reasonable assurance that the activities authorized by the permit will be conducted in compliance with the rules and regulations of the Commission, that safety questions will be satisfactorily resolved by the completion of construction, and that, taking into consideration siting criteria, the proposed facility can be constructed and operated at the proposed location without under risk to public health and safety, subject to the conditions listed in the construction permit. Furthermore, the NRC finds that the licensee is technically and financially qualified to engage in the activities authorized, and that issuance of the license will not be

inimical to the common defense and security or to the health and safety of the public. Finally, the NRC finds that the findings required by Subpart A of 10 CFR part 51 have been made.

Accordingly, the immediately effective construction permit was issued on February 29, 2016.

II. Further Information

The NRC prepared a Safety Evaluation Report (SER) and Final Environmental Impact Statement (FEIS) that document the information reviewed and the NRC's conclusion. The Commission also issued its Memorandum and Order documenting its final decision on the mandatory hearing held on December 15, 2015, which serves as the ROD in this proceeding. The NRC also prepared a document summarizing the ROD to accompany its action on the construction permit application that incorporates by reference materials contained in the FEIS. In accordance with 10 CFR 2.390 of the NRC's ''Agency Rules of Practice and Procedure,'' details with respect to this action, including the SER, FEIS, summary of the ROD, and accompanying documentation included in the construction permit package, as well as the Commission's hearing decision and ROD, are available online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* From this site, persons can access the NRC's ADAMS, which provides text and image files of NRC's public documents.

III. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No.
Construction Permit No. CPMIF–001	ML16041A471
Commission's Memorandum and Order on the mandatory hearing (ROD)	ML16056A094
Summary of the Record of Decision	ML16041A470
Safety Evaluation Report Related to the SHINE Medical Technologies, Inc. Construction Permit Application for a Medical Radioisotope Production Facility.	ML15342A396
NUREG–2183, Final Environmental Impact Statement for the Construction Permit for the SHINE Medical Radioisotope Production Facility.	ML15288A046
SHINE Construction Permit Application	ML13088A192 ML15259A272 ML15258A431

Dated at Rockville, Maryland, this 29 day of February 2016.

For the Nuclear Regulatory Commission.

Lawrence E. Kokajko,

Director, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–04864 Filed 3–3–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–022 and 52–023; NRC–2013–0261]

Duke Energy Progress; Combined License Applications for Shearon Harris Nuclear Plant Units 2 and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to an August 12, 2015, letter from Duke Energy Progress (DEP). On May 2, 2013, DEP requested that the NRC suspend review of its combined license (COL) application until further notice. On August 12, 2015, DEP requested an exemption from certain regulatory requirements which, if granted, would allow them to revise their COL application in order to address enhancements to the Emergency Preparedness (EP) rules by December 31, 2016, rather than by December 31, 2013, as the regulations currently require. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption to the EP update requirements until December 31, 2016, but stipulated that the updates to the Final Safety Analysis Report (FSAR) must be submitted prior to requesting the NRC resume its review of the COL application, or by December 31, 2016, whichever comes first.

DATES: The exemption is effective on March 4, 2016.

ADDRESSES: Please refer to Docket ID NRC–2013–0261 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–2013–0261. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals 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: Brian Hughes, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6582; email: *Brian.Hughes@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On February 18, 2008, (ADAMS Accession No. ML080580078) DEP submitted to the NRC a COL application for two units of Westinghouse Electric Company's AP1000 advanced pressurized water reactors to be constructed and operated at the existing Shearon Harris Nuclear Plant (Harris) site (Docket Numbers 052000–22 and 052000–23). The NRC docketed the Harris Units 2 and 3 COL application on April 23, 2008. On May 2, 2013 (ADAMS Accession No. ML13123A344),

DEP requested that the NRC suspend review of the Harris Units 2 and 3 COL application. The NRC granted DEP's request for suspension and all review activities related to the Harris Units 2 and 3 COL application were suspended while the application remained docketed. On July 29, 2013 (ADAMS Accession No. ML13212A361), DEP requested an exemption from the requirements in part 50, appendix E, section I.5 of title 10 of the *Code of Federal Regulations* (10 CFR), as referenced by 10 CFR 52.79(a)(21), to submit an update to the COL application, addressing the enhancements to the EP rules by December 31, 2013, which the NRC granted through December 31, 2014. On August 1, 2014 (ADAMS Accession No. ML14216A432), DEP requested another exemption from the requirements of 10 CFR part 50, appendix E, section I.5, as referenced by 10 CFR 52.79(a)(21), to submit an update to the COL application, addressing the enhancements to the EP rules by December 31, 2014, which the NRC granted through December 31, 2015. On August 12, 2015 (ADAMS Accession No. ML15226A352), DEP requested another exemption from the requirements of 10 CFR part 50, appendix E, section I.5, as referenced by 10 CFR 52.79(a)(21), to submit an update to the COL application, addressing the enhancements to the EP rules by December 31, 2016

II. Request/Action

Part 50, appendix E, section 1.5, requires that an applicant for a COL under Subpart C of 10 CFR part 52 whose application was docketed prior to December 23, 2011, must revise their COL application to comply with the EP rules published in the **Federal Register** (76 FR 72560) on November 23, 2011. An applicant that does not receive a COL before December 31, 2013, shall revise its COL application to comply with these changes no later than December 31, 2013.

Since DEP will not hold a COL prior to December 31, 2013, it is therefore required to revise its application to be compliant with the new EP rules. Similar to an earlier exemption request it submitted, as described above, by letter dated August 12, 2015, (ADAMS Accession No. ML15226A352), DEP requested another exemption from the requirements of 10 CFR part 50, appendix E, section I.5, to submit the required COL application revision to comply with the new EP rules. The requested exemption would allow DEP to revise its COL application, and comply with the new EP rules on or before December 31, 2016, rather than the initial December 31, 2013, date required by 10 CFR part 50, appendix E, section I.5. The current requirement to comply with the new EP rule could not be changed, absent the exemption.

III. Discussion

Pursuant to 10 CFR 50.12(a), the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, including 10 CFR part 50, appendix E, section I.5, when: (1) The exemption(s) are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if: ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule'' (10 CFR 50.12(a)(2)(ii)).

Authorized by Law

The exemption is a one-time schedule exemption from the requirements of 10 CFR part 50, appendix E, section I.5. The exemption would allow DEP to revise its COL application, and comply with the new EP rules on or before December 31, 2016, in lieu of the initial December 31, 2013, the date required by 10 CFR part 50, appendix E, section I.5. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50 . The NRC staff has determined that granting DEP the requested one-time exemption from the requirements of 10 CFR part 50, appendix E, section I.5 will not result in a violation of the Atomic Energy Act of 1954, as amended, or NRC regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purpose of the enhancements to EP found in 10 CFR part 50, appendix E, is to amend certain EP requirements to enhance protective measures in the event of a radiological emergency; address, in part, enhancements identified after the terrorist events of September 11, 2001; clarify regulations to effect consistent Emergency Plan implementation among licensees; and modify certain requirements to be more effective and efficient. Since plant construction cannot proceed until the NRC review of the application is completed, a mandatory hearing is completed and a license is issued, the exemption does not increase the probability of postulated accidents. Additionally, based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption; thus neither the probability, nor the consequences of postulated accidents are increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The requested exemption would allow DEP to submit the revised COL application prior to requesting the NRC to resume the review and, in any event, on or before December 31, 2016. This schedule change has no relation to security issues. Therefore, the common defense and security is not impacted.

Special Circumstances

Special Circumstances, in accordance with 10 CFR 50.12(a)(2(ii) are present whenever:

(1) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule (10 CFR 50.12(a)(ii); or (2) The exemption would only provide temporary relief from the applicable regulation or the applicant has made good faith efforts to comply with the regulation (10 CFR 50.12(a)(2)(v)).

The purpose of 10 CFR part 50, appendix E, section I.5 is to ensure that applicants and new COL holders updated their COL applications or COLs to allow the NRC to review them efficiently and effectively, and to bring the applicants or licensees into compliance prior to receiving a license, or, for licensees, prior to operating the plant. The targets of Section I.5 of the rule were those applications that were being actively reviewed by the NRC staff when the rule went into effect on November 23, 2011. Since the Harris Units 2 and 3 COL application is now suspended compelling DEP to revise its COL application in order to meet the compliance deadline would result in unnecessary burden and hardship for the applicant to meet the compliance date. If the NRC were to grant this exemption, and DEP were then required to update its application to comply with the EP rule enhancements by December 31, 2016, or prior to any request to restart their review, the purpose of the rule would still be achieved. For this reason, the application of 10 CFR part 50, appendix E, section I.5, for the suspended Harris 2 and 3 COL application is deemed unnecessary and,

therefore, special circumstances are present.

Eligibility for Categorical Exclusion From Environmental Review

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25) and justified by the NRC staff as follows:

(c) The following categories of actions are categorical exclusions provided that:

(i) There is no significant hazards consideration;

The criteria for determining whether there is no significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a schedule change regarding the submission of an update to the application for which the licensing review has been suspended. Therefore, there are no significant hazards considerations because granting the proposed exemption would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

The proposed action involves only a schedule change which is administrative in nature, and does not involve any changes to be made in the types or significant increase in the amounts of effluents that may be released offsite.

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

Since the proposed action involves only a schedule change which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

(iv) There is no significant construction impact;

The proposed action involves only a schedule change which is administrative in nature; the application review is suspended until further notice, and there is no consideration of any construction at this time, and hence the proposed action does not involve any construction impact.

(v) There is no significant increase in the potential for or consequences from radiological accidents; and

The proposed action involves only a schedule change which is administrative in nature, and does not impact the probability or consequences of accidents.

(vi) The requirements from which an exemption is sought involve:

(B) Reporting requirements;

The exemption request involves submitting an updated COL application by DEP and

(G) Scheduling requirements;

The proposed exemption relates to the schedule for submitting a COL application update to the NRC.

IV. Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also special circumstances are present. Therefore, the Commission hereby grants DEP a one-time exemption from the requirements of 10 CFR part 50 Appendix E, Section I.5 pertaining to the Harris Units 2 and 3 COL application to allow submittal of the revised COL application that complies with the enhancements to the EP rules prior to any request to the NRC to resume the review, and in any event, no later than December 31, 2016.

Pursuant to 10 CFR 51.22, the Commission has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 26th day of February 2016.

For the Nuclear Regulatory Commission.

Francis M. Akstulewicz,

Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2016–04850 Filed 3–3–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–010, 50–237, 50–249 and 72–37; NRC–2016–0047]

Exelon Generation Company, LLC; Dresden Nuclear Power Station, Units 1, 2 and 3; Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption to Exelon Generation Company, LLC (hereafter, EGC or the applicant). EGC is the general licensee operating the Dresden Nuclear Power Station (DNPS) Independent Spent Fuel Storage Installation (ISFSI) located in Morris, Illinois. Specifically, EGC seeks authorization to load and store one DNPS Unit 1 thoria rod canister containing 18 DNPS Unit 1 thoria rods in a Holtec International, Inc., multi-purpose canister (MPC)–68M. Thoria rods are not approved for storage in the MPC–68M per Certificate of Compliance (CoC) No. 1014, Amendment 8, Rev. 1 [1] Appendix B, ''Approved Contents and Design Features.'' EGC plans to load and store Holtec HI–STORM 100 spent fuel casks utilizing Amendment 8, Rev. 1 to CoC No. 1014 in the 2016 DNPS spent fuel loading campaign (SFLC).

ADDRESSES: Please refer to Docket ID NRC–2016–0047 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–2016–0047. 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.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents,'' Section IV of this document.

[1] The licensee's application referred to Amendment 8; since that time, Amendment 8 has been revised. (On February 16, 2016, Amendment 8, Rev. 1 to CoC 1014 became effective.) This revision does not impact the exemption request that is the subject of this environmental assessment because none of the changes in the revision revised the thoria contents or the physical characteristics of the storage cask.

• *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: Bernard White, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6577, email: *Bernard.White@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of an exemption from the spent fuel storage requirements applicable to EGC to operate an ISFSI at the DNPS located in Morris, Illinois. As required by § 51.30 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC performed an environmental assessment. Based on the results of the environmental assessment, the NRC has determined not to prepare an environmental impact statement for the exemption, and is issuing a finding of no significant impact.

Exelon Generation Company holds a general license under 10 CFR part 72 for the storage of spent fuel in the DNPS ISFSI. The applicant is subject to 10 CFR 72.212, which provides in part that the general license is limited to storage of spent fuel in casks approved under the provisions of 10 CFR part 72. The general licensee must ensure that each cask used conforms to the terms, conditions, and specifications of a CoC, or an amended CoC, listed in Section 72.214.

The applicant requested an exemption which would allow storage in the Holtec HI–STORM MPC–68M of a DNPS Unit 1 thoria rod canister containing 18 DNPS Unit 1 thoria rods. Specifically, the applicant requested an exemption from 10 CFR 72.212(b)(3) and the portion of 10 CFR 72.212(b)(11) that requires compliance with the terms, conditions, and specifications of CoC No. 1014, Amendment No. 8, Rev. 1. In evaluating the request, the NRC is also considering, pursuant to authority in 72.7, exemption from similar requirements in 10 CFR 72.212(a)(2), 10 CFR 72.212(b)(5)(i); and 10 CFR 72.214, ''List of approved spent fuel storage casks.'' The NRC staff is performing a technical review of the exemption request and will prepare a separate **Federal Register** notice to document the NRC review of the structural integrity, criticality control, thermal, shielding, and confinement design functions for a loaded DNPS Unit 1 thoria rod canister. The NRC staff's decision whether to issue the exemption to EGC as proposed, will be based on the results of the NRC staff's review as documented in this environmental assessment and in the separate **Federal Register** Notice.

II. Environmental Assessment

Description of the Proposed Action

The proposed action would exempt EGC from specific portions of the requirements of 10 CFR 72.212, ''Conditions of general license issued under § 72.210,'' specifically 10 CFR 72.212(a)(2), 10 CFR 72.212(b)(3), 72.212(b)(5)(i), a portion of 72.212(b)(11), and 10 CFR 72.214, ''List of approved spent fuel storage casks.'' The proposed exemption request pertains to the requirements of CoC No. 1014, Amendment 8, Rev. 1, Appendix B, ''Approved Contents and Design Features,'' Table 2.1–1, ''Fuel Assembly Limits.'' The addition of a new multi-purpose canister (MPC)–68M to the approved models included in CoC No. 1014 was one of the additions included in Amendment 8. Thoria rods are approved content for the MPC–68F, MPC–68, and MPC–68FF. However, Appendix B, Table 2.1–1, Section VI, does not include, as approved content, thoria rods for storage in the MPC–68M. For the DNPS ISFSI, the exemption would allow ECG to deviate from the requirements of CoC No. 1014, Amendment 8, Rev. 1 by permitting the storage of thoria rods in the MPC–68M.

Need for the Proposed Action

The proposed action would relieve the applicant from requirements of 10 CFR 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), the portion of 72.212(b)(11) which states that ''The licensee shall comply with the terms, conditions, and specifications of the CoC . . .'', and 10 CFR 72.214, ''List of approved spent fuel storage casks.'' The applicant maintains that loading the thoria rod canister during the 2016 DNPS SFLC is part of a program to ensure full core discharge capability. If not loaded during the 2016 DNPS SFLC, EGC states that it would not be able to load and store the DNPS Unit 1 thoria rod canister until 2018.

Environmental Impacts of the Proposed Action

In the preparation of this Environmental Assessment, the staff used guidance in NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs.''

The staff evaluated the environmental impacts associated with this exemption. The NRC staff determined that non-radiological environmental impacts from approval of the exemption would not change from those evaluated in CoC 1014, Amendment Nos. 1 and 8, because: (1) The proposed action would not involve any construction activities, land disturbance, excavation, physical changes to the DNPS facilities, or changes in land use; (2) operation of the ISFSI does not require usage of water resources; and (3) the ISFSI does not generate gaseous, liquid, or solid effluents or wastes during operation. Therefore, there are no significant non-radiological impacts associated with the proposed action.

The NRC staff also determined that the radiological doses to workers and to the public associated with the proposed action are bounded by previous analyses for CoC 1014, Amendment No. 8, and that radiological doses would be below the NRC's regulatory limits in 10 CFR part 20 and Part 72. In prior NRC staff reviews of CoC 1014, Amendment Nos. 1 and 8, the NRC staff concluded that the Metamic-HT basket in the MPC–68M has very little effect on the external dose rate; and a single thoria rod canister, while unbounded in part of the gamma source spectrum, will not impact cask external dose rates. Additionally, the NRC staff determined that the proposed action will not increase the probability or consequences of accidents since the exemption would authorize loading of a different type of fuel assembly, but use the same procedures for loading, preparation for storage, and storage as all other fuel assemblies. No changes are being made in the types or quantities of effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action. Based on these findings, the NRC concludes that there are no significant environmental impacts associated with the approval of the exemption.

Environmental Impacts of the Alternatives to the Proposed Action

An alternative to the proposed exemption request would be for Holtec, the CoC holder, to submit an amendment request for Certificate of Compliance No. 1014, which the NRC would need to review for approval. The NRC review and approval of an amendment request would result in a delay in the loading and storage of the DNPS Unit 1 thoria rod canister. EGC plans to load the thoria rod canister during the DNPS 2016 SFLC as part of a program to ensure full core discharge capability. In order to load the thoria

rod canister during the spring 2016 SFLC campaign, EGC stated that it must finalize fuel loading package documentation by December 2015.

Based on the amount of time generally required to review and approve CoC amendment requests (*e.g.,* 18 months to 27 months), there would not be adequate time for development of fuel loading packages. The timing constraints would also extend beyond the scheduled start of the DNPS SFLC campaign in Spring 2016. According to EGC, delaying the approval to mid-2016 or beyond would delay EGC's ability to have full-core offload capability in the DNPS spent fuel pool until spring 2018. This alternative is not considered further because it does not meet the purpose and need of the proposed action.

As another alternative to the proposed action, the staff considered denial of the exemption request (*i.e.,* the ''no-action'' alternative). This alternative would have the same environmental impacts as the proposed action. In the event that the NRC denied the requested exemption, EGC would continue to operate under the requirements of the current Holtec HI–STORM CoC, which has previously been determined to have no significant impacts. The potential environmental impact of using the Holtec HI–STORM system was initially analyzed in the environmental assessment for the final rule (65 FR 25241; May 1, 2000) to add the Holtec HI–STORM system to the list of approved spent fuel storage casks in 10 CFR 72.214. The environmental assessment for the May 1, 2000, final rule concluded that there would be no significant environmental impact for adding the Holtec HI–STORM system, and therefore, the NRC issued a finding of no significant impact.

Alternative Use of Resources

This action does not impact any resource implications discussed in previous environmental reviews.

Agencies and Persons Consulted

The staff consulted with Mr. Joseph Klinger, Assistant Director of the Illinois Emergency Management Agency (IEMA) by email, regarding the environmental impact of the proposed action. The State's response was received by email dated October 28, 2015. The email response states that IEMA reviewed the draft environmental assessment and found ''no basis for denial of this Exemption Request.'' Mr. Klinger concurred with the environmental assessment and finding of no significant impact.

The NRC staff has determined that a consultation under Section 7 of the Endangered Species Act is not required because the proposed action will not affect listed species or critical habitat. The NRC staff has also determined that the proposed action is not a type of activity that has the potential to impact historic properties because the proposed action would occur within the established DNPS site boundary. Therefore, no consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has reviewed EGC's exemption request to authorize EGC to load and store one DNPS Unit 1 thoria rod canister containing 18 DNPS Unit 1 thoria rods in the DNPS ISFSI. Based on its review of the proposed action, in accordance with the requirements in 10 CFR part 51, the NRC staff has determined that approval of the exemption from the requirements of 10 CFR 72.212(a)(2), 10 CFR 72.212(b)(3), 72.212(b)(5)(i), a portion of 10 CFR 72.212(b)(11), and 10 CFR 72.214 to allow EGC to load and store one DNPS Unit 1 thoria rod canister containing 18 DNPS Unit 1 thoria rods in CoC No. 1014, Amendment 8, Revision 1, will not significantly affect the quality of the human environment. For these reasons, NRC has determined that pursuant to 10 CFR 51.31, preparation of an Environmental Impact Statement is not required for the proposed action, and pursuant to 10 CFR 51.32, a Finding of No Significant Impact (FONSI) is appropriate.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the methods indicated in the **ADDRESSES** section.

Document	ADAMS Accession No.
Exelon Generation Company (EGC) application dated January 29, 2015	ML15029A334
EGC supplement dated June 8, 2015	ML15159A745
NRC email dated October 21, 2015, to Illinois Emergency Management Agency (IEMA) forwarding draft environmental assessment and IEMA response dated October 28, 2015, to draft environmental assessment	ML15323A022
Holtec HI–STORM final rule	ML010670391
NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs''	ML032450279

Dated at Rockville, Maryland, this 25th day of February, 2016.

For the Nuclear Regulatory Commission.

Steve Ruffin,

Acting Chief, Spent Fuel Licensing Branch, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2016–04750 Filed 3–3–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0001]

Sunshine Act Meeting

DATES: March 7, 14, 21, 28, April 4, 11, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of March 7, 2016

There are no meetings scheduled for the week of March 7, 2016.

Week of March 14, 2016—Tentative

Tuesday, March 15, 2016

9:00 a.m. Briefing on Power Reactor Decommissioning Rulemaking (Public Meeting) (Contact: Jason Carneal: 301–415–1451)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, March 17, 2016

9:30 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting) (Contact: Douglas Bollock: 301–415–6609)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of March 21, 2016—Tentative

There are no meetings scheduled for the week of March 21, 2016.

Week of March 28, 2016—Tentative

Tuesday, March 29, 2016

9:30 a.m. Briefing on Project Aim (Public Meeting) (Contact: Janelle Jessie: 301–415–6775)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Wednesday, March 30, 2016

9:30 a.m. Briefing on Security Issues (Closed Ex. 1)

Week of April 4, 2016—Tentative

Tuesday, April 5, 2016

9:30 a.m. Briefing on Threat Environment Assessment (Closed Ex. 1)

Week of April 11, 2016—Tentative

There are no meetings scheduled for the week of April 11, 2016.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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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 301–287–0739, 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.*

March 2, 2016.

Denise McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2016–04996 Filed 3–2–16; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–022 and 52–023; NRC–2013–0261]

Duke Energy Progress; Combined License Application for Shearon Harris Nuclear Power Plants Units 2 and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to an August 12, 2015, letter from Duke Energy Progress (DEP), which requested an exemption from certain regulatory requirements that requires DEP to submit an update to the Final Safety Analysis Report (FSAR) included in their combined license (COL) application by December 31, 2015. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption, but stipulated that the update to the FSAR must be submitted prior to, or coincident with the resumption of the COL application review or by December 31, 2016, whichever comes first.

DATES: The exemption is effective on March 4, 2016.

ADDRESSES: Please refer to Docket ID NRC–2013–0261 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0261. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals 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 that document is available in ADAMS) is provided the first time that the 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: Brian Hughes, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001; telephone: 301–415–6582; email: *Brian.Hughes@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On February 18, 2008, DEP, submitted to the NRC a COL application for two units of Westinghouse Electric Company's AP1000 advanced pressurized water reactors to be constructed and operated at the existing Shearon Harris Nuclear Plant (Harris) site (ADAMS) Accession No. ML080580078). The NRC docketed the Shearon Harris Units 2 and 3 COL application (Docket Numbers 52–022 and 52–023) on April 23, 2008. On April 15, 2013, (ADAMS Accession No. ML13112A761) DEP submitted Revision 5 to the COL application including updates to the FSAR, per subsection 50.71(e)(3)(iii) of title 10 of the *Code of Federal Regulations* (10 CFR). On May 2, 2013 (ADAMS Accession No. ML13123A344), DEP requested that the NRC suspend review of the Shearon Harris Nuclear Plant Units 2 and 3 COL application. On August 7, 2013 (ADAMS Accession No. ML13220B004), DEP requested an exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the COL application FSAR update, which NRC granted through December 31, 2014. On August 1, 2014 (ADAMS Accession No. ML14216A431), DEP requested another exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the COL application FSAR update by December 31, 2015. On August 12, 2015 (ADAMS Accession No. ML15226A353), DEP requested another exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the COL application FSAR update by December 31, 2016.

II. Request/Action

Paragraph 50.71(e)(3)(iii) requires that an applicant for a COL under Subpart C of 10 CFR part 52, submit updates to their FSAR annually during the period

from docketing the application to the Commission making its 10 CFR 52.103(g) finding.

Pursuant to 10 CFR 50.71(e)(3)(iii) the next annual update of the FSAR included in the Harris Units 2 and 3 COL application would be due by December 31, 2014. In a letter dated August 1, 2014 (ADAMS Accession No. ML14216A431), DEP requested that the Harris Units 2 and 3 COL application be exempt from the 10 CFR 50.71(e)(3)(iii) requirements until December 31, 2015, or prior to a request to reactivate the Harris Units 2 and 3 COL application review.

In a letter dated August 12, 2015 (ADAMS Accession No. ML15226A353), DEP requested that the Harris Units 2 and 3 COL application be exempt from the 10 CFR 50.71(e)(3)(iii) requirements until December 31, 2016, or prior to a request to reactivate the Harris Units 2 and 3 COL application review. The exemption would allow DEP to submit the next FSAR update at a later date, but still in advance of NRC's reinstating its review of the application and in any event, by December 31, 2016. The current requirement to submit an FSAR update could not be changed, absent the exemption.

III. Discussion

Pursuant to 10 CFR 50.12 the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, including 10 CFR 50.71(e)(3)(iii) when: (1) The exemption(s) are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if: ''[a]pplication of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule'' (10 CFR 50.12(a)(2)(ii)) and if ''[t]he exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation'' (10 CFR 50.12(a)(2)(v)).

The purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up to date information regarding the COL application, in order to perform an efficient and effective review. The rule targeted those applications that are being actively reviewed by the NRC. Because DEP requested the NRC suspend its review of the Harris Units 2 and 3 COL application, compelling DEP to submit its FSAR on an annual basis is not necessary as the FSAR will not be changed or updated until the review is restarted. Requiring the updates would result in undue hardship on DEP, and the purpose of 10 CFR 50.71(e)(3)(iii) would still be achieved if the update is submitted prior to restarting the review and in any event by December 31, 2016.

The requested exemption to defer submittal of the next update to the FSAR included in the Harris Units 2 and 3 COL application would provide only temporary relief from the regulations in 10 CFR 50.71(e)(3)(iii). As evidenced by the proper submittal of annual updates on June 23, 2009 (ADAMS Accession No. ML091810540), April 12, 2010 (ADAMS Accession No. ML101120592), April 14, 2011 (ADAMS Accession No. ML111170902), April 12, 2012 (ADAMS Accession No. ML12122A656) and April 15, 2013 (ADAMS Accession No. ML13112A761), DEP has made good faith efforts to comply with 10 CFR 50.71(e)(3)(iii) prior to requesting suspension of the review. In its subsequent requests dated August 1, 2014, and August 12, 2015 DEP asked the NRC to grant exemption from 10 CFR 50.71(e)(3)(iii) until December 31, 2016, or prior to any request to reactivate Harris Units 2 and 3 COL application review. For the reasons stated above, the application of 10 CFR 50.71(e)(3)(iii) in this particular circumstance can be deemed unnecessary and the granting of the exemption would allow only temporary relief from a rule that the applicant had made good faith efforts to comply with, therefore special circumstances are present.

Authorized by Law

The exemption is a schedule exemption from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow DEP to submit the next Harris Units 2 and 3 COL application FSAR update on or before December 31, 2016, in lieu of the required scheduled submittal in December 31, 2015. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50. The NRC staff has determined that granting DEP the requested exemption from the requirements of 10 CFR 50.71(e)(3)(iii) will provide only temporary relief from this regulation and will not result in a violation of the Atomic Energy Act of 1954, as amended, or the NRC's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR 50.71(e)(3)(iii) is to provide for a timely and comprehensive update of the FSAR associated with a COL application in order to support an effective and efficient review by the NRC staff and issuance of the NRC staff's safety evaluation report. The requested exemption is solely administrative in nature, in that it pertains to the schedule for submittal to the NRC of revisions to an application under 10 CFR part 52, for which a license has not been granted. In addition, since the review of the application has been suspended, any update to the application submitted by DEP will not be reviewed by the NRC at this time. Plant construction cannot proceed until the NRC's review of the application is completed, a mandatory hearing is completed, and a license is issued. Additionally, based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption; thus neither the probability, nor the consequences of postulated accidents are increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The requested exemption would allow DEP to submit the next FSAR update prior to requesting the NRC to resume the review and, in any event, on or before December 31, 2015. This schedule change has no relation to security issues. Therefore, the common defense and security is not impacted.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii) are present whenever: (1) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule'' (10 CFR 50.12(a)(2)(ii)). The underlying purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up-to date information in order to perform its review of a COL application efficiently and effectively. Because the requirement to annually update the FSAR was intended for active reviews and the Shearon Harris Units 2 and 3 COL application review is now suspended, the application of this regulation in this particular circumstance is unnecessary in order to achieve its underlying purpose. If the NRC were to grant this exemption, and DEP were then required

to update its FSAR by December 31, 2016, or prior to any request to restart of their review, the purpose of the rule would still be achieved.

Special circumstances in accordance with 10 CFR 50.12(a)(2)(v) are present whenever the exemption would provide only temporary relief from the regulation and the applicant has made good faith efforts to comply with this regulation. Because of the assumed and imposed new deadline of December 31, 2016, DEP's exemption request seeks only temporary relief from the requirement that it file an update to the FSAR included in the Shearon Harris Units 2 and 3 COL application. Additionally DEP submitted the required annual updates to its FSAR throughout the application process until asking for suspension of its review.

Therefore, since the relief from the requirements of 10 CFR 50.71(e)(3)(iii) would be temporary and the applicant has made good faith efforts to comply with the rule, and the underlying purpose of the rule is not served by application of the rule in this circumstance, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and 50.12(a)(2)(v) for the granting of an exemption from 10 CFR 50.71(e)(3)(iii) exist.

Eligibility for Categorical Exclusion From Environmental Review

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25) provided that:

(i) There is no significant hazards consideration;

The criteria for determining whether there is no significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a schedule change regarding the submission of an update to the application for which the licensing review has been suspended. Therefore, there is no significant hazards consideration because granting the proposed exemption would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

The proposed action involves only a schedule change which is administrative in nature, and does not involve any changes to be made in the types or significant increase in the amounts of effluents that may be released offsite.

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

Since the proposed action involves only a schedule change which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

(iv) There is no significant construction impact;

The proposed action involves only a schedule change which is administrative in nature; the application review is suspended until further notice, and there is no consideration of any construction at this time, and hence the proposed action does not involve any construction impact.

(v) There is no significant increase in the potential for or consequences from radiological accidents; and

The proposed action involves only a schedule change which is administrative in nature, and does not impact the probability or consequences of accidents.

(vi) The requirements from which an exemption is sought involve:

(B) Reporting requirements;

The exemption request involves submitting an updated FSAR by DEP and

(G) Scheduling requirements;

The proposed exemption relates to the schedule for submitting FSAR updates to the NRC.

IV. Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also special circumstances are present. Therefore, the Commission hereby grants DEP a one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) pertaining to the Shearon Harris Nuclear Power Plant Units 2 and 3 COL application to allow submittal of the next FSAR update prior to any request to the NRC to resume the review, and in any event no later than December 31, 2016.

Pursuant to 10 CFR 51.22, the Commission has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 26th day of February 2016.

For The Nuclear Regulatory Commission.

Francis M. Akstulewicz,

Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2016–04852 Filed 3–3–16; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–83 and CP2016–108; Order No. 3117]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 189 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 7, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30–.35, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 189 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new

[1] Request of the United States Postal Service to Add Priority Mail Contract 189 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, February 26, 2016 (Request).

product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–83 and CP2016–108 to consider the Request pertaining to the proposed Priority Mail Contract 189 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 7, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lawrence Fenster to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–83 and CP2016–108 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Lawrence Fenster is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than March 7, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–04726 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–85 and CP2016–110; Order No. 3108]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 191 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 7, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30–.35, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 191 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–85 and CP2016–110 to consider the Request pertaining to the proposed Priority Mail Contract 191 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 7, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lyudmila Y. Bzhilyanskaya to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–85 and CP2016–110 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Lyudmila Y. Bzhilyanskaya is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than March 7, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–04690 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–88 and CP2016–113; Order No. 3115]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail & First-Class Package Service Contract 14 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 7, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

[1] Request of the United States Postal Service to Add Priority Mail Contract 191 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, February 26, 2016 (Request).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30–.35, the Postal Service filed a formal request and associated supporting information to add Priority Mail & First-Class Package Service Contract 14 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–88 and CP2016–113 to consider the Request pertaining to the proposed Priority Mail & First-Class Package Service Contract 14 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 7, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–88 and CP2016–113 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than March 7, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–04725 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 14 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, February 26, 2016 (Request).

POSTAL REGULATORY COMMISSION

[Docket No. CP2015–62; Order No. 3113]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to an existing Global Expedited Package Services 3 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 7, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

On February 26, 2016, the Postal Service filed notice that it has agreed to a modification to the existing Global Expedited Package Services 3 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Modification and a certification of compliance with 39 U.S.C. 3633(a), as required by 39 CFR 3015.5.

The Postal Service also filed the unredacted Modification and supporting financial information under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. Notice at 1–2.

The Modification revises the mailer's contact information in various articles in the agreement, allows use of Priority Mail Express International service, and amends Annex 1 of the agreement. *Id.* at 1.

The Postal Service intends to notify the mailer of the effective date within 30 days of receiving approval of the modification from the Commission. *Id.* Attachment 1 at 2. The Postal Service certifies that the Modification complies with 39 U.S.C. 3633. Notice, Attachment 2.

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than March 7, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2015–62 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than March 7, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–04723 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of the United States Postal Service of Filing Modification to Global Expedited Package Services 3 Negotiated Service Agreement, February 26, 2016 (Notice). The modification is an attachment to the Notice (Modification).

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–87 and CP2016–112; Order No. 3107]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Express Contract 33 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 7, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30–.35, the Postal Service filed a formal request and associated supporting information to add Priority Mail Express Contract 33 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

[1] Request of the United States Postal Service to Add Priority Mail Express Contract 33 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, February 26, 2016 (Request).

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–87 and CP2016–112 to consider the Request pertaining to the proposed Priority Mail Express Contract 33 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 7, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Katalin K. Clendenin to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–87 and CP2016–112 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than March 7, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–04689 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2016–53; Order No. 3118]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to an existing Global Expedited Package Services 3 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 7, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

On February 26, 2016, the Postal Service filed notice that it has agreed to a modification to the existing Global Expedited Package Services 3 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Modification and a certification of compliance with 39 U.S.C. 3633(a), as required by 39 CFR 3015.5.

The Postal Service also filed the unredacted Modification and supporting financial information under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. Notice at 1–2.

The Modification revises several articles in the agreement to change the mailer's minimum commitment, allows use of Priority Mail Express International service, and amends Annex 1 of the agreement. *Id.* at 1.

The Postal Service intends to notify the mailer of the effective date of the agreement within 30 days of receiving approval of the Modification from the Commission. *Id.* Attachment 1 at 2. The Postal Service asserts that the Modification will not impair the ability of the contract to comply with 39 U.S.C. 3633. Notice, Attachment 2 at 1.

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than March 7, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to represent the interests of the

[1] Notice of the United States Postal Service of Filing Modification to Global Expedited Package Services 3 Contract, February 26, 2016 (Notice). The modification is an attachment to the Notice (Modification).

general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2016–53 for consideration of matters raised by the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments are due no later than March 7, 2016.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–04727 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–86 and CP2016–111; Order No. 3114]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 192 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 7, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30–.35, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 192 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–86 and CP2016–111 to consider the Request pertaining to the proposed Priority Mail Contract 192 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 7, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Jennaca D. Upperman to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–86 and CP2016–111 to consider the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Jennaca D. Upperman is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).
3. Comments are due no later than March 7, 2016.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–04724 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Priority Mail Contract 192 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, February 26, 2016 (Request).

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–84 and CP2016–109; Order No. 3106]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 190 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 7, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30–.35, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 190 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5.

Request, Attachment B

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

[1] Request of the United States Postal Service to Add Priority Mail Contract 190 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, February 26, 2016 (Request).

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–84 and CP2016–109 to consider the Request pertaining to the proposed Priority Mail Contract 190 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 7, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lyudmila Y. Bzhilyanskaya to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–84 and CP2016–109 to consider the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Lyudmila Y. Bzhilyanskaya is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).
3. Comments are due no later than March 7, 2016.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–04688 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 4, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 26, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 190 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–84, CP2016–109.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–04780 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 4, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 26, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 189 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–83, CP2016–108.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–04779 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 4, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 26, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 192 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–86, CP2016–111.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–04782 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 4, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 26, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 191 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–85, CP2016–110.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–04781 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 4, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 26, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 14 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–88, CP2016–113.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–04784 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* March 4, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 26, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express Contract 33 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–87, CP2016–112.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–04783 Filed 3–3–16; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77251; File No. SR–MIAX–2016–06]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Options Fee Schedule

February 29, 2016.

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 February 26, 2016, 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, 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 is filing a proposal to amend the MIAX Options Fee Schedule (''Fee Schedule'').

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to broaden the description of the information that is provided to users of the MIAX Financial Information Exchange (''FIX'') Drop Copy Port to reflect information regarding trade corrections and trade cancellations.

The FIX Drop Copy Port is a messaging interface that currently provides a copy of real-time trade execution information through a FIX Port [3] to FIX Drop Copy Port users who subscribe to the service. FIX Drop Copy Port users are those users who are designated by an Electronic Exchange Member (''EEM'') [4] to receive the information and the information is restricted for use by the EEM only. The Exchange assesses a monthly per port fee to users of the FIX Drop Copy Ports.

The FIX Drop Copy Port currently provides the user with a copy of real-time trade execution updates. The updates contain a copy of trade execution messages on a low latency, real-time basis. A FIX Drop Copy Port can be configured to monitor any number of FIX Ports used by that EEM and a FIX Port user can have any number of FIX Drop Copy Ports. The FIX Drop Copy Port sends messages containing reports of order executions to the user based upon the group of FIX Ports that it is configured to monitor.

The Exchange proposes to provide FIX Drop Copy Port users with information regarding trade corrections and trade cancellations in addition to the information regarding trade executions currently received by such users. The purpose of including this additional information in the FIX Drop Copy Port without charge is to enhance the service provided by the Exchange by way of a value-added feature that transmits trade correction and cancellation information directly to FIX Drop Copy Port users. Moreover, this value-added feature enhances transparency on the Exchange respecting the status of trade corrections and cancellations submitted to the Exchange.

MIAX currently assesses a FIX Drop Copy Port fee of $500 per port per month based on the number of FIX Drop Copy Ports to which a user subscribes and the fee includes connectivity to the Exchange's primary, secondary and disaster recovery data centers at no additional cost. The Exchange is not proposing a change to the FIX Drop Copy Port fee.

The proposed change to the information provided to FIX Drop Copy

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19bb–4.

[3] A FIX Port is an interface with MIAX systems that enables the Port user (typically an Electronic Exchange Member or a Market Maker) to submit orders electronically to MIAX. The term ''Electronic Exchange Member'' means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100. The term ''Market Makers'' refers to ''Lead Market Makers,'' ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. A Lead Market Maker is a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of these Rules with respect to Lead Market Makers. A Primary Lead Market Maker is a Lead Market Maker appointed by the Exchange to act as the Primary Lead Market Maker for the purpose of making markets in securities traded on the Exchange. A Registered Market Maker is a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange, who is not a Lead Market Maker. *See* Exchange Rule 100.

[4] *See id.*

Port users will be implemented on a date announced by the Exchange by Regulatory Circular.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act [5] in general, and furthers the objectives of Section 6(b)(5) of the Act [6] 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is designed to protect investors and the public interest and to promote just and equitable principles of trade by adding transparency to the Exchange's marketplace through the new information included in the FIX Drop Copy Port at no additional cost.

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 enhancement of services by the Exchange provided to its Members and others using its facilities will not have an impact on competition. In fact, MIAX's proposed additional information provided to users of the FIX Drop Copy Port at no additional cost will benefit all Members who desire to use such services.

The FIX Drop Copy Port will continue to be offered as a service for FIX Drop Copy Port users at the same price, which is within the range of prices for similar ports offered by other exchanges,[7] and therefore the Exchange believes that the current price of the port fee does not impose a burden on competition.

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.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *See* NYSE Arca Options Fees and Charges, p. 12, and NYSE Amex Options Fee Schedule, p .24. Both NYSE Arca Options and NYSE Amex Options charge $500 per port per month for a drop copy port.

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, it has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [11] permits the Commission to 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 proposal may become operative immediately upon filing. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would enable market participants to benefit from the additional information provided in the FIX Drop Copy Port without undue delay. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[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 change should be approved or disapproved.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 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.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission has also 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–MIAX–2016–06 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–2016–06. 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–MIAX–2016–06, and should be submitted on or before March 25, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04708 Filed 3–3–16; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32011; 812–14554]

CLS Investments, LLC, et al.; Notice of Application

February 29, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

APPLICANTS: CLS Investments, LLC (''CLS''), AdvisorOne Funds (''Trust'') and Northern Lights Distributors, LLC (''NLD'').

DATES: Filing Dates: The application was filed on September 29, 2015, and amended on February 1, 2016.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 24, 2016, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, 17605 Wright Street, Omaha, NE 68130

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551–6817, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a Delaware statutory trust and is registered under the Act as an open-end management investment company with multiple series. Each series will operate as an exchange traded fund (''ETF'').

2. CLS will be the investment adviser to the new series of the Trust (''Initial Fund''). Each Adviser (as defined below) will be registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Trust will enter into a distribution agreement with one or more distributors. Each distributor for a Fund will be a broker-dealer (''Broker'') registered under the Securities Exchange Act of 1934 (''Exchange Act'') and will act as distributor and principal underwriter (''Distributor'') for one or more of the Funds. No Distributor will be affiliated with any national securities exchange, as defined in Section 2(a)(26) of the Act (''Exchange''). The Distributor for each Fund will comply with the terms and conditions of the requested order. NLD, a Nebraska limited liability company and broker-dealer registered under the Exchange Act, will act as the initial Distributor of the Funds.

4. Applicants request that the order apply to the Initial Fund and any additional series of the Trust, and any other open-end management investment company or series thereof, that may be created in the future (''Future Funds'' and together with the Initial Fund, ''Funds''), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Future Fund will (a) be advised by CLS or an entity controlling, controlled by, or under common control with CLS (each, an ''Adviser'') and (b) comply with the terms and conditions of the application.[1]

5. Each Fund will hold certain securities, currencies, other assets, and other investment positions (''Portfolio Holdings'') selected to correspond generally to the performance of its Underlying Index. The Underlying Indexes will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes that will be comprised solely of foreign and domestic, or solely foreign, equity and/or fixed income securities (''Foreign Funds'').

6. Applicants represent that each Fund will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities'') and TBA Transactions,[2] and in the case of Foreign Funds, Component Securities

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

and Depositary Receipts [3] representing Component Securities. Each Fund may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

7. Each Trust may issue Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index [4] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets.

8. Each Business Day, for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Fund's Portfolio Holdings (defined below) before the commencement of trading of Shares on the Listing Exchange (defined below).[5] The information provided on the Web site will be formatted to be reader-friendly.

9. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

10. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the Adviser, which will have a licensing agreement with such Index Provider.[6] A ''Self-Indexing Fund'' is a Fund for which an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'') will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[7] Except with respect to the Self-Indexing Funds, no Index Provider is or will be an Affiliated Person, or a Second-Tier Affiliate, of a Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

11. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated.

12. Applicants propose that each Self-Indexing Fund will post on its Web site, on each day the Fund is open, including any day when it satisfies redemption requests as required by Section 22(e) of the Act (a ''Business Day''), before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the Portfolio Holdings that will form the basis for the Fund's calculation of its NAV at the end of the Business Day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will also provide an additional mechanism for addressing any such potential conflicts of interest.

13. In addition, applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[8]

14. Each Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the

[3] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[4] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[5] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[6] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (as defined below), or in case of a sub-licensing agreement, the Adviser, must provide the use of the Affiliated Indexes (as defined below) and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[7] The Affiliated may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Advisor acts as adviser or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[8] *See, e.g.,* Rule 17j–1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)–7 under the Advisers Act.

rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, CLS will adopt policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the ETS Securities or an associated person (''Inside Information Policy''). Any other Adviser or Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [9] and Inside Information Policy of the Adviser and any Sub-Adviser, personnel of those entities with knowledge about the composition of the Portfolio Deposit [10] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider.[11] The Adviser will also include under Item 10.C of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

15. To the extent the Self-Indexing Funds transact with an Affiliated Person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, the Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission. Applications for prior orders granted to Self-Indexing Funds have received relief to operate such funds on the basis discussed above.[12]

16. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[13] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) [14] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots; [15] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind [16] will be excluded from the Deposit Instruments and the Redemption Instruments; [17](d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio; [18] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

17. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in

[9] The Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j–1 (''Code of Ethics'').

[10] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing are referred to as the ''Portfolio Deposit.''

[11] In the event that an Adviser or Sub-Adviser serves as the Affiliated Index Provider for a Self-Indexing Fund, the terms ''Affiliated Index Provider'' or ''Index Provider,'' with respect to that Self-Indexing Fund, will be limited to the employees of the applicable Adviser or Sub-Adviser that are responsible for creating, compiling and maintaining the relevant Underlying Index.

[12] *See, e.g.,* Emerging Global Advisors, LLC, et al., Investment Company Act Release Nos. 30910 (February 10, 2014) (notice) and 30975 (March 7, 2014) (order); VTL Associates, LLC, et al., Investment Company Act Release Nos. 30815 (December 2, 2013) (notice) and 30849 (December 30, 2013) (order); Horizons ETFs Management (USA) LLC and Horizons ETF Trust, Investment Company Act Release Nos. 30803 (November 21, 2013) (notice) and 30833 (December 17, 2013) (order).

[13] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[14] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[15] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[16] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[17] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[18] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

cash;[19] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[20]

18. Creation Units will consist of specified large aggregations of Shares (*e.g.,* 25,000 Shares) as determined by the Adviser, and it is expected that the initial price of a Creation Unit will range from $1 million to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' *i.e.,* a Broker or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

19. Each Business Day, before the open of trading on the Exchange on which Shares are primarily listed (''Listing Exchange''), each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

20. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[21] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

21. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

22. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[22] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

23. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

24. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or

[19] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[20] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[21] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[22] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for underlying foreign securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fourteen (14) calendar days. Accordingly, with respect to Foreign Funds only, applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fourteen calendar days following the tender of Creation Units for redemption.[23]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fourteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fourteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.

[23] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations Applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser, and not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each, a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[24] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[25]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and

[24] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

[25] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

Sections 17(a)(1) and (2) of the Act

19. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

20. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

21. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Holdings currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Holdings held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, applicants submit that, by using the same standards for valuing Portfolio Holdings held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

22. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[26] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[27] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested

[26] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from Section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from Section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[27] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by Section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, the Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's Portfolio Holdings.

6. No Adviser or any Sub-Adviser to a Self-Indexing Fund, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Self-Indexing Fund) to acquire any Deposit Instrument for the Self-Indexing Fund through a transaction in which the Self-Indexing Fund could not engage directly.

B. Fund of Funds Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of Section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b-l under the Act) received from a Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities

purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating, without limitation, that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent the Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund to acquire securities of one or more investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04722 Filed 3–3–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32014; File No. 812–14481]

Charles Schwab Investment Management, Inc., et al.; Notice of Application

February 29, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY: *Summary of Application:* Applicants request an order that would permit (a) series of certain open-end management investment companies that track the performance of an index provided by an affiliated person to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to perform creations and redemptions of Creation Units in-kind in a master-feeder structure.

Applicants: Charles Schwab Investment Management, Inc. (''CSIM'' or ''Current Adviser''), Schwab Strategic Trust (''Trust''), and SEI Investments Distribution Co. (''SEI'' or ''Distributor'').

DATES: *Filing Dates:* The application was filed on June 5, 2015 and amended on September 4, 2015 and December 24, 2015.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 24, 2016, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: CSIM and Trust, 211Main Street, SF211–05–491, San Francisco, CA 94105; SEI, 1 Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551–6817, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust, a Delaware statutory trust, is registered under the Act as an open-end management investment company with multiple series.

2. The Current Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and will be the investment adviser to the Self-Indexing Funds (defined below). Any other Adviser (defined below) will also be registered as an investment adviser under the Advisers Act. The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Self-Indexing Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be subject to registration thereunder.

3. The Trust will enter into a distribution agreement with one or more distributors, each a broker-dealer (''Broker'') registered under the Securities Exchange Act of 1934 (the ''Exchange Act''), who will act as distributor and principal underwriter of one or more of the Self-Indexing Funds (each, a ''Distributor''). The Distributor of any Self-Indexing Fund may be an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of that Self-Indexing Fund's Adviser and/or Sub-Advisers. No Distributor will be affiliated with any Exchange (defined below).

4. Applicants request that the order apply to the initial series of the Trust described in the application (''Initial Self-Indexing Fund''), as well as any additional series of the Trust and other open-end management investment companies, or series thereof, that may be created in the future (''Future Self-Indexing Funds''), each of which will operate as an exchange-traded fund (''ETF'') and will track a specified equity and/or a specified fixed income securities index (each, an ''Underlying Index''). Any Future Self-Indexing Fund will (a) be advised by the Current Adviser or an entity controlling, controlled by, or under common control with the Current Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application. The Initial Self-Indexing Fund and Future Self-Indexing Funds, together, are the ''Self-Indexing Funds.'' [1]

5. Applicants state that a Fund may operate as a feeder fund in a master-feeder structure (''Feeder Fund''). Applicants request that the order permit a Feeder Fund to acquire shares of another registered investment company in the same group of investment companies having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) of the Act and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B) of the Act (''Master-Feeder Relief''). Applicants may structure certain Feeder Funds to generate economies of scale and incur lower overhead costs.[2] There would be no ability by Fund shareholders to exchange Shares of Feeder Funds for shares of another feeder series of the Master Fund.

6. Each Self-Indexing Fund, or its respective Master Fund, will hold certain securities (''Portfolio Securities'') selected to correspond generally to the performance of its Underlying Index. Each Underlying Index will be comprised solely of domestic and/or foreign equity and/or fixed income securities. Each Self-Indexing Fund will track one of the following types of Underlying Indexes: (i) An index made up of domestic equity securities and/or domestic fixed income securities, (ii) an index made up of foreign equity securities and/or foreign fixed income securities (such Funds, ''International Funds''), or (iii) an index made up of foreign and domestic equity securities and/or foreign and domestic fixed income securities (such Funds, ''Global Funds'').

7. Applicants represent that each Self-Indexing Fund, or its respective Master Fund, will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities'') and TBA Transactions,[3] and in the case of International and Global Funds, Component Securities and Depositary Receipts [4] representing Component Securities. Each Self-Indexing Fund, or its respective Master Fund, may also invest up to 20% of its assets in securities and other instruments not included in its Underlying Index but which the Adviser and/or Sub-Adviser believes will help the Self-Indexing Fund, or its respective Master Fund, track its Underlying Index, including but not limited to certain index futures, options, options on futures, options on index futures, swap contracts or other derivatives, cash and cash equivalents, and other investment companies. A Self-Indexing Fund may also engage in short sales in accordance with its investment objective.

8. The Trust may offer Self-Indexing Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of the Self-Indexing Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Self-Indexing Fund's net assets. Each Long/Short Fund will obtain exposures equal to the long and short positions specified by the Long/Short Index.[5]

9. A Self-Indexing Fund, or its respective Master Fund, will utilize either a replication or representative

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Self-Indexing Funds and not in any other registered investment company.

[2] Operating in a master-feeder structure could also impose costs on a Feeder Fund and reduce its tax efficiency. The Feeder Fund's Board will consider any such potential disadvantages against the benefits of economies of scale and other benefits of operating within a master-feeder structure. In a master-feeder structure, the Master Fund—rather than the Feeder Fund—would generally invest its portfolio in compliance with the requested order.

[3] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[4] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Self-Indexing Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Self-Indexing Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Self-Indexing Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Self-Indexing Fund.

[5] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

sampling strategy to track its Underlying Index. A Self-Indexing Fund, or its respective Master Fund, using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Self-Indexing Fund, or its respective Master Fund, using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Self-Indexing Fund, or its respective Master Fund, using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Self-Indexing Fund, or its respective Master Fund, will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

10. An Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Self-Indexing Fund, of the Adviser, of any Sub-Adviser to or promoter of a Self-Indexing Fund, or of the Distributor (each, an ''Affiliated Index Provider'') [6] will create a proprietary, rules-based methodology to create Underlying Indexes.[7] The Affiliated Index Provider will create, compile, sponsor or maintain the Underlying Indexes. Each Self-Indexing Fund will be entitled to use its Underlying Index pursuant to a licensing agreement with the Affiliated Index Provider.[8]

11. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated. Prior orders granted to self-indexing ETFs (''Prior Self-Indexing Orders'') addressed these concerns by creating a framework that required: (i) Transparency of the Underlying Indexes; (ii) the adoption of policies and procedures not otherwise required by the Act designed to mitigate such conflicts of interest; (iii) limitations on the ability to change the rules for index compilation and the component securities of the index; (iv) that the index provider enter into an agreement with an unaffiliated third party to act as ''Calculation Agent''; and (v) certain limitations designed to separate employees of the index provider, adviser and Calculation Agent (clauses (ii) through (v) are hereinafter referred to as ''Policies and Procedures'').[9]

12. Instead of adopting the same or similar Policies and Procedures, applicants propose that each day that a Self-Indexing Fund, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'')) on which the Self-Indexing Fund's Shares are primarily listed (''Listing Exchange'') are open for business, including any day that a Self-Indexing Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Self-Indexing Fund will post on its publicly available Web site (''Web site''),[10] before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the portfolio securities, assets, and other positions held by the Self-Indexing Fund (''Portfolio Holdings'') that will form the basis for the Self-Indexing Fund's calculation of its NAV at the end of the Business Day.[11] Applicants believe that requiring Self-Indexing Funds, or their respective Master Funds, to maintain full portfolio transparency will provide an effective alternative mechanism for addressing any such potential conflicts of interest.

13. Applicants represent that each Self-Indexing Fund's Portfolio Holdings will be as transparent as the portfolio holdings of existing actively managed ETFs. Applicants observe that the framework set forth in the Prior Self-Indexing Orders was established before the Commission began issuing exemptive relief to allow the offering of actively-managed ETFs.[12] Unlike passively-managed ETFs, actively-managed ETFs do not seek to replicate the performance of a specified index but rather seek to achieve their investment objectives by using an ''active'' management strategy. Applicants contend that the structure of actively managed ETFs presents potential conflicts of interest that are the same as those presented by Self-Indexing Funds because the portfolio managers of an actively managed ETF by definition have advance knowledge of pending portfolio changes. However, rather than requiring Policies and Procedures similar to those required under the Prior Self-Indexing Orders, applicants believe that actively managed ETFs address these potential conflicts of interest appropriately through full portfolio transparency, as the conditions to their relevant exemptive relief require.

14. In addition, applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self-Indexing Funds, their respective Master Funds, and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers

[6] The applicants currently expect that the Adviser will serve as the Affiliated Index Provider for the Self-Indexing Funds. In the event that the Adviser serves as the Affiliated Index Provider for a Self-Indexing Fund, the term ''Affiliated Index Provider,'' with respect to that Self-Indexing Fund, will refer to the employees of the Adviser that are responsible for creating, compiling and maintaining the relevant Underlying Index.

[7] The Underlying Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or sub-adviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or sub-adviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Self-Indexing Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Self-Indexing Fund.

[8] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider must provide the use of the Underlying Indexes and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[9] *See, e.g.,* In the Matter of WisdomTree Investments Inc., et al., Investment Company Act Release Nos. 27324 (May 18, 2006) (notice) and 27391 (June 12, 2006) (order); In the Matter of IndexIQ ETF Trust, et al., Investment Company Act Release Nos. 28638 (Feb. 27, 2009) (notice) and 28653 (March 20, 2009) (order); and Van Eck Associates Corporation, et al., Investment Company Act Release Nos. 29455 (Oct. 1, 2010) (notice) and 29490 (Oct. 26, 2010) (order).

[10] The information provided on the Web site will be formatted to be reader-friendly.

[11] Under accounting procedures followed by each Self-Indexing Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (''T+1''). Accordingly, the Self-Indexing Funds will be able to disclose at the beginning of each Business Day the portfolio that will form the basis for the NAV calculation at the end of that Business Day.

[12] *See, e.g.,* In the Matter of Huntington Asset Advisors, Inc., et al., Investment Company Act Release Nos. 30032 (April 10, 2012) (notice) and 30061 (May 8, 2012) (order); In the Matter of Russell Investment Management Co., et al., Investment Company Act Release Nos. 29655 (April 20, 2011) (notice) and 29671 (May 16, 2011) (order); In the Matter of Eaton Vance Management, *et al.,* Investment Company Act Release Nos. 29591 (March 11, 2011) (notice) and 29620 (March 30, 2011) (order) and; In the Matter of iShares Trust, et al., Investment Company Act Release Nos. 29543 (Dec. 27, 2010) (notice) and 29571 (Jan. 24, 2011) (order).

Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[13]

15. The Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds, their respective Master Funds, and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, the Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the Adviser or an associated person (''Inside Information Policy''). Any Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy and Code of Ethics.[14] In accordance with the Code of Ethics and Inside Information Policy of the Adviser and Sub-Advisers, personnel of those entities with knowledge about the composition of the Portfolio Deposit[15] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, no Affiliated Index Provider will provide any information relating to changes to an Underlying Index's methodology for the inclusion or exclusion of component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by such Affiliated Index Provider. The Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

16. To the extent the Self-Indexing Funds or their respective Master Funds transact with an Affiliated Person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, the Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission.

17. In light of the foregoing, applicants believe it is appropriate to allow the Self-Indexing Funds to be fully transparent in lieu of Policies and Procedures from the Prior Self-Indexing Orders discussed above.

18. The Shares of each Self-Indexing Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[16] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Self-Indexing Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Self-Indexing Fund's portfolio (including cash positions)[17] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[18] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind[19] will be excluded from the Deposit Instruments and the Redemption Instruments;[20](d) to the extent the Self-Indexing Fund determines, on a given Business Day, to use a representative sampling of the Self-Indexing Fund's portfolio;[21] or (e) for temporary periods, to effect changes in the Self-Indexing Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

19. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Self-Indexing Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if,

[13] *See, e.g.,* rule 17j–1 under the Act and section 204A under the Advisers Act and rules 204A–1 and 206(4)–7 under the Advisers Act.

[14] The Adviser has also adopted or will adopt a code of ethics pursuant to rule 17j–1 under the Act and rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in rule 17j–1) from engaging in any conduct prohibited in rule 17j–1 (''Code of Ethics'').

[15] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the ''Portfolio Deposit.''

[16] The Self-Indexing Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Self-Indexing Funds will comply with the conditions of rule 144A.

[17] The portfolio used for this purpose will be the same portfolio used to calculate the Self-Indexing Fund's NAV for the Business Day.

[18] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[19] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Self-Indexing Fund does not intend to seek such consents.

[20] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (defined below).

[21] A Self-Indexing Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Self-Indexing Fund's portfolio; (ii) consists entirely of instruments that are already included in the Self-Indexing Fund's portfolio; and (iii) is the same for all Authorized Participants (defined below) on a given Business Day.

upon receiving a purchase or redemption order from an Authorized Participant, the Self-Indexing Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[22] (d) if, on a given Business Day, the Self-Indexing Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of International and Global Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Self-Indexing Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of an International Fund or Global Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[23]

20. Creation Units will consist of specified large aggregations of Shares, *e.g.,* at least 25,000 Shares, and it is expected that the initial price of a Creation Unit will range from $1 million to $15 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Self-Indexing Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

21. Each Business Day, before the open of trading on the Listing Exchange, each Self-Indexing Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Self-Indexing Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Portfolio Securities and other assets of the Self-Indexing Fund.

22. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Self-Indexing Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Self-Indexing Fund's existing shareholders. Each Self-Indexing Fund may (but is not required to) impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. With respect to Feeder Funds, the Transaction Fee would be paid indirectly to the Master Fund.[24] In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[25] The Distributor will be responsible for delivering the Self-Indexing Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

23. Shares of each Self-Indexing Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

24. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[26] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

[22] In determining whether a particular Self-Indexing Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Self-Indexing Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Self-Indexing Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Self-Indexing Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[23] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[24] Applicants are not requesting relief from section 18 of the Act. Accordingly, a Master Fund may require a Transaction Fee payment to cover expenses related to purchases or redemptions of the Master Fund's shares by a Feeder Fund only if it requires the same payment for equivalent purchases or redemptions by any other feeder fund. Thus, for example, a Master Fund may require payment of a Transaction Fee by a Feeder Fund for transactions for 20,000 or more shares so long as it requires payment of the same Transaction Fee by all feeder funds for transactions involving 20,000 or more shares.

[25] Where a Self-Indexing Fund permits an in-kind purchaser (or redeeming investor) to substitute (or receive) cash-in-lieu of depositing one or more of the requisite Deposit Instruments (or receiving one or more Portfolio Securities), the purchaser (or redeeming investor) may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments (or selling such Portfolio Securities).

[26] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

25. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Self-Indexing Fund, or tender such Shares for redemption to the Self-Indexing Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

26. Neither the Trust nor any Self-Indexing Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Self-Indexing Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Self-Indexing Fund or tender such Shares for redemption to the Self-Indexing Fund in Creation Units only. The Self-Indexing Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Self-Indexing Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only.[27] Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Self-Indexing Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Self-Indexing Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Self-Indexing Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for International and Global Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for underlying foreign Portfolio Securities held by an International Fund or Global Fund. Applicants state that the delivery cycles currently practicable

[27] The Master Funds will not require relief from sections 2(a)(32) and 5(a)(1) because the Master Funds will issue individually redeemable securities.

for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fifteen (15) calendar days.[28] Accordingly, with respect to International and Global Funds only, applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow International and Global Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption.[29]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of an International Fund or Global Fund to be made within fifteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fifteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to International and Global Funds that do not effect creations and redemptions of Creation Units in-kind.[30]

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser, and not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Self-Indexing Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Self-Indexing Funds, and any principal underwriter for the Self-Indexing Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Self-Indexing Fund.[31] To limit the control that a Fund of Funds may have over a Self-Indexing Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Self-Indexing Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the Self-Indexing Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Self-Indexing Fund) will cause a Self-Indexing Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Self-Indexing Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act

[28] Certain countries in which a Self-Indexing Fund may invest have historically had settlement periods of up to fifteen (15) calendar days.

[29] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

[30] In addition, the requested exemption from section 22(e) would only apply to in-kind redemptions by the Feeder Funds and would not apply to in-kind redemptions by other feeder funds.

[31] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Self-Indexing Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Self-Indexing Fund and any person controlling, controlled by or under common control with any of these entities.

(''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Self-Indexing Fund, or its respective Master Fund, in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Self-Indexing Fund, or its respective Master Fund, under rule 12b–1 under the Act) received from a Self-Indexing Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Self-Indexing Fund, in connection with the investment by the Fund of Funds in the Self-Indexing Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[32]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Self-Indexing Fund, or its respective Master Fund, will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Self-Indexing Fund, or its respective Master Fund, to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Self-Indexing Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Self-Indexing Funds and not in any other investment company.

18. Applicants also note that a Self-Indexing Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Self-Indexing Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

19. Applicants also are seeking the Master-Feeder Relief to permit the Feeder Funds to perform creations and redemptions of Shares in-kind in a master-feeder structure. Applicants assert that this structure is substantially identical to traditional master-feeder structures permitted pursuant to the exception provided in section 12(d)(1)(E) of the Act. Section 12(d)(1)(E) provides that the percentage limitations of section 12(d)(1)(A) and (B) shall not apply to a security issued by an investment company (in this case, the shares of the applicable Master Fund) if, among other things, that security is the only investment security held by the investing investment company (in this case, the Feeder Fund). Applicants believe the proposed master-feeder structure complies with section 12(d)(1)(E) because each Feeder Fund will hold only investment securities issued by its corresponding Master Fund; however, the Feeder Funds may receive securities other than securities of its corresponding Master Fund if a Feeder Fund accepts an in-kind creation. To the extent that a Feeder Fund may be deemed to be holding both shares of the Master Fund and other securities, applicants request relief from section 12(d)(1)(A) and (B). The Feeder Funds would operate in compliance with all other provisions of section 12(d)(1)(E).

Sections 17(a)(1) and (2) of the Act

20. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Self-Indexing Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Self-Indexing Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Self-Indexing Funds, may be deemed affiliated persons of the Trust or such Self-Indexing Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Self-Indexing Funds.

21. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Self-Indexing Funds, or Second-Tier Affiliates of the Self-Indexing Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Self-Indexing Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

22. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Self-Indexing Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Self-Indexing Fund will be valued in the identical manner as those Portfolio Securities currently held by such Self-Indexing Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe

[32] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Self-Indexing Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to applicants and any Affiliated Persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Securities held by a Self-Indexing Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for Affiliated Persons or Second-Tier Affiliates of applicants to effect a transaction detrimental to the other holders of Shares of that Self-Indexing Fund. Similarly, applicants submit that, by using the same standards for valuing Portfolio Securities held by a Self-Indexing Fund as are used for calculating ''in-kind'' redemptions or purchases, the Self-Indexing Fund, or its respective Master Fund, will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Self-Indexing Fund, or its respective Master fund, to track closely its Underlying Index and therefore aid in achieving the Self-Indexing Fund's objectives.

23. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Self-Indexing Fund that is an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in any accompanying in-kind transactions with the Fund of Funds.[33] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Self-Indexing Fund will be based on the NAV of the Self-Indexing Fund.[34] Applicants believe that any proposed transactions directly between the Self-Indexing Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Self-Indexing Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

24. To the extent that a Fund operates in a master-feeder structure, applicants also request relief permitting the Feeder Funds to engage in in-kind creations and redemptions with the applicable Master Fund. Applicants state that the customary section 17(a)(1) and 17(a)(2) relief would not be sufficient to permit such transactions because the Feeder Funds and the applicable Master Fund could also be affiliated by virtue of having the same investment adviser. However, applicants believe that in-kind creations and redemptions between a Feeder Fund and a Master Fund advised by the same investment adviser do not involve ''overreaching'' by an affiliated person. Such transactions will occur only at the Feeder Fund's proportionate share of the Master Fund's net assets, and the distributed securities will be valued in the same manner as they are valued for the purposes of calculating the applicable Master Fund's NAV. Further, all such transactions will be effected with respect to pre-determined securities and on the same terms with respect to all investors. Finally, such transaction would only occur as a result of, and to effectuate, a creation or redemption transaction between the Feeder Fund and a third-party investor. Applicants believe that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transactions are consistent with the policy of each Fund and will be consistent with the investment objectives and policies of each Fund of Funds, and the proposed transactions are consistent with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief, other than the section 12(d)(1) relief and the Master-Feeder Relief, to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Self-Indexing Fund operates in reliance on the requested order, the Shares of such Self-Indexing Fund will be listed on an Exchange.

3. Neither the Trust nor any Self-Indexing Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Self-Indexing Fund and tender those Shares for redemption to a Self-Indexing Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Self-Indexing Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the identities and quantities of the Self-Indexing Fund's, or its respective Master Fund's, Portfolio Holdings.

6. No Adviser or any Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Self-Indexing Fund) to acquire any Deposit Instrument for a Self-Indexing Fund, or its respective Master Fund, through a transaction in which the Self-Indexing Fund, or its respective Master Fund, could not engage directly.

[33] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Self-Indexing Fund, a Fund of Funds might seek to transact in Creation Units directly with a Self-Indexing Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Self-Indexing Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Self-Indexing Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Self-Indexing Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[34] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Self-Indexing Fund or (b) an affiliated person of a Self-Indexing Fund, or an affiliated person of such person, for the sale by the Self-Indexing Fund of its Shares to a Fund of Funds, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Self-Indexing Fund, or its respective Master Fund, within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Self-Indexing Fund, or its respective Master Fund, within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Self-Indexing Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Self-Indexing Fund, it will vote its Shares of the Self-Indexing Fund in the same proportion as the vote of all other holders of the Self-Indexing Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Self-Indexing Fund, or its respective Master Fund, for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Self-Indexing Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Self-Indexing Fund, or its respective Master Fund, or a Self-Indexing Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Self-Indexing Fund, or its respective Master Fund, or Self-Indexing Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Self-Indexing Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Self-Indexing Fund, or its respective Master Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Self-Indexing Fund, or its respective Master Fund, to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Self-Indexing Fund, or its respective Master Fund; (ii) is within the range of consideration that the Self-Indexing Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Self-Indexing Fund, or its respective Master Fund, and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Self-Indexing Fund, or its respective Master Fund, under rule 12b–l under the Act) received from a Self-Indexing Fund, or its respective Master Fund, by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor of an Investing Trust, or its affiliated person by the Self-Indexing Fund, or its respective Master Fund, in connection with the investment by the Fund of Funds in the Self-Indexing Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Self-Indexing Fund, or its respective Master Fund, by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Self-Indexing Fund, or its respective Master Fund, in connection with the investment by the Investing Management Company in the Self-Indexing Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Self-Indexing Fund) will cause a Self-Indexing Fund, or its respective Master Fund, to purchase a security in any Affiliated Underwriting.

7. The Board of a Self-Indexing Fund, or its respective Master Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by a Self-Indexing Fund, or its respective Master Fund, in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Self-Indexing Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Self-Indexing Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Self-Indexing Fund, or its respective Master Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Self-Indexing Fund, or its respective Master Fund, in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Self-Indexing Fund.

8. Each Self-Indexing Fund, or its respective Master Fund, will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings

once an investment by a Fund of Funds in the securities of the Self-Indexing Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Self-Indexing Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Self-Indexing Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Self-Indexing Fund of the investment. At such time, the Fund of Funds will also transmit to the Self-Indexing Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Self-Indexing Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Self-Indexing Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Self-Indexing Fund, or its respective Master Fund, in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Self-Indexing Fund, or its respective Master Fund, will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent (i) the Self-Indexing Fund, or its respective Master Fund, acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Self-Indexing Fund, or its respective Master Fund, to acquire securities of one or more investment companies for short-term cash management purposes or (ii) the Self-Indexing Fund acquires securities of the Master Fund pursuant to the Master-Feeder Relief.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04794 Filed 3–3–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77252; File No. SR–BX–2016–012]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BX Options Chapter VII, Section 6

February 29, 2016.

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 February 17, 2016, NASDAQ BX, Inc. (''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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BX Options Chapter VII, Section 6.

The text of the proposed rule change is below; proposed new language is italicized; proposed deletions are in brackets.

Sec. 6 Market Maker Quotations

(a)–(c) No change.

(d) Continuous Quotes. A Market Maker must enter continuous bids and offers for the options to which it is registered, as follows:

i. No change.

ii. Bid/ask Differentials (Quote Spread Parameters). Options on equities (including Exchange-Traded Fund Shares), and on index options must be quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid, including before and during the opening. However, respecting in-the-money series where the market for the underlying security is wider than $5, the bid/ask differential may be as wide as the quotation for the underlying security on the primary market. *The Exchange may establish differences other than the above for one or more series or classes of options.*

iii. No change.

(e)–(f) No change.

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 purpose of the proposal is to harmonize BX Options Chapter VII, Section 6(d)(ii) with similar provisions of the Exchange's affiliated exchanges regarding bid/ask differentials (also known as quote spread parameters). Quote spread parameters establish the maximum permissible width between the bid and the offer in a particular option series. Quote spreads apply to quotes, not orders, and are thus only applicable to the BX Options Market Makers who are required to submit two-sided quotes.[3]

Specifically, the Exchange proposes to add language to its rule regarding bid/ask differentials to permit the Exchange to establish bid/ask differentials other than what is specified in the rule. Both the NASDAQ Options Market and the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Chapter I, Section (a)(9) and Chapter VII, Sections 5 and 6.

NASDAQ PHLX have this provision.[4] Some of the circumstances that may result in wider quote spread parameters include volatility in the underlying, recent news affecting the underlying and heavy volume in the underlying or the overlying option.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5) of the Act[6] 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 permitting different quote spread parameters to be established by the Exchange to address specific requests as well as general market events. This should promote just and equitable principles of trade and protect investors by having quote spread parameters reflect potential volatility and activity in the underlying security, and thereby encourage robust market making that reflects current market conditions.

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. With respect to intra-market competition, the proposed language will apply to all quoting market participants equally. With respect to inter-market competition, market participants who disagree with the quote spread parameters that the Exchange establishes may choose to trade on another options exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or 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)(iii) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

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–BX–2016–012 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–2016–012. 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–BX–2016–012 and should be submitted on or before March 25, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04709 Filed 3–3–16; 8:45 am]

BILLING CODE 8011–01–P

[4] *See* NOM Chapter VII, Section 6 and PHLX Rule 1014(c)(i)(A)(1)(a). PHLX recently amended its rules to add the same language respecting U.S. dollar-settled foreign currency options. Securities Exchange Act Release No. 76966 (January 22, 2016), 81 FR 4724 (January 27, 2016) (SR–Phlx–2016–06).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(a)(iii) [sic].

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14641]

California Disaster #CA–00245 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of California, dated 02/25/2016.

Incident: Hazardous Ocean Conditions and Rapid Displacement of Sand Resulting in the Closure of Ventura Harbor.

Incident Period: 01/22/2016 through 02/20/2016.

Effective Date: 02/25/2016.

EIDL Loan Application Deadline Date: 11/25/2016.

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 Administrator's EIDL declaration, applications for economic injury 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: Ventura.

Contiguous Counties:

California: Kern, Los Angeles, Santa Barbara.

The Interest Rates are:

	Percent
Businesses and 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 economic injury is 146410.

The State which received an EIDL Declaration # is California.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: February 25, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–04866 Filed 3–3–16; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2016–0006]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2016–0006].

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than May 3, 2016. Individuals can obtain copies of the collection instrument by writing to the above email address.

Agency/Employer Government Pension Offset Questionnaire—20 CFR 404.408(a)—0960–0470. When an individual is concurrently receiving Social Security spousal, or surviving spousal, benefits and a government pension, the individual may have the amount of Social Security benefits reduced by the government pension amount. This is the Government Pension Offset (GPO). SSA uses Form SSA–L4163 to collect accurate pension information from the Federal or State government agency paying the pension for purposes of applying the pension offset provision. SSA uses this form only when (1) the claimant does not have the information; and (2) the pension-paying agency has not cooperated with the claimant. Respondents are State government agencies which have information SSA needs to determine if the GPO applies and the amount of offset.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–L4163	1000	1	3	50

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than April 4, 2016. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

Statement for Determining Continuing Eligibility for Supplemental Security Income Payment—20 CFR 416.204—0960–0145. SSA uses Form SSA–8202–BK to conduct low-and middle-error-profile telephone or face-to-face redetermination interviews with Supplemental Security Income (SSI) recipients and representative payees. The information SSA collects during the interview is necessary to determine whether SSI recipients met and continue to meet all statutory and regulatory requirements for SSI eligibility, and whether they received, and still receive the correct payment amount. The respondents are SSI recipients and their representatives, if applicable

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–8202–BK	10,307	1	21	3,607

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Modernized Supplemental Security Income Claims System	2,289,599	1	20	763,200
Totals	2,299,906			766,807

Dated: March 1, 2016.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2016–04797 Filed 3–3–16; 8:45 am]

BILLING CODE 4191–02–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1182X]

Brandon Railroad, L.L.C.—Abandonment Exemption—in Douglas County, NE

On February 16, 2016, Brandon Railroad, L.L.C. (BRR), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to abandon 17.3 miles of rail lines (the Lines) located in Douglas County, Neb. The Lines traverse United States Postal Service Zip Code 68107.

According to BRR, there is currently one company, United States Cold Storage, Inc. (Cold Storage), that could potentially use common carrier rail service. In August 2015, BRR entered into a long-term Confidential Private Transportation Services Agreement with Cold Storage in the event Cold Storage decides to once again utilize rail service. Additionally, GBW Railcar Services, LLC (GBW), utilizes the Lines to provide private carriage for the rail cars moving to and from its repair facilities on the Lines. Once the proposed abandonment is authorized by the Board and consummated, the Lines will continue to be used by GBW to provide private carriage and by BRR to provide contract (not common carrier) service for Cold Storage.

BRR states that the Lines do not contain federally granted rights-of-way. Any documentation in BRR's possession will be made available to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 3, 2016.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than June 13, 2016, or 10 days after service of a decision granting the petition for exemption, whichever occurs first. Each OFA must be accompanied by a $1,600 filing fee.[1]

All interested persons should be aware that, following abandonment, the Lines may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for interim trail use/rail banking under 49 CFR 1152.29 will be due no later March 24, 2016. Each interim trail use request must be accompanied by a $300 filing fee.[2]

All filings in response to this notice must refer to Docket No. AB 1182X and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) Karl Morell, Karl Morell & Associates, 655 Fifteenth Street NW., Suite 225, Washington, DC 20005. Replies to the petition are due on or before March 24, 2016.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR pt. 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA typically will be within 30 days of its service.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: March 1, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2016–04835 Filed 3–3–16; 8:45 am]

BILLING CODE 4915–01–P

[1] *See* 49 CFR 1002.2(f)(25).

[2] *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2015 Update,* EP 542 (Sub-No. 23), slip op. at 17, item 27(i) (STB served July 15, 2015).

SURFACE TRANSPORTATION BOARD

[Docket No. FD 35998]

Wichita, Tillman & Jackson Railway Company—Lease Exemption Containing Interchange Commitment—Union Pacific Railroad Company

Wichita, Tillman & Jackson Railway Company (WTJR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease from Union Pacific Railroad Company (UP) approximately 16.55 miles of rail line located between milepost 0.99 at Wichita Falls, Tex., and milepost 17.54 near Burkburnett, Tex. (the Line).

WTJR states that it was originally authorized to lease the Line in 1991 [1] and was authorized to renew the lease in 2010.[2] WTJR recently entered into a lease agreement which, among other things, extends the term of the lease for 10 years.[3] As required by 49 CFR 1150.43(h)(1), WTJR has disclosed in its verified notice that the lease agreement contains an interchange commitment that affects the interchange point at Wichita Falls. In addition, WTJR has provided additional information regarding the interchange commitment as required by 49 CFR 1150.43(h). WTJR

[1] *See Wichita, Tillman & Jackson Ry.—Lease & Operation Exemption—Mo. Pac. R.R.,* FD 31787 (ICC served Jan. 8, 1991).

[2] *See Wichita, Tillman & Jackson Ry.—Lease Renewal Exemption—Union Pac. R.R.,* FD 35452 (STB served Dec. 23, 2010).

[3] WTJR filed a confidential, complete version of the lease agreement to be kept confidential by the Board under 49 CFR 1104.14(a) without need for the filing of an accompanying motion for protective order under 49 CFR 1104.14(b)

states that it will continue to be the operator of the Line.

WTJR certifies that its projected revenues as a result of the proposed transaction will not result in WTJR's becoming a Class II or Class I rail carrier and that its annual revenues do not exceed $5 million.

WTJR states that it intends to consummate the transaction on or shortly after March 18, 2016, the effective date of the exemption (30 days after the verified notice of exemption was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than March 11, 2016 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35998, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on applicant's representative, Karl Morell, Karl Morell & Associates, Suite 225, 655 15th Street NW., Washington, DC 20005.

According to WTJR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: March 1, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2016–04836 Filed 3–3–16; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments and Notice of Public Hearing Concerning Policy Recommendations on the Global Steel Industry Situation and Impact on U.S. Steel Industry and Market

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments; notice of hearing.

SUMMARY: The Office of the United States Trade Representative (USTR), jointly with the U.S. Department of Commerce (Commerce) and with the participation of other U.S. Government agencies, will seek public comment and convene a public hearing on the global steel industry situation and its impact on the U.S. steel industry and market.

DATES: Written comments are due by 11:59 p.m., March 29, 2016. Persons wishing to testify orally at the hearing must provide written notification of their intention, as well as a summary of their testimony, by 11:59 p.m., March 29, 2016. The hearing will be held on April 12, 2016, beginning at 9:30 a.m. in the Main Hearing Room, 500 E Street SW., Washington, DC 20436, in the facilities of the U.S. International Trade Commission.

ADDRESSES: Written comments and notifications of intent to testify should be submitted electronically via the Internet at *www.regulations.gov.* If you are unable to provide submissions at *www.regulations.gov,* please contact Iris Mayfield at (202) 395–5656, to arrange for an alternative method of transmission.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments, please contact Iris Mayfield at (202) 395–5656. All other questions regarding this notice should be directed to Fred Fischer, Director for Industry Affairs, at (202) 395–6114.

SUPPLEMENTARY INFORMATION:

1. Background

The Organization for Economic Cooperation and Development (OECD) Steel Committee has recently noted mounting challenges in the global steel sector. According to the OECD Secretariat, global crude steelmaking capacity more than doubled from 2000 to 2014, with global capacity growth led by an unprecedented expansion in capacity by China. Global steelmaking capacity is projected by the OECD to grow even further in the 2015 to 2017 period, to 2,323 million metric tons (MMT), approximately 700 MMT in excess of global steel demand in 2015.

At the same time, global demand for steel is weakening. In October 2015, the World Steel Association (worldsteel), the global steel producers' industry association, lowered its forecasts for world steel demand, estimating that demand decreased by 1.7 percent in 2015. Global production also decreased by 2.8 percent in 2015 over 2014 levels. Despite significant production and demand decreases, world steel exports have increased by more than 4 percent between January–July 2015 relative to the same period in 2014, according to the OECD.

Changes in the economy in China, the world's largest consumer, producer and exporter of steel, are having impacts globally. Demand for steel in China is estimated by worldsteel to have contracted by 5 percent in 2015 over 2014 levels, more than previously anticipated, while steel production decreased by only 2.2 percent and exports increased by 26 percent in 2015 over 2014 levels. Steel production by the European Union, India, South Korea and Brazil is also affecting the global market and entering the United States. Many countries have responded to sharp increases of steel imports from China and other countries by taking a variety of trade remedy measures.

At the 79th meeting of the OECD Steel Committee in December 2015, the United States and the governments of other major steel producing countries noted that ''demand weakness coupled with further increases in steelmaking capacity over the next few years—in an environment of already low steel prices, unsustainably weak profitability, and mounting debt—suggests that adjustment pressures are likely to grow significantly in the short to medium term.'' The OECD Steel Committee called for immediate action to address the excess capacity challenge and its impact in the steel sector.

The U.S. Government is interested in obtaining stakeholder views on the global steel industry situation and its impact on the U.S. steel industry and market, as well as other U.S. industry sectors that may have concerns about the impact of excess capacity on their particular market. USTR and Commerce note that there are a number of on-going antidumping and countervailing duty investigations and administrative reviews on steel imports in progress. These proceedings are not the subject of this Public Comment and Hearing request. Commenters should note that Commerce will not place the information responsive to this request for public information in the record of its antidumping or countervailing duty proceedings and will not consider such information in its proceedings.

2. Public Comment and Hearing

USTR and Commerce invite written comments and/or oral testimony of interested persons on issues including, but not limited to, the following: (a) Status and causes of the excess capacity situation in the global steel industry, including other factors that impact the global steel market (*e.g.,* contracting markets and softening worldwide demand, weak raw material prices, and government support and policies that encourage capacity expansion as well as exports); (b) countries and policies of concern; (c) status of the U.S. steel

market, steel manufacturing supply chain and demand trends; (d) impacts of foreign trade barriers, unfair trade practices, subsidies and other policies on U.S. imports and exports of steel; (e) the current and potential future impact of excess global steelmaking capacity on U.S. steel producing companies, U.S. workers, suppliers to the U.S. steel industry (*e.g.,* iron ore, ferrous scrap, and other raw materials), U.S. steel consuming manufacturers, and States, localities and communities; (f) U.S. steel industry responses and adjustment to the impact of the global market situation on their business and overall competitiveness, including trade remedy and other U.S. enforcement actions, industry cost savings efforts and participation in U.S. export markets; (g) other sectors in which excess capacity impacts their particular industry in the United States and may merit further consideration; and (h) views on whether further enforcement tools or approaches, or legislative action are needed. Written comments must be received no later than 11:59 p.m., March 29, 2016.

A hearing will be held on April 12, 2016, in the Main Hearing Room, 500 E Street SW., Washington, DC 20436, in the facilities of the U.S. International Trade Commission. Persons wishing to testify at the hearing must provide written notification of their intention by 11:59 p.m., March 29, 2016. The intent to testify notification must be made in the ''Type Comment'' field under docket number USTR–2016–0001 on the *www.regulations.gov* Web site and should include the name, address and telephone number of the person presenting the testimony. A summary of the testimony should be attached by using the ''Upload File'' field. The name of the file should also include who will be presenting the testimony. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the government representatives.

3. Requirements for Submissions

Persons submitting a notification of intent to testify and/or written comments must do so in English and must identify (on the first page of the submission) ''Global Steel Industry Situation.'' In order to be assured of consideration, comments should be submitted by 11:59 p.m., March 29, 2016.

In order to ensure the timely receipt and consideration of comments, USTR and Commerce strongly encourage commenters to make on-line submissions, using the *www.regulations.gov* Web site. To submit comments via *www.regulations.gov,* enter docket number USTR–2016–0001 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use Regulations.gov'' on the bottom of the home page).

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. Submitters are requested to limit comments to 10 double-spaced pages and to include an executive summary of no more than two double-spaced pages, providing supporting information in appendices. USTR and Commerce prefer that comments be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comment'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Type Comment'' field.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. The submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page, and the submission should indicate, via brackets, the specific information that is confidential. Additionally, ''Business Confidential'' must be included in the ''Type Comment'' field. For any submission containing business confidential information, a non-confidential version must be submitted separately (*i.e.,* not as part of the same submission with the confidential version), indicating where confidential information has been redacted. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or reply comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR and Commerce strongly urge submitters to file comments through *www.regulations.gov,* if at all possible. Any alternative arrangements must be made with Iris Mayfield in advance of transmitting a comment. Ms. Mayfield should be contacted at (202) 395–5656. General information concerning USTR is available at *www.ustr.gov*. General information concerning Commerce is available at *www.commerce.gov*. Comments will be placed in the docket and open to public inspection, except business confidential information. Comments may be viewed on the *www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

Jim Sanford,

Assistant U.S. Trade Representative for Small Business, Market Access and Industrial Competitiveness.

[FR Doc. 2016–04857 Filed 3–3–16; 8:45 am]

BILLING CODE 3290–F6–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meeting of the National Parks Overflights Advisory Group Aviation Rulemaking Committee

ACTION: Notice of meeting.

SUMMARY: The Federal Aviation Administration (FAA) and the National Park Service (NPS), in accordance with the National Parks Air Tour Management Act of 2000, announce the next meeting of the National Parks Overflights Advisory Group (NPOAG) Aviation Rulemaking Committee (ARC). This notification provides the date, location, and agenda for the meeting.

Date and Location: The NPOAG ARC will meet on April 13, 2016. The meeting will take place in Biscayne National Park's Dante Fascell Visitor Center Auditorium, 9700 SW. 328th Street, Homestead, FL 33033. The meeting will be held from 8:30 a.m. to 4:30 p.m. on April 13, 2016. This NPOAG meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Keith Lusk, AWP–1SP, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, P.O. Box 92007, Los Angeles, CA 90009–2007, telephone: (310) 725–3808, email: *Keith.Lusk@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (NPATMA), enacted on April 5, 2000, as Public Law 106–181, required the establishment of the NPOAG within one year after its enactment. The Act requires that the NPOAG be a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairperson of the advisory group.

The duties of the NPOAG include providing advice, information, and recommendations to the FAA Administrator and the NPS Director on; implementation of Public Law 106–181; quiet aircraft technology; other measures that might accommodate interests to visitors of national parks; and at the request of the Administrator and the Director, on safety, environmental, and other issues related to commercial air tour operations over national parks or tribal lands.

Agenda for the April 13, 2016 NPOAG Meeting

The agenda for the meeting will include, but is not limited to, an update on ongoing park specific air tour planning projects, commercial air tour reporting, and the Grand Canyon quiet technology seasonal relief incentive.

Attendance at the Meeting and Submission of Written Comments

Although this is not a public meeting, interested persons may attend. Because seating is limited, if you plan to attend please contact the person listed under **FOR FURTHER INFORMATION CONTACT** so that meeting space may be made to accommodate all attendees. Written comments regarding the meeting will be accepted directly from attendees or may be sent to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Record of the Meeting

If you cannot attend the NPOAG meeting, a summary record of the meeting will be made available under the NPOAG section of the FAA ATMP Web site at: *http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/parks_overflights_group/minutes.cfm* or through the Special Programs Staff, Western-Pacific Region, P.O. Box 92007, Los Angeles, CA 90009–2007, telephone: (310) 725–3808.

Issued in Hawthorne, CA, on February 29, 2016.

Keith Lusk,

Program Manager, Special Programs Staff, Western-Pacific Region.

[FR Doc. 2016–04849 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eighth Meeting: RTCA Special Committee (230) Airborne Weather Detection Systems (Joint With EUROCAE WG–95)

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

ACTION: Notice of Eighth RTCA Special Committee 230 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Eighth RTCA Special Committee 230 meeting.

DATES: The meeting will be held April 12–14, 2016 from 8:30 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at Hilton Melbourne Beach Oceanfront Hotel, 3003 North Highway A1A, Melbourne, FL 32903, DC Tel: (202) 330–0680.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Karan Hofmann, Program Director, RTCA, Inc., *khofmann@rtca.org,* (202) 330–0680.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of RTCA Special Committee 230. The agenda will include the following:

Tuesday, April 12, 2016

1. Plenary Meeting (8:30 a.m.–11:00 a.m.)
   a. Welcome
   b. Introduction—tour de table—Logistic & Agenda
   c. Short presentation (WG–95)—TOR—Work Plan—Remaining work
   d. Short presentation (WG–95 SG)—TOR—Work Plan
   e. Future Meetings—June/October
   f. Summary of progress through WG95 SG Webex
   g. Review of common Actions between WG–95/SC–230 and the subgroup WG95 SG
2. Group Meetings (11:00 a.m.–5:00 p.m.)

Wednesday, April 13, 2016

1. Group Meetings (9:00 a.m.–5:00 p.m.)

Thursday, April 14, 2016

1. Group Meetings (9:00 a.m.–2:00 p.m.)
2. Plenary Meeting (2:00 p.m.–4:00 p.m.)
   a. Presentation of WG–95 SG progress report to WG–95/SC–230
   b. Q&A sessions

Attendance is open to the interested public but limited to space availability. Members of the public who wish to attend should email one of the following by March 13, 2016: Vince LoPresto at *vince.lopresto@utas.utc.com;* Francois Larue at *Francois.Larue@zodiacaerospace.com;* or Jeffery Finley at *jeffery.finley@rockwellcollins.com.* With the approval of the chairman, members of the public may present oral statements at the meeting. Plenary information will be provided upon request. Persons who wish to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 1, 2016.

Latasha Robinson,

Management & Program Analyst, NextGen, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2016–04847 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the McKinney National Airport in McKinney, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the McKinney National Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before April 4, 2016.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Cameron Bryan, Acting Manager,

Federal Aviation Administration, Southwest Region, Airports Division, Texas Airports Development Office, ASW–650, 10101 Hillwood Parkway, Fort Worth, Texas 76177.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ken Wiegand, Airport Manager, at the following address: P.O. Box 517, McKinney, Texas 75070.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Mekhail, Program Manager, Federal Aviation Administration, Texas Airports Development Office, ASW–650, 10101 Hillwood Parkway, Fort Worth, TX 76177, Telephone: (817) 222–5663, email: *Anthony.Mekhail@faa.gov.*

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the McKinney National Airport under the provisions of the AIR 21.

The following is a brief overview of the request:

City of McKinney requests the release of 0.166 acress and 0.064 of non-aeronautical airport property. The property is located on the south side of the airport near FM 546. The property to be released will be sold and revenues shall be used to fund enhance development, operations and maintenance of the airport. Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents relevant to the application in person at the McKinney National Airport, telephone number (972) 562–4053.

Issued in Fort Worth, Texas, on January 28, 2016.

Ignacio Flores,

Manager, Airports Division.

[FR Doc. 2016–04851 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Washington, District of Columbia

AGENCY: Federal Highway Administration (FHWA), DOT

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, South Capitol Street Project, the reconstruction of South Capitol Street from Firth Sterling Avenue SE. to D Street and Suitland Parkway from Martin Luther King, Jr. Avenue SE. to South Capitol Street; replacement of the Frederick Douglass Memorial Bridge; and streetscape improvements to New Jersey Avenue SE., Washington, DC. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 1, 2016. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Joseph C. Lawson, Division Administrator, Federal Highway Administration, 1990 K Street NW., Suite 510, Washington, DC 20006–1103; telephone: (202) 219–3570; email: *Christopher.Lawson@dot.gov.* The FHWA District of Columbia Division Office's normal business hours are 8:00 a.m. to 4:30 p.m. (eastern time). You may also contact Mr. Delmar Lytle, Program Manager, Anacostia Waterfront Initiative, District Department of Transportation (DDOT), 55 M Street SE., Suite 400, Washington, DC, 20003; telephone: (202) 741–5356; email: *delmar.lytle@dc.gov*. The District Department of Transportation's normal business hours are 8:15 a.m. to 4:45 p.m. (eastern time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions subject to 23 U.S.C. 139(l)(1) and as allowed in Section 1319(b) of the Moving Ahead for Progress in the 21st Century Act (MAP–21) has issued a combined Supplemental Final Environmental Impact Statement and Record of Decision for the following highway project in the District of Columbia. The South Capitol Street Project will include South Capitol Street being rebuilt as a six-lane boulevard with a landscaped median west of the Anacostia River. This will include reconstruction of the at-grade intersections at I, N, O, P, K, and L Streets, and the conversion of the existing grade-separated intersection at South Capitol Street/M Street into an at-grade intersection. Streetscape improvements will be included along the section of South Capitol Street north of I–695. The I–695/South Capitol Street interchange will be reconstructed. The existing ramp from northbound South Capitol Street to eastbound I–695 will be converted to an at-grade intersection. The eastbound I–695 ramp to southbound South Capitol Street will be converted to an urban interchange ramp with South Capitol Street. The alignment for the new Frederick Douglass Memorial Bridge was shifted parallel to and directly adjacent to the south side or downstream from the existing bridge superstructure. Traffic ovals of approximately 250 feet by 555 feet in size will be placed at the both the western and eastern approaches to the new bridge. Both ovals will be oriented in the same direction. The east traffic oval will be located entirely within the existing DDOT right-of-way. The west oval will connect South Capitol Street, Potomac Avenue and Q Street SW. The east oval will connect with the realigned South Capitol Street and Suitland Parkway, and provide a direct roadway connection with the Poplar Point section of Anacostia Park, including its shared-use paths. The Martin Luther King, Jr. Avenue SE overpass at Suitland Parkway will be converted into an urban diamond interchange. This will include the widening of Martin Luther King, Jr. Avenue SE at Suitland Parkway to accommodate a new multi-use trail. The existing Suitland Parkway/I–295 interchange will be converted into a modified diamond with a two-lane loop ramp for I–295 southbound at Suitland Parkway, and a new traffic signal at the merge point with Suitland Parkway.

The Federal-aid project number is: 1501(041). The Notice of Intent (NOI) was issued on April 26, 2005; the Draft Environmental Impact Statement/Section 4(f) Evaluation (DEIS) was issued on February 15, 2008; the Final Environmental Impact Statement/Section 4(f) Evaluation (FEIS) was signed on March 22, 2011. The Revised Notice of Intent (NOI) for the Supplemental Draft Environmental Impact Statement (SDEIS) was issued in December 8, 2014; the SDEIS was issued on December 19, 2014; a combined Supplemental Final Environmental Impact Statement (SFEIS) and Record of Decision was issued on August 28, 2015. Information about the project is also available from the FHWA and the District Department of Transportation at the addresses provided above. The SDEIS, SFEIS/ROD and other documents can be viewed and

downloaded from the project Web site at: *http://southcapitoleis.com/documents/.*

This notice applies to other Federal agency decisions as of the issuance date of this notice and all laws under which actions were taken including, but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4347]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C.128].
2. Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508), FHWA Code of Federal Regulations (23 CFR 771.101–771.137, *et seq.*).
3. Air: Clean Air Act, 42 U.S.C. 7401–7671(q).
4. Land: Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303].
5. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].
6. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–II]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].
7. Social and Economic: Title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].
8. Wetlands and Water Resources: Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)–300(j); TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m); Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4604.
9. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675.
10. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 11514 Protection and Enhancement of Environmental Quality.
11. Provisions of Safe Accountable Flexible Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) and the Moving Ahead for Progress in the 21st Century Act (MAP–21), which replaced SAFETEA–LU on July 6, 2012.

(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.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: February 23, 2016.

Joseph C. Lawson,

Division Administrator, District of Columbia.

[FR Doc. 2016–04546 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0071]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 28 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions were granted December 3, 2015. The exemptions expire on December 3, 2017.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., 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. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On November 2, 2015, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (80 FR 67472). That notice listed 28 applicants' case histories. The 28 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 28 applications on their merits and made a determination to grant exemptions to each of them.

III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive

safely. The 28 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, cataract, central scotoma, chorioretinal scar, complete loss of vision, detached retina, esotropia, macular degeneration, myopic degeneration, ocular aneurysm, optic nerve atrophy, optic nerve coloboma, optic neuropathy, prosthetic eye, refractive amblyopia, and retinal detachment. In most cases, their eye conditions were not recently developed. Sixteen of the applicants were either born with their vision impairments or have had them since childhood.

The 12 individuals that sustained their vision conditions as adults have had it for a range of 6 to 25 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 28 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging for 3 to 43 years. In the past three years, no drivers were involved in crashes, and 2 drivers were convicted of moving violations in CMVs.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the November 2, 2015 notice (80 FR 67472).

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 28 applicants, no drivers were involved in crashes, and 2 drivers were convicted of moving violations in CMVs. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 28 applicants

listed in the notice of November 2, 2015 (80 FR 67472).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 28 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 28 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)):

Bruce D. Amundson (IA)
Terry M. Baldwin (PA)
Gene B. Clyde, Jr. (NY)
Joseph Coelho Jr. (RI)
Levi R. Coutcher (WA)
Leonard H. Culbertson (GA)
Craig L. Dawson, Sr. (OH)
Jason R. Gast (MO)
Nirmal S. Gill (CA)
Robert C. Green, Jr. (PA)
Stanley Grubb (KY)
Louis M. Hankins (IL)
Nathan H. Jacobs (NM)
Danny L. Keplinger (VA)
Kimber S. Krushinski (NY)
Carmelo Lana (NJ)
Keith A. Lang (TX)
Nathan D. Langham (IL)
Michael S. Lewis (NC)
Hector J. Lopez (NC)
John V. Narretto, Jr. (LA)
Branden J. Ramos (CA)
Sonny Scott (OH)
Jarrod R. Seirer (KS)
Vince A. Thompson (OR)
Daniel R. Viscaya (NC)
Carlos Vives, Jr. (NJ)
Otis H. Wright, Jr. (MD)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: February 24, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–04801 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0091; Notice 2]

Cooper Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Grant of petition.

SUMMARY: Cooper Tire & Rubber Company (Cooper), has determined that certain Cooper tires do not fully comply with paragraph S5.5.1(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Tires Radial Tires for Light Vehicles.* Cooper filed a report dated August 13, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Cooper then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

ADDRESSES: For further information on this decision contact Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5310, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Cooper submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of Cooper's petition was published, with a 30-day public comment period, on October 22, 2015 in the **Federal Register** (80 FR 64057). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2015–0091.''

II. Tires Involved: Affected are approximately 1,350 Cooper Weather-Master S/T2 size 215/70R15 tires manufactured between April 26, 2015 and May 29, 2015.

III. Noncompliance: Cooper explains that the noncompliance is that the inboard sidewalls of the subject tires are labeled with an incorrect manufacturer's identification mark and therefore do not fully meet all applicable requirements of paragraph S5.5.1(b) of FMVSS No. 139. Specifically, the tires are labeled with manufacturer's identification mark ''U8'' instead of ''U9.''

IV. Rule Text: Paragraph S5.5.1 of FMVSS No. 139 requires in pertinent part:

S5.5.1 *Tire Identification Number.*

. . .

(b) *Tires manufactured on or after September 1, 2009.* Each tire must be labeled with the tire identification number required by 49 CFR part 574 on the intended outboard sidewall of the tire. Except for retreaded tires, either the tire identification number or a partial tire identification number, containing all characters in the tire identification number, except for the date code and, at the discretion of the manufacturer, any optional code, must be labeled on the other sidewall of the tire. Except for retreaded tires, if a tire does not have an intended outboard sidewall, the tire must be labeled with the tire identification number required by 49 CFR part 574 on one sidewall and with either the tire identification number or a partial tire identification number, containing all characters in the tire identification number except for the date code and, at the discretion of the manufacturer, any optional code, on the other side wall.

V. Summary of Cooper's Petition: Cooper states its belief that the subject noncompliance is inconsequential to motor vehicle safety because while the subject tires contain an incorrect manufacturer's identification mark on

the inboard sidewall, the full and correct tire code (including the correct manufacturer's identification mark) is available on the intended outboard sidewall. In addition, Cooper stated that the tires are marked with the Cooper Weather-Master S/T2 brand name that is exclusively owned by Cooper Tire & Rubber Company.

Cooper also indicated that it has taken the following steps to ensure proper registration of the subject tires:

(a) Cooper has informed all internal personnel responsible for manual processing of tire registration cards about the ''U8'' issue so that cards containing the ''U8'' designation will be accepted and properly processed when all other information accurately identifies the subject tires. And, Cooper will follow up with the consumer seeking additional information by providing a prepaid response card.

(b) Cooper is in the process of modifying its database to accept ''U8'' when other information (brand, serial weeks affected etc.) is accurate.

(c) Cooper has contacted Computerized Information and Management Services, Inc. (CIMS) so that tire registration cards will not be rejected solely due to improper plant code information.

Cooper additionally informed NHTSA that on May 29, 2015 the incorrect mold was pulled and the stamping error that caused the subject noncompliance was corrected at that time.

Refer to Coopers' petition for their complete reasoning. The petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/* and following the online search instructions to locate the docket number listed in the title of this notice.

In summation, Cooper believes that the described noncompliance of the subject tires is inconsequential to motor vehicle safety, and that its petition, to exempt Cooper from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA'S Decision

NHTSA's Analysis: While the first grouping of the tire identification number (TIN) on the subject tires is marked with the incorrect manufacturer's identification code ''U8,'' instead of the correct code ''U9,'' this mismarking is only on the inner sidewall. The correct full TIN is properly marked on the outside sidewall, and the correct corporate brand name is marked on both sidewalls. NHTSA believes this noncompliance will not cause misidentification of the tire manufacturer should a safety defect be identified in the subject tires.

Cooper additionally informed NHTSA that the subject tires meet and/or exceed all performance requirements and all other labeling markings as required by FMVSS No. 139 and that Cooper is not aware of any crashes, injuries, customer complaints, or field reports associated with the subject tires.

Cooper also notified NHTSA that proper registration of the tires will be accepted with the erroneous code. Cooper collectively worked with CIMS (Computerized Information and Management Services), Inc., to ensure that the subject tires are correctly registered regardless of the incorrect code.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is that there is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted and that the manufacturer of the tires can be readily identified.

Cooper also informed NHTSA that on May 29, 2015 it corrected the mold problem that originated the non-compliance.

NHTSA Decision: In consideration of the foregoing, NHTSA finds that Cooper has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is hereby granted and Cooper is consequently exempted from the obligation of providing notification of, and a free remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject tires that Cooper no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Cooper notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2016–04698 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0025; Notice 1]

BMW of North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: BMW of North America, LLC (BMW), has determined that certain model year (MY) 2016 BMW 7 Series passenger cars do not fully comply with paragraph S7.7.13.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, reflective devices and associated equipment.* BMW filed a report dated January 21, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* BMW then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

DATES: The closing date for comments on the petition is April 4, 2016.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to: 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 Deliver:* Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by: Logging onto the Federal Docket Management System

(FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All documents submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown at the heading of this notice.

DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. *Overview:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), BMW submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of BMW's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. *Vehicles Involved:* Affected are approximately 5,076 MY 2016 BMW 7 Series passenger cars that were manufactured between August 03, 2015 and November 20, 2015.

III. *Noncompliance:* BMW states that the rear license plate lamp may not fully conform to paragraph S7.7.13.3 of FMVSS No. 108 because it exceeds the illumination ratio specified in that paragraph.

IV. *Rule Text:* Paragraph S7.7.13.3 of FMVSS No. 108 requires, in pertinent part:

S7.7.13.3 The ratio of the average of the two highest illumination values divided by the average of the two lowest illumination values must not exceed 20:1 for vehicles other than motorcycles and motor driven cycles.

V. *Summary of BMW's Petition:* BMW described the subject noncompliance and stated its belief that the noncompliance is inconsequential to motor vehicle safety for the following reasons:

- The out-of-specification lamps satisfy all other requirements of FMVSS No. 108.
- The out-of-specification lamps only deviate from paragraph 7.7.13.3 of FMVSs No. 108 with regard to the lamp's illumination ratio and not the lamp's actual illumination.
- Personnel who participated in a company assessment reported no difference in their visual perception of the simulated license plates that were used as test specimens.
- BMW has not received any customer complaints related to the issue.
- BMW is not aware of any accidents or injuries related to this issue.
- NHTSA has previously granted petitions in which the illumination of test points remains well above the requirements.
- Vehicle production has been corrected.

In support of its petition, BMW submitted the following information pertaining to laboratory testing and analysis of the subject noncompliance:

(1) *FMVSS No. 108 Lamp Certification:* BMW submitted a test report dated April 7, 2015 pertaining to lamps manufactured by U–SHIN Italia S.p.A. (U–SHIN) prior to vehicle production. According to BMW, this report indicates that the lamp satisfies FMVSS No. 108 requirements, as the ratio of the average of the two highest illumination values divided by the average of the two lowest illumination values is 14.1, and FMVSS No. 108 requires that the value be less than 20.

(2) *Evaluation by Measurement Equipment:* Both BMW and U–SHIN performed a number of tests of both in-specification and out-of-specification lamps to assess the performance of the subject lamps to the pertinent requirement of FMVSS No. 108. BMW submitted one representative test report for each test condition. The results are as follows:

—*U–SHIN out-of-specification lamp tests:* These showed an illumination ratio of 22.0. BMW noted, however, that each of the eight (8) test points satisfies the applicable FMVSS No. 108 photometric (illumination) requirements.

—*BMW out-of-specification lamp tests:* BMW performed its own out-of-specification tests to verify U–SHIN's test results and to obtain results for the lamps when equipped within a vehicle. These showed an illumination ratio of 22.2. BMW noted, however, that each of the eight (8) test points satisfies the applicable FMVSS No. 108 photometric (illumination) requirements.

—*U–SHIN in-specification lamp tests:* These showed an illumination ratio of 13.8. As with the previously described tests, BMW noted, however, that each of the eight (8) test points satisfies the applicable FMVSS No. 108 photometric (illumination) requirements.

—*BMW in-specification tests:* BMW performed their own in-specification tests to verify U–SHIN's test results and to obtain results for the lamps when equipped within a vehicle. These showed an illumination ratio of 13.9. BMW again noted, however, that each of the eight (8) test points satisfies the applicable FMVSS No. 108 applicable photometric (illumination) requirements.

(3) *Evaluation by human assessment:* In addition to the laboratory testing performed by both BMW and U–SHIN using specific lamp measurement equipment, BMW also compared the out-of-specification lamps to the in-specification lamps via human assessment. BMW performed this assessment to determine whether or not the condition caused by the non-compliance was perceptible to other road users (*i.e.,* drivers approaching an affected vehicle) and, if so, its effect on safety.

BMW submitted photographs that depict the illumination of a test specimen simulating a rear license plate by both in-specification and out-of-specification lamps. According to BMW, while there may be a slightly perceptible difference in the photographs depicting the test specimen illuminated by in-specification and out-of-specification lamps, this is due to tolerances of the camera equipment related to exposure time and shutter speed. BMW stated that the personnel

who participated in this assessment reported no difference in their visual perception of the test specimens.

Additionally, BMW noted that even for the out-of-specification lamp, all of the eight (8) test points satisfy the applicable FMVSS No. 108 photometric (illumination) requirements. BMW emphasized that the noncompliance pertains to the illumination ratio, not to the actual lamp illumination. As a consequence, BMW asserts that while the noncompliance condition can be measured in a laboratory, it cannot be detected by the human eye, and therefore drivers of approaching vehicles will be afforded the same level of visibility as if approaching a non-affected vehicle. According to BMW, these analyses support the conclusion that the condition caused by the noncompliance does not affect the safety of affected vehicle occupants or other road users such as drivers approaching affected vehicles.

(4) *Field Experience:* BMW states that its Customer Relations division has not received any contacts from vehicle owners regarding the matter at issue. As a consequence, BMW believes that, consistent with the results of the laboratory tests and human assessments described above, the condition is undetectable to road users such as drivers approaching affected vehicles. BMW further notes that it is not aware of any accidents or injuries that have occurred as a result of the condition.

(5) *Prior NHTSA Rulings:* BMW states that NHTSA has previously granted petitions from other manufacturers involving various issues pertaining to FMVSS No. 108 noncompliance. BMW believes that in some of those petitions, the photometry (illumination) of the test points remains well above the FMVSS No. 108 requirements as the noncompliance has no affect upon the illumination of the test points.

(6) *Vehicle Production:* BMW stated that subsequent vehicle production has been corrected to conform to paragraph 7.7.13.3 of FMVSS No. 108.

In summation, BMW expressed the belief that the subject noncompliance is inconsequential to motor vehicle safety, and that its petition, to exempt BMW from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and remedying the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2016–04862 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2016–0033]

Agency Request for Emergency Approval of an Information Collection

AGENCY: Office of the Secretary of Transportation (OST), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Department of Transportation (DOT) provides notice that it will submit an information collection requests (ICR) to the Office of Management and Budget (OMB) for emergency approval of a proposed information collection. Upon receiving the requested six-month emergency approval by OMB, the Office of the Secretary of Transportation (OST) will follow the normal PRA procedures to obtain extended approval for this proposed information collection. The collection of information is necessary in order to receive applications for grant funds pursuant to Section 1105 of the Fixing America's Surface Transportation (FAST) Act of 2015, which was signed into law on December 4, 2015. Section 1105 establishes a new program for OST to provide Supplemental Discretionary Grants for a Nationally Significant Freight and Highway Projects (NSFHP) program. The Department will also refer to NSFHP grants as Fostering Advancements in Shipping and Transportation for the Long-term Achievement of National Efficiencies (FASTLANE) grants. The FAST Act provides specific deadlines for this program, including a statutory 60-day Congressional notification requirement, which is no later than July 30, 2016. In order to ensure that the NSFHP grants are awarded in an expeditious manner and in the timeframes established by the FAST Act, the Department requests approval of an information collection using OMB's emergency processing system to meet Paperwork Reduction Act (PRA) requirements.

Information related to this ICR, including applicable supporting documentation may be obtained by contacting the NSFHP program manager via email at *NSFHP@dot.gov.*

DATES: Comments should be submitted as soon as possible upon publication of this notice in the **Federal Register**. Comments and questions should be directed to the Office of Information and Regulatory Affairs (OIRA), Attn: OST OMB Desk Officer, 725 17th Street NW., Washington, DC 20503. Comments and questions about the ICR identified below may be transmitted electronically to OIRA at *oira_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2105–XXXX

Title: Supplemental Discretionary Grants for a Nationally Significant Freight and Highway Projects (NSFHP) program, or NSFHP program.

Type of Review: Emergency information collection request.

Expected Number of Respondents: Approximately 200.

Frequency: The Department expects that this information collection will occur up to five times—once per fiscal year—from FY 2016 through FY 2020.

Estimated Average Burden per Response: 100 hours.

Estimated Total Annual Burden: 20,000.

Abstract: On December 4, 2015, President Obama signed into law the Fixing America's Surface Transportation Act, or ''FAST Act.'' It is the first law enacted in over ten years that provides long-term funding certainty for surface transportation. The FAST Act authorized at $4.5 billion for fiscal years (FY) 2016 through 2020, including $800 million for FY 2016 to be awarded by the Department of Transportation (the ''Department'') on a competitive basis to projects of national or regional significance. The funds provided by NSFHP program will be awarded on a competitive basis to projects that have a significant impact on the Nation, a metropolitan area, or a region. On or about the date hereof, the Department published a solicitation for applications for NSFHP grants. The solicitation announces the availability of funding

for NSFHP grants, project selection criteria, application requirements and the deadline for submitting applications.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Issued in Washington, DC, on February 26, 2016.

John Augustine,

Director, Office of Infrastructure and Innovative Finance.

[FR Doc. 2016–04802 Filed 3–3–16; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Financial Crimes Enforcement Network; Withdrawal of Finding Regarding Banca Privada d'Andorra

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Withdrawal of finding.

SUMMARY: This document withdraws FinCEN's finding that Banca Privada d'Andorra (''BPA'') is a financial institution of primary money laundering concern, pursuant to Section 311 of the USA PATRIOT Act (''Section 311''), codified at 31 U.S.C. 5318A. Because of material subsequent developments that have mitigated the money laundering risks associated with BPA, FinCEN has determined that BPA is no longer a primary money laundering concern that warrants the implementation of a special measure under Section 311. Elsewhere in this issue of the **Federal Register**, FinCEN is publishing a withdrawal of the related notice of proposed rulemaking that would have imposed a special measure against BPA.

DATES: The finding is withdrawn as of March 4, 2016.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at (800) 767–2825.

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56 (''the USA PATRIOT Act''). Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act (''BSA''), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.

Section 311 of the USA PATRIOT Act (''Section 311'') grants the Director of FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, foreign financial institution, class of transactions, or type of account is of ''primary money laundering concern,'' to require domestic financial institutions and financial agencies to take certain ''special measures'' to address the primary money laundering concern. The special measures enumerated under Section 311 are prophylactic safeguards that defend the U.S. financial system from money laundering and terrorist financing. FinCEN may impose one or more of these special measures in order to protect the U.S. financial system from these threats. To that end, special measures one through four, codified at 31 U.S.C. 5318A(b)(1)–(b)(4), impose additional recordkeeping, information collection, and information reporting requirements on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C. 5318A(b)(5), allows the Director to prohibit or impose conditions on the opening or maintaining of correspondent or payable-through accounts by covered U.S. financial institutions.

II. The Finding and Notice of Proposed Rulemaking

On March 13, 2015, FinCEN provided notice in the **Federal Register** that it had found Banca Privada d'Andorra (''BPA''), a bank headquartered in Andorra, to be of primary money laundering concern.[1] Based on the finding, FinCEN also published on March 13, 2015 a notice of proposed rulemaking (''NPRM'') proposing the imposition of the fifth special measure with respect to BPA, and invited public comment.[2] Specifically, FinCEN proposed to prohibit covered financial institutions from establishing, maintaining, administering, or managing in the United States any correspondent account for, or on behalf of, BPA. FinCEN also proposed to require a covered financial institution to apply special due diligence to all of its foreign correspondent accounts that is reasonably designed to guard against processing transactions involving BPA. Among other things, covered financial institutions would have been required to notify those foreign correspondent account holders that the covered financial institutions know or have reason to know provide services to BPA that such correspondents may not provide BPA with access to the correspondent account maintained at the covered financial institution.

III. Subsequent Developments

Significant developments regarding BPA have occurred since FinCEN announced its finding and related NPRM regarding BPA, as described below. As a result, BPA is no longer operating as a financial institution that poses a money laundering threat to the U.S. financial system.

On March 11, 2015, the Institut Nacional Andorrà de Finances (''INAF''), the Andorran regulator and supervisor of financial institutions, appointed two INAF representatives to oversee BPA's operations. On March 12, 2015, the INAF suspended the authority of BPA's board of directors, the chief executive officer and two other senior managers and appointed special administrators to assume full control of BPA. On March 13, 2015, Andorran law enforcement arrested BPA's chief executive officer in Andorra on suspicion of money laundering.

The next month, in April 2015, the Andorran parliament enacted a law regarding the restructuring and resolution of banks, which created a new government agency, Agència Estatal de Resolució d'Entitats Bancàries (''AREB''), for that purpose. On April 27, 2015, AREB took over control of BPA.[3] In June 2015, AREB approved a resolution plan for BPA, under which the bank's ''good'' and ''bad'' assets, liabilities, and clients would be separated. Under the resolution plan, the ''good'' assets, liabilities, and clients are to be transferred to a bridge bank, and the bridge bank sold.[4] In July 2015, AREB announced the creation of the bridge bank, named Vall Banc, to receive the transfer of BPA's legitimate assets, liabilities, and clients. Vall Banc is wholly-owned by AREB, is registered with the INAF, and is supervised by

[1] 80 FR 13464 (Mar. 13, 2015).

[2] 80 FR 13304 (Mar. 13, 2015) (RIN 1506–AB30). FinCEN publicly announced the finding and NPRM on March 10, 2015.

[3] Press Release, AREB, *AREB Assumes the Tutelage of BPA,* April 27, 2015, (*http://areb.ad/images/areb/comunicats/27042015_AREB_ENG.pdf.*)

[4] Press Release, AREB, *AREB Will Create a 'Good Bank' with Legitimate Assets and Liabilities Segregated from BPA,* June 15, 2015, (*http://areb.ad/images/areb/comunicats/15062015_AREB_ENG.pdf.*)

Andorran banking supervisory authorities. Vall Banc will not employ the high-level BPA managers described in FinCEN's Notice of Finding. In addition, any other person who has been or may be identified as related to the issues described in the Notice of Finding will not be employed at Vall Banc.

After the good assets, liabilities, and clients are transferred from BPA to Vall Banc, BPA will remain under the control of AREB. FinCEN understands that BPA will not be reactivated as an operational financial institution at any point except to facilitate the finalization of the resolution process. AREB, in coordination with other authorities in Andorra, ultimately intends to liquidate BPA following the resolution of judicial proceedings in Andorra and other jurisdictions.

IV. Withdrawal of the Finding

Because of these subsequent developments, BPA no longer operates in a manner that poses a money laundering threat to the U.S. financial system. FinCEN has determined that the steps taken by the authorities in Andorra sufficiently protect the U.S. financial system from the money laundering risks previously associated with BPA. FinCEN therefore has determined that BPA no longer is a primary money laundering concern and will not impose any special measures under Section 311 with respect to BPA.

For these reasons, FinCEN hereby withdraws its finding that BPA is of primary money laundering concern published on March 13, 2015, and announced on March 10, 2015.

Jamal El-Hindi,

Deputy Director, Financial Crimes Enforcement Network.

[FR Doc. 2016–04767 Filed 3–3–16; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Study on the Overall Effectiveness of the Terrorism Risk Insurance Program

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Request for data and information.

SUMMARY: Section 111 of the Terrorism Risk Insurance Program Reauthorization Act of 2015 (Reauthorization Act) requires the Secretary of the Treasury (Secretary) to submit a report to the Congress addressing the overall effectiveness of the Terrorism Risk Insurance Program (Program) and trends the Secretary has observed within the Program. In order to assist the Secretary with the required report, Treasury requests that insurers submit certain insurance data and information regarding their participation in the Program.

DATES: Data must be submitted not later than April 30, 2016.

ADDRESSES: Participating insurers may submit the requested data and information after registration at a Web portal that has been established for this data collection. A link to the Web site where participating insurers can commence the registration process can be found at *https://www.treasury.gov/resource-center/fin-mkts/Pages/program.aspx.*

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, at (202) 622–2922 (this is not a toll-free number), or Kevin Meehan, Policy Advisor, Federal Insurance Office, 202–622–7009 (not a toll free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Section 111 directs the Secretary, beginning in calendar year 2016, to ''require insurers participating in the Program to submit to the Secretary such information regarding insurance coverage for terrorism losses of such insurers as the Secretary considers appropriate to analyze the effectiveness of the Program[.]'' This information and data includes information regarding: (1) Lines of insurance with exposure to such losses; (2) premiums earned on such coverage; (3) geographical location of exposures; (4) pricing of such coverage; (5) the take-up rate for such coverage; (6) the amount of private reinsurance for acts of terrorism purchased; and (7) such other matters as the Secretary considers appropriate. Treasury plans to issue a Notice of Proposed Rulemaking proposing rules that expand upon this requirement for the submission of data by participating insurers in the near future.

Section 111 also requires the Secretary to ''submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate'' that includes: (1) An analysis of the overall effectiveness of the Program; (2) an evaluation of any changes or trends in the data collected by the Secretary; (3) an evaluation of whether any aspects of the Program have the effect of discouraging or impeding insurers from providing commercial property casualty insurance coverage or coverage for acts of terrorism; (4) an evaluation of the impact of the Program on workers' compensation insurers; and (5) in the case of the data collected by the Secretary regarding premiums earned on insurance coverage for terrorism losses, an estimate of the total amount earned by insurers since January 1, 2003. The initial report under this requirement is to be submitted not later than June 30, 2016.

II. Solicitation for Data

Treasury must start collecting data for the initial report required under section 111 before Treasury is able to review comments on proposed regulations concerning data collection, including whether it has properly estimated the level of burden that this collection imposes. Based on interaction with stakeholders, Treasury anticipates that most participating insurers will be able to respond to this solicitation with all of the requested data in that the data requested, and the form in which the data is requested, conforms to industry's current practice. In order to avoid inadvertently imposing an unanticipated level of burden on participating insurers without due consideration, Treasury is requesting, and not requiring, that participating insurers submit the data enumerated in the section 111 data collection authorized under this emergency approval. Making this collection voluntary also identifies to all participating insurers the types of information that Treasury will likely seek in future collections under section 111 and provides time to the extent necessary for insurers to make any adjustments to ease the burden of compliance with such collections.

Treasury, through an insurance statistical aggregator, has established the web portal identified above, through which insurers will be able to submit the requested data. All information submitted via the web portal is subject to the confidentiality and data protection provisions of section 111 as well as to section 552 of title 5, United States Code, including any exceptions thereunder. In accordance with the Paperwork Reduction Act, (44 U.S.C 3501 *et seq.*), the information collected through the web portal has been approved by the Office of Management and Budget (OMB) under control number 1505–0253. Treasury does not anticipate further requests for

information using this form during the approval period arising from emergency clearance, except as may be necessary to seek clarification respecting any responses that are provided. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

Michael T. McRaith,

Director, Federal Insurance Office.

[FR Doc. 2016–04821 Filed 3–3–16; 8:45 am]

BILLING CODE 4810–25–P

FEDERAL REGISTER

Vol. 81 Friday,

No. 43 March 4, 2016

Part II

The President

Proclamation 9403—Read Across America Day, 2016

Notice of March 2, 2016—Continuation of the National Emergency With Respect to Ukraine

Notice of March 2, 2016—Continuation of the National Emergency With Respect to Zimbabwe

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Presidential Documents

Title 3—

The President

Proclamation 9403 of March 1, 2016

Read Across America Day, 2016

By the President of the United States of America

A Proclamation

From a child's first foray into the depths of a story to an adult's escape into a world of words, reading plays an integral role in our lives. Works of fiction and non-fiction alike pique interest and inspiration and shape our understanding of each other and ourselves, teaching us lessons in kindness and humility, responsibility and respect. The moment we persuade a child to pick up a book for the first time we change their lives forever for the better, and on Read Across America Day, we recommit to getting literary works into our young peoples' hands early and often.

March 2 is also the birthday of one of America's revered wordsmiths. Theodor Seuss Geisel—or Dr. Seuss—used his incredible talent to instill in his most impressionable readers universal values we all hold dear. Through a prolific collection of stories, he made children see that reading is fun, and in the process, he emphasized respect for all; pushed us to accept ourselves for who we are; challenged preconceived notions and encouraged trying new things; and by example, taught us that we are limited by nothing but the range of our aspirations and the vibrancy of our imaginations. And for older lovers of literature, he reminded us not to take ourselves too seriously, creating wacky and wild characters and envisioning creative and colorful places.

Books reveal unexplored universes and stimulate curiosity, and in underserved communities, they play a particularly important role in prompting inquisition and encouraging ambition. Last month, the First Lady announced the launch of Open eBooks, a new project that will unlock a world of learning and possibility for millions of American children and provide over $250 million worth of reading material to students who need it most. As we work to get every child engrossed in literature, we honor the many people who devote their lives and careers to carrying forward this important cause—including our librarians, educators, and parents. We can all get lost in a good read, and we owe it to rising learners to give them the chance to experience that same enjoyment and fulfillment.

Today, and every day, let us celebrate the power of reading by promoting literacy and supporting new opportunities for students to plunge into the pages of a book. As Dr. Seuss noted, ''The more that you read, the more things you will know. The more that you learn, the more places you'll go.'' Together, we can help all children go plenty of places along their unending journey for knowledge and ensure everyone can find joy and satisfaction in the wonders of the written word.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 2, 2016, as Read Across America Day. I call upon children, families, educators, librarians, public officials, and all the people of the United States to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of March, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2016–05068
Filed 3–3–16; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Notice of March 2, 2016

Continuation of the National Emergency With Respect to Ukraine

On March 6, 2014, by Executive Order 13660, I declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of persons that undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets.

On March 16, 2014, I issued Executive Order 13661, which expanded the scope of the national emergency declared in Executive Order 13660, and found that the actions and policies of the Government of the Russian Federation with respect to Ukraine undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets.

On March 20, 2014, I issued Executive Order 13662, which further expanded the scope of the national emergency declared in Executive Order 13660, as expanded in scope in Executive Order 13661, and found that the actions and policies of the Government of the Russian Federation, including its purported annexation of Crimea and its use of force in Ukraine, continue to undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets.

On December 19, 2014, I issued Executive Order 13685, to take additional steps to address the Russian occupation of the Crimea region of Ukraine.

The actions and policies addressed in these Executive Orders continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on March 6, 2014, and the measures adopted on that date, on March 16, 2014, on March 20, 2014, and December 19, 2014, to deal with that emergency, must continue in effect beyond March 6, 2016. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13660.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
March 2, 2016.

[FR Doc. 2016–05071
Filed 3–3–16; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Notice of March 2, 2016

Continuation of the National Emergency With Respect to Zimbabwe

On March 6, 2003, by Executive Order 13288, the President declared a national emergency and blocked the property of certain persons, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions. These actions and policies had contributed to the deliberate breakdown in the rule of law in Zimbabwe, to politically motivated violence and intimidation in that country, and to political and economic instability in the southern African region.

On November 22, 2005, the President issued Executive Order 13391 to take additional steps with respect to the national emergency declared in Executive Order 13288, including the blocking of the property of additional persons engaged in undermining democratic processes or institutions in Zimbabwe.

On July 25, 2008, the President issued Executive Order 13469, which expanded the scope of the national emergency declared in Executive Order 13288 and authorized the blocking of the property of additional persons who were engaged in undermining democratic processes or institutions in Zimbabwe, facilitating public corruption by senior officials, or were responsible for committing human rights abuses related to political repression.

The actions and policies of these persons continue to pose an unusual and extraordinary threat to the foreign policy of the United States. For this reason, the national emergency declared on March 6, 2003, and the measures adopted on that date, on November 22, 2005, and on July 25, 2008, to deal with that emergency, must continue in effect beyond March 6, 2016. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency originally declared in Executive Order 13288.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
March 2, 2016.

[FR Doc. 2016–05072
Filed 3–3–16; 11:15 am]
Billing code 3295–F6–P

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