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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1088; Directorate Identifier 2008–SW–76–AD; Amendment 39–17872; AD 2014–12–11]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the Sikorsky Aircraft Corporation (Sikorsky) Model S–92A helicopter. This AD requires revising the Rotorcraft Flight Manual (RFM) to include the appropriate operating limitations for performing Class D external load-combination operations. This AD was prompted by an inaccurate RFM provision, which was approved without appropriate limitations for this model helicopter for carrying Class D external rotorcraft-load combinations, including human external cargo (HEC). The actions are intended to require appropriate operating limitations to allow operators to perform Class D external load-combination operations, including HEC, in this model helicopter that now meets the Category A performance standard.

DATES: This AD is effective September 8, 2014.

ADDRESSES: For service information identified in this AD, contact Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop S581A, 6900 Main Street, Stratford, CT, telephone (203) 383–4866, email address *tsslibrary@sikorsky.com,* or at *http://www.sikorsky.com.* You may review a copy of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the 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: John Coffey, Flight Test Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7173; email: *john.coffey@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On December 10, 2009, at 74 FR 65496, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Sikorsky Model S–92A helicopters. The NPRM proposed to require revising the RFM SA S92A–RFM–003, Part 1, Section 1, Operating Limitations, Types of Operation, by removing the statement "RESCUE HOIST: Category 'A' only External load operations with Class 'D' external loads." The NPRM proposed replacing that statement with "HOIST: Class D external loads PROHIBITED." Also, the NPRM proposed replacing the words "RESCUE HOIST" in the RFM with "HOIST". The NPRM was prompted by a mistake in the RFM, which allowed "Class D" rotorcraft load combinations for HEC operations for this model helicopter. The Model S–92A RFM did not include the required one-engine inoperative hover performance and procedures.

On September 13, 2012, at 77 FR 56581, the **Federal Register** published our supplemental notice of proposed rulemaking (SNPRM), which proposed to revise the actions of the NPRM. The SNPRM proposed to allow Class D external load operations if the appropriate operating limitations are included in the RFM, instead of prohibiting rotorcraft load combinations for HEC operations. The proposed requirements were intended to require appropriate operating limitations to allow operators to perform Class D external load-combination operations, including HEC, in this model helicopter that now meets the Category A performance standard.

Comments

After our SNPRM (77 FR 56581, September 13, 2012) was published, we received comments from one commenter.

Request

Sikorsky generally concurs with the corrective action but requests that Paragraph (d)(3)(i) of the SNPRM (77 FR 56581, September 13, 2012), which requires removing a note from the RFM, be deleted from the AD. Sikorsky commented that removing the note is not appropriate with respect to applying the 150 pound penalty for the hoist. Sikorsky states that the 150 pound penalty applies to the drag of the hoist being installed on the aircraft and, if one would first determine the maximum gross weight by the chart and then apply the penalty, they would always be limited to 150 pounds below the maximum gross weight of the helicopter. Sikorsky states the note is required so pilots do not erroneously apply a 150 pound penalty to their weight when they are maximum gross weight limited instead of performance limited. As the note only applies when the aircraft is performance limited, Sikorsky requests that it not be removed.

We agree that the correct instructions need to be inserted in the Required Actions section, but disagree with Sikorsky's request. Not removing the note would result in keeping the incorrect instructions from the original Limitations section. But we are including a requirement to add the following note to the Weight Limits section of the RFM to address Sikorsky's comments and to provide accurate instructions: "NOTE: If conditions permit, the pilot may go to the right of the 26,500 pound line on Figure 1–2 to determine the maximum gross weight and then subtract a 150 pound hoist decrement. The maximum gross weight

for category 'A' operations cannot exceed 26,500 pounds (12,020) kilograms."

FAA's Determination

We have reviewed the relevant information, considered the comment received, and determined that an unsafe condition exists and is likely to exist or develop on other products of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed with the changes described previously. We also changed the formatting of this AD to meet current publication requirements. These changes are consistent with the intent of the proposals in the SNPRM (77 FR 56581, September 13, 2012), and will not increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 65 helicopters in the U.S. registry. The costs for inserting a correction to the RFM are expected to be minimal.

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 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 adding the following new airworthiness directive (AD):

2014–12–11 Sikorsky Aircraft Corporation: Amendment 39–17872; Docket No. FAA–2009–1088; Directorate Identifier 2008–SW–76–AD.

(a) Applicability

This AD applies to Sikorsky Aircraft Corporation Model S–92A helicopters, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as an inaccurate Rotorcraft Flight Manual (RFM) provision, which was approved without appropriate limitations for this model helicopter for carrying Class D external rotorcraft-load combinations, including Human External Cargo (HEC), when this model helicopter was not certificated to Category A one-engine inoperative (OEI) performance standards, including fly away capabilities after an engine failure, which is required for carrying HEC.

(c) Effective Date

This AD becomes effective September 8, 2014.

(d) Compliance

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

(e) Required Actions

Within 90 days, revise the Operating Limitations section of Sikorsky Rotorcraft Flight Manual (RFM) SA S92A–RFM–003, Part 1, Section I, by inserting a copy of this AD into the RFM or by making pen and ink changes, as follows:

(1) In the "Types of Operation" section, beneath Hoist, add the following: The hoist equipment certification installation approval does not constitute approval to conduct hoist operations. Operational approval for hoist operations must be granted by the Federal Aviation Administration. No cabin seats may be installed in front of station 317 when conducting Human External Cargo hoist operations, which requires Category A performance capabilities.

(2) In the "Flight Limits" section, add the following: "HOIST" When conducting Human External Cargo operations, which require category 'A' performance capabilities, the minimum hover height is 20 feet AGL and the maximum hover height is 80 feet AGL. "HOIST" The collective axis must remain uncoupled when conducting Human External Cargo, which requires category 'A' performance capabilities, for the period of time that the person is off the ground or water and not in the aircraft. This can be accomplished by either uncoupling the collective axis or by the pilot depressing the collective trim switch during the pertinent portion of the maneuver.

(3) In the "Weight Limits" section:

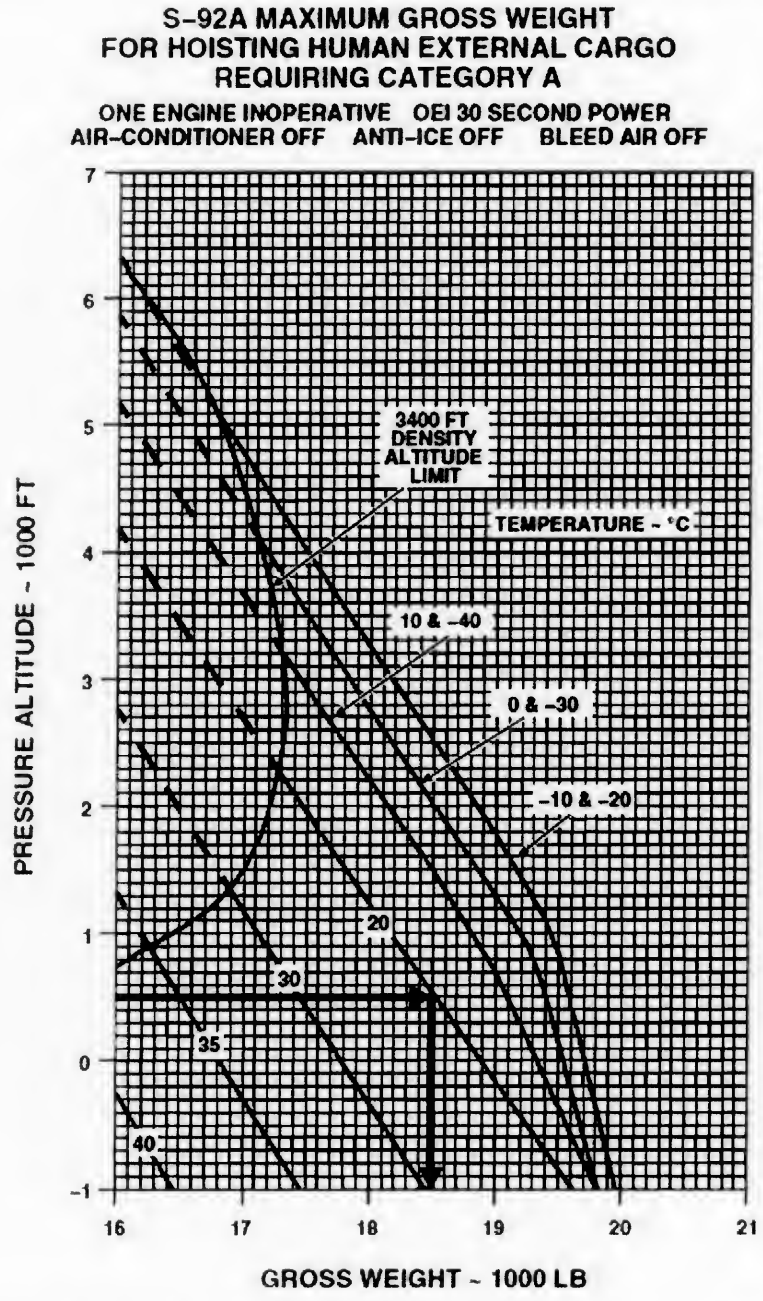
(i) Remove the following: **NOTE:** The 150 pound hoist decrement does not preclude Cat A operations at a gross weight of 26,500 pounds with a hoist installed. If conditions permit, the pilot may go to the right of the 26,500 line on Figure 1–2 to determine a maximum gross weight up to 26,650 and then subtract 150 pounds.

(ii) Add the following: **NOTE:** If conditions permit, the pilot may go to the right of the 26,500 pound line on Figure 1–2 to determine the maximum gross weight and then subtract a 150 pound hoist decrement. The maximum gross weight for category 'A' operations cannot exceed 26,500 pounds (12,020 kilograms).

(iii) Add the following and insert Figure 1 to Paragraph (e)(3)(iii) of this AD: "HOIST" Maximum gross weight for Human External Cargo, which requires category 'A' performance capabilities, is limited to the gross weight determined in accordance with the following Figure 1 to Paragraph (e)(3)(iii) of this AD for your altitude and temperature with the air-conditioner, anti-ice, and bleed air turned off.

Note 1 to paragraph (e)(3)(iii) of this AD: Figure 1 to Paragraph (e)(3)(iii) of this AD becomes Figure 1–2A when inserted in the "Weight Limits" section of your RFM.

BILLING CODE 4910–13–P



NOTE 1: THIS CHART DEPICTS THE GROSS WEIGHT, PRESSURE ALTITUDE, TEMPERATURE COMBINATION WHERE OEI HOGE CAPABILITY EXISTS USING 30 SECOND OEI POWER WITH A 60 SHP MARGIN.

NOTE 2: 15 FT OF GROUND CLEARANCE IS ASSURED IN THE EVENT OF AN ENGINE FAILURE AT 20 TO 80 FT AGL.

Figure 1-2A – Maximum Gross Weight for HEC Requiring Cat 'A'

Figure 1 to Paragraph (e)(3)(iii)

(f) Credit for Actions Previously Completed

Incorporation of the changes contained in Sikorsky RFM SA S92A–RFM–003, Part 1, Revision No. 12, approved March 21, 2005, before the effective date of this AD is considered acceptable for compliance with the corresponding actions specified in paragraph (e) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Boston Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: John Coffey, Flight Test Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7173, fax (781) 238–7170; email *john.coffey@faa.gov.*

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

(h) Additional Information

For service information identified in this AD, contact Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop S581A, 6900 Main Street, Stratford, CT, telephone (203) 383–4866, email address *tsslibrary@sikorsky.com,* or *http://www.sikorsky.com.* You may review a copy of this information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 2510 Flight Compartment Equipment.

Issued in Fort Worth, Texas, on July 22, 2014.

S. Frances Cox,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–17923 Filed 8–1–14; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 140711578–4578–01]

RIN 0694—AG23

Technical Amendments to the Export Administration Regulations: Update of Export Control Classification Number 0Y521 Series Supplement—Biosensor Systems and Related Software and Technology

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) by removing certain entries from the supplement that identifies those items subject to the EAR that are not listed elsewhere in the Commerce Control List (CCL), but which the Department of Commerce, with the concurrence of the Departments of Defense and State, has determined should be controlled for export for foreign policy reasons or because the items provide a significant military or intelligence advantage to the United States. Within one calendar year from the date that such items are listed in the supplement, BIS must publish a rule reclassifying the items under an entry on the CCL. Otherwise, such items automatically become designated as EAR99 items, unless BIS publishes a rule amending the supplement to extend the period in which the items will be listed therein. In accordance with this requirement, this rule removes references to biosensor systems and related "software" and "technology" from the supplement, because these items automatically became designated as EAR99 items on March 28, 2014, and the references to them in the supplement are now obsolete.

DATES: This rule is effective August 4, 2014.

FOR FURTHER INFORMATION CONTACT: Scott Hubinger, Senior Chemist and General Engineer, Chemical and Biological Controls Division, Office of Nonproliferation and Treaty Compliance by phone 202–482–5223 or by email at *scott.hubinger@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

ECCN 0Y521 Series

BIS established the ECCN 0Y521 series in a final rule published April 13, 2012 (72 FR 22191) (hereinafter "April 13 rule") to identify items that warrant control on the Commerce Control List (CCL) but are not yet identified in an existing ECCN. Items are added to the ECCN 0Y521 series by the Department of Commerce, with the concurrence of the Departments of Defense and State, upon a determination that an item should be controlled because it provides at least a significant military or intelligence advantage to the United States or because foreign policy reasons justify such control. The ECCN 0Y521 series is a temporary holding classification with a limitation that while an item is temporarily classified under ECCN 0Y521, the U.S. Government works to adopt a control through the relevant multilateral regime(s), to determine an appropriate longer-term control over the item, or that the item does not warrant control on the CCL.

Under the procedures established in the April 13 rule and codified at § 742.6(a)(7)(iii) of the EAR, items classified under ECCN 0Y521 remain so-classified for one year from the date a final rule identifying the item is published in the **Federal Register** amending the EAR, unless the item is re-classified under a different ECCN, under an EAR99 designation, or the 0Y521 classification is extended. During this time, the U.S. Government determines whether it is appropriate to submit a proposed control to the applicable export control regime (e.g., the Wassenaar Arrangement) for potential multilateral control, with the understanding that multilateral controls are preferable when practical.

Technical Amendments Updating Supplement No. 5 to Part 774: Removal of References to Biosensor Systems and Related "Software" and "Technology"

On March 28, 2013 (78 FR 18814), BIS imposed 0Y521 license requirements on biosensor systems and related "software" and "technology" for export and reexport to all destinations, except Canada. Under the procedures established in the April 13 rule and as described in Supplement No. 5 to Part 774, the effective date of the initial classification was the date of that rule's publication, March 28, 2013, and the date the items would be designated EAR99, unless reclassified in another ECCN or the 0Y521 classification was reissued, was one year later, March 28, 2014. In the interim, BIS, on behalf of the U.S. Government, submitted a proposal to the Australia Group (a multilateral regime of which the United States is a member) for control of the items for nonproliferation reasons. The Australia Group decided that it would not impose controls on the items, and the U.S. Government did not seek further consideration of multilateral controls, nor did BIS re-classify the items under a different ECCN or reissue the 0Y521 classification. In accordance with § 742.6(a)(7)(iii) of the EAR, as of March 28, 2014, the 0Y521 classification of the biosensor systems and related "software" and "technology" expired, meaning the items were no longer classified in the 0Y521 series and became designated EAR99. By removing the items from the list of items classified in the 0Y521 series in Supplement No. 5 to Part, this rule removes text that

imposes no license requirement but has potential to confuse readers about the items' EAR99 status.

Further, BIS received two comments in response to the March 28, 2013 interim final rule. One commenter stated that designating the Biosensor System No. 1 0A521 without license exception options other than License Exception GOV section 740.11(b)(2)(ii) may result in regulating the item more restrictively than it would under the ITAR and may result in "chilling effects toward academic research and thereby diminish innovation." Another commenter raised concerns that the scope of what is covered by the No.1 0E521 "Technology" might be overly broad without a reference to the General Technology Note and that BIS should provide guidance on how to interpret the scope. The change of status of the biosensor systems and related "software" and "technology" to EAR99 renders the comments moot.

Therefore, in this rule, BIS amends the EAR to update certain entries in Supplement No. 5 to Part 774— Items Classified Under Export Control Classification Numbers (ECCNs) 0A521, 0B521, 0C521, 0D521 and 0E521—according to the procedure set forth in the April 13 rule that established the 0Y521 series. Specifically, in this rule, BIS removes references to biosensor systems and related "software" and "technology" under ECCNs 0A521 No. 1, 0D521 No. 1 and 0E521 No. 1, respectively, from Supplement No. 5 to Part 774 of the EAR to conform with the current legal status of those items under the EAR and rid the Supplement of obsolete references. The items are EAR99 and the 0Y521 series license requirements do not apply. This is a technical amendment that only updates Supplement No. 5 to Part 774 of the EAR. It does not alter any right, obligation or prohibition under the EAR.

Export Administration Act

Since August 21, 2001, the Export Administration Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., 783 (2002)), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and extended most recently by the Notice of August 8, 2013, 78 FR 49107 (August 12, 2013), has continued the EAR in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule does not involve any collection of information.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(3)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are unnecessary. This rule only updates Supplement No. 5 to Part 774 to the EAR by removing references to certain items to make the Supplement conform to the current legal status of those items under the EAR. These revisions are merely technical and reflect what already is in effect under the EAR in accordance with established procedure, and the procedure itself was proposed to the public and the subject of public comment. This rule clarifies information, which serves to avoid confusing readers about the items' EAR99 status. It does not alter any right, obligation or prohibition that applies to any person under the EAR. Because these revisions are not substantive changes, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule. Because neither the Administrative Procedure Act nor any other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)* are not applicable.

List of Subjects in 15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, Part 774 of the Export Administration Regulations (15 CFR Parts 730–774) is amended as follows:

PART 774—[AMENDED]

■ 1. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

■ 2. Supplement No. 5 to Part 774—Items Classified Under ECCNs Items Classified Under Export Control Classification Numbers (ECCNs) 0A521, 0B521, 0C521, 0D521 and 0E521—is amended by:

■ a. Removing and reserving the entire entry for item "*No. 1* Biosensor systems and dedicated detecting components" under the section "0A521. Systems, Equipment and Components";

■ b. Removing and reserving the entire entry for item "*No. 1* 0D521 "Software" for the function of Biosensor Systems controlled by ECCN 0A521." under section "0D521. Software"; and

■ c. Removing and reserving the entire entry for item "*No. 1* 0E521 "Technology for the "development" or "production" of Biosensor Systems controlled by ECCN 0A521." under section "0E521. Technology".

Dated: July 25, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2014–17961 Filed 8–1–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice 8810]

RIN 1400–AD62

Amendment to the International Traffic in Arms Regulations: Central African Republic and UNSCR 2149

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to update the defense trade policy regarding the Central African Republic to reflect the most recent resolution adopted by the United Nations Security Council.

DATES: *Effective Date:* This rule is effective August 4, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. C. Edward Peartree, Director, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (202) 663–2792, or email *DDTCResponseTeam@state.gov*. ATTN: Regulatory Change, Central African Republic.

SUPPLEMENTARY INFORMATION: On April 10, 2014, the United Nations Security Council (UNSC) adopted resolution 2149, which called for the UN Integrated Peacebuilding Office in the Central African Republic (BINUCA) to be subsumed into the UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA). The Department of State is amending ITAR § 126.1(u) to implement this change.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act. Since the Department is of the opinion that this rule is exempt from 5 U.S.C. 553, it is the view of the Department that the provisions of section 553(d) do not apply to this rulemaking. Therefore, this rule is effective upon publication. The Department also finds that, given the national security issues surrounding U.S. policy towards the Central African Republic, there is good cause for the effective date of this rule to be the date of publication, as provided by 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Since the Department is of the opinion that this rule is exempt from the provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The Department does not believe this rulemaking is a major rule within the definition of 5 U.S.C. 804.

Executive Orders 12372 and 13132

This rulemaking 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, the Department has determined that this rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). These executive orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department has determined that the benefits of this rulemaking outweigh any cost to the public, which the Department believes will be minimal. This rule has not been designated a "significant regulatory action" under section 3(f) of Executive Order 12866.

Executive Order 12988

The Department of State reviewed this rulemaking in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 126

Arms and munitions, Exports.

For the reasons set forth above, Title 22, Chapter I, Subchapter M, part 126 is amended as follows:

PART 126—GENERAL POLICIES AND PROVISIONS

■ 1. The authority citation for part 126 continues to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205; 3 CFR, 1994 Comp., p. 899; Sec. 1225, Pub. L. 108–375; Sec. 7089, Pub. L. 111–117; Pub. L. 111–266; Sections 7045 and 7046, Pub. L. 112–74; E.O. 13637, 78 FR 16129.

■ 2. Section 126.1 is amended by revising paragraph (u)(1) to read as follows:

§ 126.1 Prohibited exports, imports, and sales to or from certain countries.

* * * * *

(u) * * *

(1) Defense articles intended solely for the support of or use by the International Support Mission to the Central African Republic (MISCA); the UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA); the African Union Regional Task Force (AU–RTF); and the French forces and European Union operation deployed in the Central African Republic;

* * * * *

Rose E. Gottemoeller,

Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2014–18331 Filed 8–1–14; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF 19F; AG Order No. 3451–2014]

RIN 1140–AA34

Elimination of Firearms Transaction Record, ATF Form 4473 (Low Volume) (2008R–21P)

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) by eliminating the Firearms Transaction Record, ATF Form 4473 (Low Volume (LV)), Parts I and II. Federally licensed firearms dealers used this form as an alternate record for the receipt and disposition of firearms. Because licensees rarely use Form 4473 (LV), ATF has determined that continued use of this form is unwarranted and it should be eliminated. Licensees will be required to use the standard Form 4473 for all dispositions and maintain a record of the acquisition and disposition of firearms in accordance with the regulations.

DATES: This rule is effective October 3, 2014.

FOR FURTHER INFORMATION CONTACT: Denise Brown, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue NE., Washington, DC 20226; telephone: (202) 648–7070.

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the provisions of the Gun Control Act of 1968 ("the Act"), 18 U.S.C. Chapter 44. Among other things, the Act authorizes the Attorney General to establish license and recordkeeping requirements. The Attorney General has delegated authority to administer and enforce the Act to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), subject to the direction of the Attorney General and the Deputy Attorney General. 28 CFR 0.130(a). Regulations that implement the provisions of the Act are contained in 27 CFR Part 478.

Section 478.125(e) requires that each federally licensed firearms dealer enter into a record each receipt and disposition of a firearm. Licensed dealers must maintain the record in bound form under the format prescribed in the regulations. Regarding the purchase or other acquisition of a firearm by a licensed dealer, the record must show the date of receipt, the name and address or the name and license number of the person from whom it was received, the name of the manufacturer and importer (if any), the model, serial number, type, and the caliber or gauge of the firearm. Licensed dealers must also record certain information regarding the sale or other disposition of a firearm, e.g., the date of the sale or other disposition of the firearm, the name and address of the person to whom the firearm is transferred, or the name and license number of the person to whom the firearm is transferred if such person is a licensee.

Section 478.124a, which became effective August 1, 1988, provides for alternate records for the receipt and disposition of firearms by licensed dealers. This section generally provides that a licensed dealer acquiring firearms and contemplating the disposition of not more than 50 firearms within a succeeding 12-month period to licensees or nonlicensees could maintain a record of the acquisition and disposition of such firearms on a firearms transaction record, Form 4473 (LV) Part I, Firearms Transaction Record Part I—Low Volume—Over-The-Counter, or Form 4473 (LV) Part II, Firearms Transaction Record Part II Low Volume—Intrastate Non-Over-The-Counter, in lieu of the records prescribed by § 478.125(e). A licensed dealer who maintains alternate records pursuant to § 478.124a, but whose firearms dispositions exceeded 50 firearms within a 12-month period, is required to make and maintain the acquisition and disposition records required by § 478.125(e) with respect to each firearm exceeding 50.

The standard Form 4473, Firearms Transaction Record, is the form commonly used by firearms licensees to record distributions of firearms to nonlicensed individuals. This form is supplemented by the licensee's acquisition and disposition record. The Form 4473 (LV) combined the acquisition and disposition record into the form for use by low volume licensees (*i.e.*, dealers distributing not more than 50 firearms per year).

II. Notice of Proposed Rulemaking

On August 5, 2010, ATF published in the **Federal Register** a notice of proposed rulemaking (NPRM) soliciting comments from the public on the Department's proposal to amend the regulations to eliminate the Firearms Transaction Record, Form 4473 (Low Volume (LV)), Parts I and II (Notice No. 30P, 75 FR 47254). The NPRM noted that firearms licensees rarely use Form 4473 (LV), and that the costs of updating and printing Form 4473 (LV) were not an efficient use of ATF's resources.

The NPRM also noted that if the proposed rule was adopted, licensees would be required to use the standard ATF Form 4473 for all dispositions and maintain a record of the acquisition and disposition of firearms in accordance with the provisions of § 478.125. The comment period for the NPRM closed on November 3, 2010.

III. Analysis of Comments and Decision

Seven comments were received in response to the Department's proposal to eliminate Form 4473 (LV). Of those, three offered either general or specific support for the Department's proposal. One of the commenters stated that all nonessential paperwork and recordkeeping should be eliminated. One commenter stated that the Form 4473 (LV) was confusing and "borderline obsolete" without offering any further explanation. One commenter stated that having multiple systems of recording acquisitions and dispositions unnecessarily complicated the recordkeeping process, and that requiring all licensees to use a single system of records (the standard Form 4473 and bound book) would reduce confusion and improve recordkeeping accuracy. This commenter went on to state that a single recordkeeping system would make enforcement of firearms regulations simpler. All three commenters concurred with the proposed elimination of Form 4473 (LV).

Four commenters objected to the Department's proposal. One of the objecting commenters stated that Form 4473 (LV) was useful. The remaining three commenters misunderstood the proposed amendment and assumed that the Department was proposing to eliminate the Firearms Transaction Record entirely. As stated in the NPRM, the Department was only proposing to eliminate Form 4473 (LV). The standard Form 4473, Firearms Transaction Record, was not proposed for elimination. With respect to the objecting commenter who found Form 4473 (LV) useful, the Department notes that the proposed elimination of that form was not based upon a determination that it served no purpose. Rather, because it was used so infrequently ATF concluded that the

costs of maintaining the form outweighed the benefits it conferred.

Accordingly, this final rule adopts without change the proposed amendment eliminating Form 4473 (LV). Upon the effective date of this final rule, licensees will be required to use the standard Form 4473 for all dispositions and maintain a record of the acquisition and disposition of firearms in accordance with the regulations in 27 CFR Part 478. These recordkeeping requirements apply to the disposition of firearms to all nonlicensed persons.

How This Document Complies With the Federal Administrative Requirements for Rulemaking

A. Executive Order 12866 and Executive Order 13563

This rule has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), The Principles of Regulation, and Executive Order 13563, "Improving Regulation and Regulatory Review." The Department of Justice has determined that this rule is a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has been reviewed by the Office of Management and Budget. However, this rule will not have an annual effect on the economy of $100 million or more, nor will it adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Because ATF Form 4473 (LV), Parts I and II, have rarely been used by federal firearms licensees, the rule will have a negligible effect on the economy.

B. Executive Order 13132

The rule will not 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. Therefore, in accordance with section 6 of Executive Order 13132, the Attorney General has determined that the rule will not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

C. Executive Order 12988

The rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b). Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

Because ATF Form 4473 (LV), Parts I and II, have rarely been used by federal firearms licensees, the rule will have a negligible effect on small businesses.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

F. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

G. Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

Disclosure

Copies of the notice of proposed rulemaking, all comments received in response to the NPRM, and this final rule will be available for public inspection by appointment during normal business hours at: ATF Reading Room, Room 1E–062, 99 New York Avenue NE., Washington, DC 20226; telephone: (202) 648–8740.

Drafting Information

The author of this document is Denise Brown, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives.

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and ammunition, Authority delegations, Customs duties and inspection, Domestic violence, Exports, Imports, Law enforcement personnel, Military personnel, Nonimmigrant aliens, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, and Transportation.

Authority and Issuance

Accordingly, for the reasons discussed in the preamble, 27 CFR Part 478 is amended as follows:

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for 27 CFR Part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

§ 478.124a [Removed]

■ 2. Section 478.124a is removed.

■ 3. Section 478.125 is amended by revising the first sentence in paragraph (e) to read as follows:

§ 478.125 Record of receipt and disposition.

* * * * *

(e) *Firearms receipt and disposition by dealers.* Each licensed dealer shall enter into a record each receipt and disposition of firearms. * * *

* * * * *

Dated: July 29, 2014.

Eric H. Holder, Jr.,

Attorney General.

[FR Doc. 2014–18392 Filed 8–1–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2014–0487]

Special Local Regulation; Southern California Annual Marine Events for the San Diego Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the San Diego Bayfair special local regulations on Friday, September 12, 2014 through Sunday, September 14, 2014. This recurring marine event occurs on the navigable waters of Mission Bay in San Diego, California. This action is necessary to provide for the safety of the high speed boat race participants, crew, spectators, safety vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 7:00 a.m. to 6:00 p.m. on Friday, September 12, 2014 through Sunday, September 14, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7261, email *Giacomo.Terrizzi@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in Mission Bay for the San Diego Bayfair as listed in 33 CFR 100.1101, Table 1, Item 12 from 7:00 a.m. to 6:00 p.m.

Under the provisions of 33 CFR 100.1101, persons and vessels are prohibited from entering into, transiting through, or anchoring within the regulated area encompassing all navigable waters of Mission Bay to include Fiesta Island, the east side of Vacation Isle, and Crown Point Shores, unless authorized by the Captain of the Port, or his designated representative. Persons or vessels desiring to enter into or pass through the regulated area may request permission from the Captain of the Port or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative. Spectator vessels may safely transit outside the regulated area, but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in patrol and notification of this regulation.

This notice is issued under authority of 5 U.S.C. 552(a) and 33 CFR 100.1101. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners, Broadcast Notice to Mariners, and local advertising by the event sponsor. If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this notice, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: July 20, 2014

S.M. Mahoney,

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

[FR Doc. 2014–18365 Filed 8–1–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2012–1036]

Special Local Regulations; Recurring Marine Events in Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce one special local regulation for a regatta in the Sector Long Island Sound area of responsibility on October 5, 2014. This action is necessary to provide for the safety of life on navigable waterways during the event. During the enforcement period, no person or vessel may enter the regulated area without permission of the Captain of the Port (COTP) Sector Long Island Sound or designated representative.

DATES: The regulations for the marine event listed in the Table to 33 CFR 100.100(1.4) will be enforced on October 5, 2014 from 5:30 a.m. through 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer Ian Fallon, Waterways Management Division, U.S. Coast Guard Sector Long Island Sound; telephone 203–468–4565, email *Ian.M.Fallon@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulation listed in 33 CFR 100.100(1.4) on the specified date and times as indicated below. The final rule establishing this special local regulation was published in the **Federal Register** on May 24, 2013 (78 FR 31402).

1.4 Riverfront Regatta, Hartford, CT.	• Event type: Regatta. • Date: October 5, 2014. • Time: 5:30 a.m. to 5:30 p.m. • Location: All water of the Connecticut River, Hartford, CT, between the Putnum Bridge 41°42.87′ N 072°38.43′ W and the Riverside Boat House 41°46.42′ N 072°39.83′ W (NAD 83).

Under the provisions of 33 CFR 100.100, the regatta listed above is established as a special local regulation. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, mooring, or anchoring within the regulated area unless they receive permission from the COTP or designated representative.

This notice is issued under authority of 33 CFR 100 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners or marine information broadcasts. If the COTP determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: July 14, 2014,

E.J. Cubanski, III,

Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2014–18360 Filed 8–1–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3 and 4

RIN 2900–AO96

Schedule for Rating Disabilities—Mental Disorders and Definition of Psychosis for Certain VA Purposes

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending the portion of its Schedule for Rating Disabilities (VASRD) dealing with mental disorders and its adjudication regulations that define the term "psychosis." The

VASRD refers to the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM–IV), and VA's adjudication regulations refer to the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition Text Revision (DSM–IV–TR). DSM–IV and DSM–IV–TR were recently updated by issuance of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM–5). This rulemaking will remove outdated DSM references by deleting references to DSM–IV and DSM–IV–TR and replacing them with references to DSM–5. Additionally, this rulemaking will update the nomenclature used to refer to certain mental disorders to conform to DSM–5.

DATES: *Effective Date:* This interim final rule is effective August 4, 2014. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 4, 2014.

Comment Date: Comments must be received on or before October 3, 2014.

Applicability Date: The provisions of this interim final rule shall apply to all applications for benefits that are received by VA or that are pending before the agency of original jurisdiction on or after the effective date of this interim final rule. The Secretary does not intend for the provisions of this interim final rule to apply to claims that have been certified for appeal to the Board of Veterans' Appeals or are pending before the Board of Veterans' Appeals, the United States Court of Appeals for Veterans Claims, or the United States Court of Appeals for the Federal Circuit.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to "RIN 2900–AO96—Schedule for Rating Disabilities—Mental Disorders and Definition of Psychosis for Certain VA Purposes." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ioulia Vvedenskaya, Medical Officer, VASRD Regulations Staff (211C), Compensation Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: The Diagnostic and Statistical Manual of Mental Disorders (DSM) is published by the American Psychiatric Association and provides a common language and standard criteria for the classification of mental disorders. DSM–IV, the version that is referenced in VA's current regulations, was initially published in 1994, with minor changes published in 2000 as the DSM–IV–TR. DSM–5, which replaces DSM–IV and DSM–IV–TR, was published in May 2013.

The DSM is referenced in VA's adjudication regulations and VASRD to ensure that claims for disability benefits for mental disorders are adjudicated in a consistent and objective manner. Additionally, reference to the DSM is included so that VA adjudicators apply the same principles and criteria that are used by both VA and non-VA health care providers. 61 FR 52695, Oct. 8, 1996.

In order to keep VA regulations, including the VASRD, current for immediate use in accordance with DSM–5, 38 CFR 3.384, 4.125, 4.126, 4.127, and 4.130 must be updated. This update will require VA rating personnel to use the diagnostic nomenclature contained in DSM–5 when adjudicating claims for mental disorders. This update to incorporate the current DSM will not affect evaluations assigned to mental disorders as it does not change the disability evaluation criteria in the VASRD.

Section 3.384: DSM Reference and DSM–5 Nomenclature Change

Currently, § 3.384 reads, "For purposes of this part, the term 'psychosis' means any of the following disorders listed in Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, of the American Psychiatric Association (DSM–IV–TR)." Reference to DSM–IV–TR is outdated in light of the publication of the most recent fifth edition of the DSM and is, by this rulemaking, replaced with reference to DSM–5. Additionally, the reference to Shared Psychotic Disorder as a distinct diagnosis in § 3.384(h) is removed as the DSM–5 now classifies it as a part of Delusional Disorder. Also included in current § 3.384 are the following listed disorders: Psychotic Disorder Due to General Medical Condition; Psychotic Disorder Not Otherwise Specified; and Substance-Induced Psychotic Disorder. To reflect the current nomenclature of the DSM–5, VA is updating the names of these disorders to Psychotic Disorder Due to Another Medical Condition, Other Specified Schizophrenia Spectrum and Other Psychotic Disorder, and Substance/Medication-Induced Psychotic Disorder, respectively.

Section 4.125: DSM Reference and DSM–5 Nomenclature Change

Section 4.125(a) currently reads, "If the diagnosis of a mental disorder does not conform to DSM–IV or is not supported by the findings on the examination report, the rating agency shall return the report to the examiner to substantiate the diagnosis." Now that DSM–5 has been published, continued VASRD reference to DSM–IV will lead to inaccurate Compensation and Pension diagnoses and inefficient processing of related benefits claims. Additionally, mandating use of an outdated version of the DSM would not be consistent with VA's goal of using the most up-to-date medical information to describe veterans' rated disorders. Therefore, VA is removing the reference to DSM–IV and replacing it with reference to DSM–5.

Section 4.126: DSM–5 Nomenclature Change

Currently, § 4.126(c) reads, "Delirium, dementia, and amnestic and other cognitive disorders shall be evaluated under the general rating formula for mental disorders; neurologic deficits or other impairments stemming from the same etiology (e.g., a head injury) shall be evaluated separately and combined with the evaluation for delirium, dementia, or amnestic or other cognitive disorder (see § 4.25)." DSM–5 renames the "Delirium, Dementia, and Amnestic and Other Cognitive Disorders" category as "Neurocognitive Disorders." Therefore, VA is deleting the reference to "Delirium, dementia, and amnestic and other cognitive disorders" as a disease category in § 4.126(c) and replacing it with "Neurocognitive Disorders" to be consistent with the terminology in DSM–5.

Section 4.127: DSM–5 Nomenclature Change

Currently, § 4.127 is titled "Mental retardation and personality disorders." It reads, "Mental retardation and personality disorders are not diseases or injuries for compensation purposes, and, except as provided in § 3.310(a) of this chapter, disability resulting from them may not be service-connected.

However, disability resulting from a mental disorder that is superimposed upon mental retardation or a personality disorder may be service-connected." The term "mental retardation" was used in DSM–IV. However, the term "intellectual disability (intellectual developmental disorder)" has replaced "mental retardation" in common use over the past two decades among medical, educational, and other professionals and conforms with nomenclature in the DSM–5. Therefore, VA is deleting the reference to "Mental retardation" and replacing it with "Intellectual disability (intellectual developmental disorder)" in § 4.127 and its title.

Section 4.130: DSM Reference and DSM–5 Nomenclature Change

Currently, § 4.130 reads, "The nomenclature employed in this portion of the rating schedule is based upon the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, of the American Psychiatric Association (DSM–IV)." As explained above, continued reference to the DSM–IV will lead to inaccurate Compensation and Pension diagnoses and inefficient processing of related benefits claims. Additionally, mandating the use of an outdated version of the DSM would not be consistent with VA's goal of using the most up-to-date medical information to describe veterans' rated disorders. Therefore, VA is deleting the reference to DSM–IV in § 4.130 and replacing it with a reference to DSM–5.

Section 4.130: Deletion of Organizational Categories

Currently, § 4.130 lists 38 diagnostic codes that are divided under eight organizational headers: Schizophrenia and Other Psychotic Disorders; Delirium, Dementia, and Amnestic and Other Cognitive Disorders; Anxiety Disorders; Dissociative Disorders; Somatoform Disorders; Mood Disorders; Chronic Adjustment Disorder; and Eating Disorders. These headers are based on the chapters in the DSM–IV and reflect classification of mental disorders in DSM–IV. The headers are not part of the actual rating criteria that pertain to how a mental disability is evaluated under the VASRD.

VA is changing § 4.130 terminology to conform to DSM–5. Accordingly, VA is deleting the organizational headers within the VASRD. This change adheres to the classification of mental disorders in DSM–5 and allows for accurate classification of mental disorders under the VASRD. For example, in the DSM–5, the Anxiety Disorders chapter no longer includes obsessive-compulsive disorder, which is in a new chapter "Obsessive-Compulsive and Related Disorders," or posttraumatic stress disorder (PTSD), which is in the new chapter "Trauma- and Stressor-Related Disorders." This change is technical and does not amend the criteria currently used to evaluate mental disorders under the VASRD.

In addition to deletion of these organizational categories, VA is adding a note to § 4.130. This note instructs rating specialists to evaluate mental disorders according to the general rating formula for mental disorders and to evaluate eating disorders according to the rating formula for eating disorders. This note is necessary due to the DSM–5 deletion of organizational categories. There is no change made to VA's criteria or method for evaluating mental and eating disorders. The note will read as follows: "Note: Ratings under diagnostic codes 9201 to 9440 will be evaluated using the General Rating Formula for Mental Disorders. Ratings under diagnostic codes 9520 and 9521 will be evaluated using the General Rating Formula for Eating Disorders."

Section 4.130: Diagnostic Codes and DSM–5 Nomenclature

Of the 38 diagnostic codes in § 4.130, 25 require updating to reflect the current terminology contained in the DSM–5. The changes do not affect the evaluation of these mental disorders. For reference purposes, the following table lists all affected diagnostic codes under amended § 4.130 and includes the nomenclature under DSM–IV and the new nomenclature under DSM–5:

Diagnostic code	DSM–IV	DSM–5
9201	Schizophrenia, disorganized type	Schizophrenia.
9202	Schizophrenia, catatonic type	Schizophrenia (DC 9201).
9203	Schizophrenia, paranoid type	Schizophrenia (DC 9201).
9204	Schizophrenia, undifferentiated type	Schizophrenia (DC 9201).
9205	Schizophrenia, residual type; other and unspecified types	Schizophrenia (DC 9201).
9210	Psychotic disorder, not otherwise specified (atypical psychosis)	Other specified and unspecified schizophrenia spectrum and other psychotic disorders.
9301	Dementia due to infection (HIV infection, syphilis, or other systemic or intracranial infections).	Major or mild neurocognitive disorder due to HIV or other infections.
9304	Dementia due to head trauma	Major or mild neurocognitive disorder due to traumatic brain injury.
9305	Vascular dementia	Major or mild vascular neurocognitive disorder.
9310	Dementia of unknown etiology	Unspecified neurocognitive disorder.
9312	Dementia of the Alzheimer's type	Major or mild neurocognitive disorder due to Alzheimer's disease.
9326	Dementia due to other neurologic or general medical conditions (endocrine disorders, metabolic disorders, Pick's disease, brain tumors, etc.) or that are substance-induced (drugs, alcohol, poisons).	Major or mild neurocognitive disorder due to another medical condition or substance/medication-induced major or mild neurocognitive disorder.
9327	Organic mental disorder, other (including personality change due to a general medical condition).	Unspecified neurocognitive disorder (DC 9310).
9403	Specific (simple) phobia; social phobia	Specific phobia; social anxiety disorder (social phobia).
9410	Other and unspecified neurosis	Other specified anxiety disorder (DC 9410); Unspecified anxiety disorder (DC 9413).
9413	Anxiety disorder, not otherwise specified	Unspecified anxiety disorder.
9416	Dissociative amnesia; dissociative fugue; dissociative identity disorder (multiple personality disorder).	Dissociative amnesia; dissociative identity disorder.
9417	Depersonalization disorder	Depersonalization/Derealization disorder.
9421	Somatization disorder	Somatic symptom disorder.
9422	Pain disorder	Other specified somatic symptom and related disorder.
9423	Undifferentiated somatoform disorder	Unspecified somatic symptom and related disorder.

Diagnostic code	DSM–IV	DSM–5
9424	Conversion disorder	Conversion disorder (functional neurological symptom disorder).
9425	Hypochondriasis	Illness anxiety disorder.
9433	Dysthymic disorder	Persistent depressive disorder (dysthymia).
9435	Mood disorder, not otherwise specified	Unspecified depressive disorder.

The changes in the table will also be reflected in identical amendments to Appendix A—Table of Amendments and Effective Dates Since 1946, Appendix B—Numerical Index of Disabilities, and Appendix C—Alphabetical Index of Disabilities, all contained in 38 CFR Part 4. In addition, diagnostic code 9412 in Appendix B—Numerical Index of Disabilities has been corrected to read "Panic disorder and/or agoraphobia." This change is a correction as the previous listing in Appendix B omitted "and/or agoraphobia" from the listed diagnosis.

Incorporation by Reference

The Director of the Federal Register approves the incorporation by reference of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM–5) (2013) for the purposes of 38 CFR 4.125(a) in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from the American Psychiatric Association, 1000 Wilson Boulevard, Arlington, VA 22209–3901. You may inspect a copy at the Office of Regulation Policy and Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420 or the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC. Although §§ 3.384 and 4.130 also mention DSM–5, incorporation by reference is not required because those sections merely refer to the DSM–5 as a source and not as a requirement. In contrast, § 4.125 requires claims adjudicators to use the DSM–5.

Administrative Procedure Act

In accordance with 5 U.S.C. 553(b)(B) and (d)(3), the Secretary of Veterans Affairs finds that there is good cause to dispense with the opportunity for prior notice and comment and good cause to publish this rule with an immediate effective date. The Secretary finds that it is impracticable, unnecessary, and contrary to the public interest to delay this regulation for the purpose of soliciting prior public comment.

It is impracticable to provide opportunity for prior notice and comment for this rulemaking because a delay in implementation will require the Veterans Health Administration (VHA) to continue to diagnose mental disorders under two versions of the DSM until this regulation is effective, one for clinical purposes (under DSM–5) and one for compensation purposes (under DSM–IV). In order to maintain the highest and most modern level of care for veterans, and as required by the American Psychiatric Association, VHA clinicians must use the DSM–5-based clinical guidelines to appropriately diagnose and treat veterans with mental disorders. This use of the DSM–5 not only provides veterans with the most up-to-date care for mental disorders, but also ensures that non-VA health care providers who employ the DSM–5 are able to understand, interpret, and continue the care documented in VA treatment records.

Similarly, the Veterans Benefits Administration's (VBA) failure to employ DSM–5 will place VASRD diagnostic terminology and classifications of mental disorders at odds with the DSM–5-based diagnostic criteria and terminology now standard in the psychiatric community. Continued reliance on the DSM–IV would also potentially place VBA at odds with its own regulations, which require "accurate and fully descriptive medical examinations" in order to apply the VASRD. 38 CFR 4.1. Failure to adopt the most current medical standards for the diagnosis of mental disorders, as contained in the DSM–5, would thus result in an inability to apply the VASRD, as DSM–IV-based examinations are now outdated and therefore inaccurate.

It is therefore imperative that VBA adopt the DSM–5 as the diagnostic standard for disability compensation purposes. As described above, prior notice and comment period for this rulemaking will result in negative consequences for both the VHA treatment and VBA evaluation of mental health disorders. Specifically, without this immediate change, VHA medical professionals would be required to diagnose and record their clinical findings using two standards. Under commonly accepted American Psychiatric Association and medical guidelines, the DSM–5, the current authoritative standard, must be used for the purposes of clinical diagnosis and treatment of mental disorders. However, under the existing requirement to diagnose mental disorders under DSM–IV when performing Compensation and Pension examinations, these same VHA clinicians would be required to record their clinical findings using the obsolete and now-irrelevant DSM–IV. This would put VHA physicians at odds with their professional responsibilities as members of the medical community and providers of veterans' care. Moreover, asking VHA to continue providing medical evidence based on DSM–IV ignores the numerous advances in mental health science reflected in the DSM–5.

VA notes that it is unnecessary to provide opportunity for prior notice and comment for this rulemaking because it is inevitable that VBA will adopt the DSM–5 for diagnostic purposes. With its foundations based upon the most current medical science as determined by experts in the field of mental health, the new and current DSM–5 terminology and classification of mental disorders must be applied to the adjudication process without undue delay. In this context, VA recognizes that applying the new and current DSM–5-based updates to the VASRD immediately upon publication of this rule will enable the Secretary of Veterans Affairs to make available to all veterans who are diagnosed with mental health disorders, including those who suffer from PTSD, timely access to benefits based on current and accurate clinical diagnostic criteria already adopted by the psychiatric community. Taking this step will avoid disruption in providing accurate disability benefits to veterans for mental health disorders in a timely manner.

Upon publication of the DSM–5, the American Psychiatric Association and the Centers for Medicare and Medicaid Services instructed health care providers to begin using the DSM–5 immediately. VHA clinicians followed thereafter and began utilizing the DSM–5 in treatment of mental disorders on November 1, 2013. However, the American Psychiatric Association also noted that there will be a period of time during which insurers and other agencies, to include VA, will need to

update forms and data systems associated with the transition from DSM–IV to DSM–5. For the purposes of VA disability benefits, the forms and data systems that must be updated include, but are not limited to, Disability Benefits Questionnaires, the Veterans Benefits Management System, and VA's own Compensation and Pension adjudication regulations. In addition, the National Academy of Sciences' Institute of Medicine (IOM) has recommended that VA adopt systematic reviews of clinical guidelines. The goal of these systematic reviews is to enhance the quality and reliability of health-care guidance for veterans. VA has reviewed DSM–5 and has found that its implementation for diagnostic purposes is appropriate.

Furthermore, it is inevitable that VBA will eventually rely on the DSM–5-based terminology and classification of mental disorders to describe diagnosed mental disorders. Use of the DSM–5 as a standard for the diagnosis of mental disorders is not a decision that rests with VA, VHA, or VBA. VHA clinicians, as well as all mental health providers, have a professional duty as licensed medical practitioners to use the most current medical guidelines, in this case the DSM–5. In addition, IOM has encouraged VBA to review the VASRD to ensure that it relies on current medical science. With successive editions over the past 60 years, DSM has become the standard reference for clinical practice in the mental health field. Its fifth edition, DSM–5, presents the most current classification of mental disorders with associated criteria designed to facilitate more reliable diagnosis of these disorders. VBA must eventually rely on the DSM–5 in order for VHA physicians to comply with their professional obligations and to ensure adherence to guidance from the IOM.

The change to the references from DSM–IV to DSM–5 in VBA's adjudication regulations does not present a change in how mental disorders are evaluated under the VASRD, nor are any disorders removed from the VASRD. The only foreseeable substantive public comments would be limited to the contents of the DSM–5 itself, something over which VBA has no control or input. VBA has reviewed the contents of the DSM–5 to ensure that, while some disabilities have been renamed, re-categorized, or consolidated into another diagnosis, all mental disorders currently listed in the VASRD are accounted for. The changes made to diagnostic nomenclature, however, are beyond the scope and expertise of VBA, and any comments suggesting changes to how disabilities are diagnosed could not be answered by VBA. In cases of periodic updates of clinical guidelines and medical terminology used by the medical community, such as DSM–5, VBA has no authority to comment, challenge, or change the content, terminology, or nomenclature based on public comment. VBA's use of the DSM–5 is limited to conforming to the most current medical standards and practices in diagnosing mental disabilities. While an interim final rulemaking forgoes prior notice and comment, VBA will still accept and consider all significant comments received in response to the publication of this rulemaking and can make changes through future rulemakings if necessary.

As the understandings of mental disorders and their treatments have evolved, clinical professionals have developed strong, objective, and consistent scientific validators of individual disorders. As a result, the DSM–5 has moved to a non-axial documentation of diagnoses, based on dimensional concepts in the diagnosis of mental disorders. The DSM–IV incorporated a Global Assessment of Functioning (GAF) scale, which was used to measure the individual's overall level of functioning on a scale of 1 to 100. The American Psychiatric Association has determined that the GAF score has limited usefulness in the assessment of the level of disability. Noted problems include lack of conceptual clarity and doubtful value of GAF psychometrics in clinical practice. Currently, VA's mental health examinations performed under DSM–IV include the GAF score in evaluating PTSD and all other disorders, but the score is only marginally applicable to PTSD and other disorders because of its emphasis on the symptoms of mood disorder and schizophrenia and its limited range of symptom content.

During VA's review of the DSM–5, questions were raised as to the impact of DSM–5 changes in PTSD diagnostic criteria and, therefore, the number of veterans eligible to receive disability compensation for this mental disorder. Specifically, there was concern that a change in the diagnostic criteria for PTSD in the DSM–5 would result in fewer diagnoses, given that the DSM–5 includes more explicit definitions for stressors. The new diagnostic criteria for PTSD no longer include the subjective reaction to the traumatic event (Criterion A2), such as experiencing fear, helplessness, or horror, but the revised stressor criterion (Criterion A) includes a more explicit definition for stressors as exposure to actual or threatened death, serious injury or sexual violation. According to DSM–5, the exposure must result from at least one of the following scenarios, in which the individual: Directly experiences the traumatic event; witnesses the traumatic event in person; learns that the traumatic event occurred to a close family member or close friend (with actual or threatened death being either violent or accidental); or experiences first-hand repeated or extreme exposure to aversive details of the traumatic event (not through media, pictures, television, or movies unless work-related).

The DSM–5 also includes four diagnostic clusters for PTSD, instead of the three clusters under the DSM–IV. These clusters are described as re-experiencing, avoidance, negative alterations in cognition and mood, and arousal. The number of symptoms that must be identified to support a diagnosis depends on the cluster in which the symptoms fall. Most importantly, the DSM–5 only requires that a disturbance continue for more than one month and eliminates the distinction between acute and chronic PTSD; this will likely result in more veterans meeting the diagnostic criteria for PTSD.

Although DSM–5 does present minor changes in the manner in which PTSD is diagnosed—i.e., it includes more explicit definitions for stressors for purposes of clinical diagnosis, it is important to note that such changes do not impact VA's adjudication regulations, which provide evidentiary criteria for establishing the existence of an in-service stressor, in certain circumstances. For example, 38 CFR 3.304(f)(3) provides the relaxed evidentiary criteria for establishing a stressor based on fear of hostile military or terrorist activity under which an examiner determined that the stressor criteria for a diagnosis of PTSD under the DSM–5 have been satisfied. 75 FR 39843, July 13, 2010. VA also provides for full development of potential sources of stressor evidence in claims based on military sexual trauma under 38 CFR 3.304(f)(5). In addition, it is important to note that the DSM–5 now specifically lists sexual violation/assault as a traumatic event to satisfy the stressor criteria. Also, once a diagnosis is established, DSM–5 does not change how the existing VASRD evaluation criteria are applied to diagnosed mental disorders to determine an appropriate disability rating.

To the extent that VA and non-VA physicians will no longer use GAF scores in their examinations, such discontinuance will only alter the form in which physicians make and report

their findings regarding disability levels. There will be no effect on the rating criteria in the VASRD or the manner in which VA applies the VASRD criteria to the medical evidence of record. In order to provide a global measure of disability, DSM–5 recommends using the World Health Organization Disability Assessment Schedule, Version 2; this assessment can also be used over time to track changes in a patient's disabilities. DSM–5 benefits veterans by improving the quality and consistency of the mental disorder diagnoses, consequently improving the quality and consistency of disability evaluations. In order to maintain the most accurate level of clinical care for veterans with mental disabilities, VHA has already deployed the DSM–5 in a clinical setting. VBA must utilize the DSM–5 in its adjudication regulations as soon as possible to ensure that disability compensation is as accurate and up to date as the current standards used to diagnose and treat these mental disorders.

Finally, it is contrary to the public interest to provide opportunity for prior notice and comment for this rulemaking because a delay in VBA's transition to the DSM–5 will negatively impact the current claims backlog. For example, if mental health conditions continue to be adjudicated based on DSM–IV nomenclature while VHA treats mental conditions based on DSM–5 nomenclature, VHA records will not be relevant for the purposes of adjudicating claims for mental disabilities. This outcome will require additional development by VBA leading to increased processing times. Therefore, immediate implementation of the DSM–5 in VBA's regulations will ensure rating decisions reflect current diagnostic standards and promote consistency between VHA and VBA.

The regulations under 38 CFR Parts 3 and 4 require that all pertinent evidence of record be considered when evaluating a veteran's disability for compensation purposes. The mental health regulations of the VASRD currently require that all mental conditions be diagnosed in accordance with the standards set under DSM–IV. However, VHA currently uses the DSM–5 criteria for the purposes of diagnosis and treatment of mental disorders. As such, DSM–5 VA treatment records are not legally sufficient for VA disability evaluations under VASRD's current reference to DSM–IV. Ready availability of VHA treatment records expedites VBA adjudicators' accurate evaluation of mental health disorders, particularly when considering claims for increased benefits.

This discrepancy between the standards for diagnosis and treatment and disability evaluation of mental disorders will ultimately add to the current backlog of disability claims. Without the ability to adjudicate claims based on existing medical evidence, VA will have no choice but to require disability examinations for mental disorders utilizing the criteria set forth in DSM–IV to ensure compliance with current regulations. This will place an additional and unnecessary strain on VHA and VBA resources. This will result in claim processing delays and frustrate VA's efforts to achieve its stated agency priority goal of eliminating the claims backlog.

Historically, in response to the previous update from DSM–III to DSM–IV, VA employed a notice of proposed rulemaking prior to finalizing changes to 38 CFR 4.125. DSM–IV was published in May 1994 and VA's notice of proposed rulemaking to incorporate the newest version of the DSM was published in the **Federal Register** on October 26, 1995, with a 60-day comment period. 60 FR 54825. The final rule to reference DSM–IV in 38 CFR Part 4 was published on October 8, 1996, almost one calendar year following the proposed rule, and more than two years after publication of the updated DSM. 61 FR 52695. In addition to updating references to the most current DSM in 38 CFR 4.125, the rulemaking included changes to the VASRD evaluation criteria for mental disorders under 38 CFR 4.130, which had not been revised since 1964 when the rule was first published for public viewing. The previous rulemaking also proposed changes to four other portions of 38 CFR Part 4. Due to the significant nature of the changes made, a proposed rule was required to provide prior notice and solicit public comment on the nature and impact of the changes. It should also be noted that, at that time, the concept of an interim final rule did not exist.

In stark contrast, the current rule only updates nomenclature in the VASRD and other regulations to be consistent with DSM–5; evaluation criteria under § 4.130 remain unchanged. Given that the current rulemaking does not change evaluation criteria and given the need to ensure veterans receive timely and accurate disability compensation, VA is making these changes through an interim final rule. VA stresses that it will consider and address significant comments received within 60 days of the date this interim final rule is published in the **Federal Register**.

As previously noted, the American Psychiatric Association released the DSM–5 for clinical use in May 2013. At that time, clinicians from VHA and medical officers from VBA, as part of a workgroup, reviewed the DSM–5 for changes in diagnostic criteria, disability nomenclature, and any other pertinent shifts from the previous version. Based upon their review of the DSM–5, the changes from the DSM–IV were then reviewed by VBA personnel with a focus on the disability compensation claims process. VBA determined that the DSM–5 required that changes be made to the VASRD nomenclature and certain adjudication regulations. VBA undertook an extensive development process to ensure that all potential issues were considered and adequately addressed in the regulations. While this process took considerable time, it allowed VBA to anticipate and address potential problems with rulemaking prior to publication, ultimately saving time.

For the foregoing reasons, the Secretary of Veterans Affairs finds it is impracticable, unnecessary, and contrary to public interest to delay this rulemaking for the purpose of soliciting advance public comment or to have a delayed effective date. Accordingly, VA is issuing this rule as an interim final rule with an immediate effective date. We will consider and address significant comments that are received within 60 days of the date this interim final rule is published in the **Federal Register**.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action," which requires review by the Office of Management and Budget (OMB), as "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or

communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this interim final rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of this rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for "VA Regulations Published."

Regulatory Flexibility Act

The Secretary hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This interim final rule will not affect any small entities. Only certain VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This interim final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This interim final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are 64.009, Veterans Medical Care Benefits; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veteran Affairs, approved this document on July 24, 2014, for publication.

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health Care, Pensions, Radioactive materials, Veterans, Vietnam.

38 CFR Part 4

Disability benefits, Incorporation by reference, Pensions, Veterans.

Dated: July 29, 2014.

Robert C. McFetridge,

Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set forth in the preamble, the Department of Veterans Affairs amends 38 CFR parts 3 and 4 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Revise § 3.384 to read as follows:

§ 3.384 Psychosis.

For purposes of this part, the term "psychosis" means any of the following disorders listed in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM–5) (see § 4.125 for availability information):

(a) Brief Psychotic Disorder;

(b) Delusional Disorder;

(c) Psychotic Disorder Due to Another Medical Condition;

(d) Other Specified Schizophrenia Spectrum and Other Psychotic Disorder;

(e) Schizoaffective Disorder;

(f) Schizophrenia;

(g) Schizophreniform Disorder; and

(h) Substance/Medication-Induced Psychotic Disorder.

(Authority: 38 U.S.C. 501(a), 1101, 1112(a) and (b))

PART 4—SCHEDULE FOR RATING DISABILITIES

Subpart B—Disability Ratings

■ 3. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

■ 4. Revise § 4.125(a) to read as follows:

§ 4.125 Diagnosis of mental disorders.

(a) If the diagnosis of a mental disorder does not conform to DSM–5 or is not supported by the findings on the examination report, the rating agency shall return the report to the examiner to substantiate the diagnosis. Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM–5), American Psychiatric Association (2013), is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Department of Veterans Affairs must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available from the American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209–3901, 703–907–7300, *http://www.dsm5.org.* It is also available for inspection at the Office of Regulation Policy and Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this information at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_publications.html.*

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■ 5. Revise § 4.126(c) to read as follows:

§ 4.126 Evaluation of disability from mental disorders.

* * * * *

(c) Neurocognitive disorders shall be evaluated under the general rating

formula for mental disorders; neurologic deficits or other impairments stemming from the same etiology (e.g., a head injury) shall be evaluated separately and combined with the evaluation for neurocognitive disorders (see § 4.25).

* * * * *

■ 6. Revise § 4.127 to read as follows:

§ 4.127 Intellectual disability (intellectual developmental disorder) and personality disorders.

Intellectual disability (intellectual developmental disorder) and personality disorders are not diseases or injuries for compensation purposes, and, except as provided in § 3.310(a) of this chapter, disability resulting from them may not be service-connected. However, disability resulting from a mental disorder that is superimposed upon intellectual disability (intellectual developmental disorder) or a personality disorder may be service-connected.

(Authority: 38 U.S.C. 1155)

■ 7. Revise § 4.130 to read as follows:

§ 4.130 Schedule of ratings—Mental disorders.

The nomenclature employed in this portion of the rating schedule is based upon the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM–5) (see § 4.125 for availability information). Rating agencies must be thoroughly familiar with this manual to properly implement the directives in § 4.125 through § 4.129 and to apply the general rating formula for mental disorders in § 4.130. The schedule for rating for mental disorders is set forth as follows:

9201 Schizophrenia
9202 [Removed]
9203 [Removed]
9204 [Removed]
9205 [Removed]
9208 Delusional disorder
9210 Other specified and unspecified schizophrenia spectrum and other psychotic disorders
9211 Schizoaffective disorder
9300 Delirium
9301 Major or mild neurocognitive disorder due to HIV or other infections
9304 Major or mild neurocognitive disorder due to traumatic brain injury
9305 Major or mild vascular neurocognitive disorder
9310 Unspecified neurocognitive disorder
9312 Major or mild neurocognitive disorder due to Alzheimer's disease
9326 Major or mild neurocognitive disorder due to another medical condition or substance/medication-induced major or mild neurocognitive disorder
9327 [Removed]
9400 Generalized anxiety disorder
9403 Specific phobia; social anxiety disorder (social phobia)
9404 Obsessive compulsive disorder
9410 Other specified anxiety disorder
9411 Posttraumatic stress disorder
9412 Panic disorder and/or agoraphobia
9413 Unspecified anxiety disorder
9416 Dissociative amnesia; dissociative identity disorder
9417 Depersonalization/Derealization disorder
9421 Somatic symptom disorder
9422 Other specified somatic symptom and related disorder
9423 Unspecified somatic symptom and related disorder
9424 Conversion disorder (functional neurological symptom disorder)
9425 Illness anxiety disorder
9431 Cyclothymic disorder
9432 Bipolar disorder
9433 Persistent depressive disorder (dysthymia)
9434 Major depressive disorder
9435 Unspecified depressive disorder
9440 Chronic adjustment disorder

GENERAL RATING FORMULA FOR MENTAL DISORDERS

	Rating
Total occupational and social impairment, due to such symptoms as: gross impairment in thought processes or communication; persistent delusions or hallucinations; grossly inappropriate behavior; persistent danger of hurting self or others; intermittent inability to perform activities of daily living (including maintenance of minimal personal hygiene); disorientation to time or place; memory loss for names of close relatives, own occupation, or own name.	100
Occupational and social impairment, with deficiencies in most areas, such as work, school, family relations, judgment, thinking, or mood, due to such symptoms as: suicidal ideation; obsessional rituals which interfere with routine activities; speech intermittently illogical, obscure, or irrelevant; near-continuous panic or depression affecting the ability to function independently, appropriately and effectively; impaired impulse control (such as unprovoked irritability with periods of violence); spatial disorientation; neglect of personal appearance and hygiene; difficulty in adapting to stressful circumstances (including work or a worklike setting); inability to establish and maintain effective relationships.	70
Occupational and social impairment with reduced reliability and productivity due to such symptoms as: flattened affect; circumstantial, circumlocutory, or stereotyped speech; panic attacks more than once a week; difficulty in understanding complex commands; impairment of short- and long-term memory (e.g., retention of only highly learned material, forgetting to complete tasks); impaired judgment; impaired abstract thinking; disturbances of motivation and mood; difficulty in establishing and maintaining effective work and social relationships.	50
Occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks (although generally functioning satisfactorily, with routine behavior, self-care, and conversation normal), due to such symptoms as: depressed mood, anxiety, suspiciousness, panic attacks (weekly or less often), chronic sleep impairment, mild memory loss (such as forgetting names, directions, recent events).	30
Occupational and social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress, or symptoms controlled by continuous medication.	10
A mental condition has been formally diagnosed, but symptoms are not severe enough either to interfere with occupational and social functioning or to require continuous medication.	0

9520 Anorexia nervosa

9521 Bulimia nervosa

RATING FORMULA FOR EATING DISORDERS

	Rating
Self-induced weight loss to less than 80 percent of expected minimum weight, with incapacitating episodes of at least six weeks total duration per year, and requiring hospitalization more than twice a year for parenteral nutrition or tube feeding.	100
Self-induced weight loss to less than 85 percent of expected minimum weight with incapacitating episodes of six or more weeks total duration per year.	60

RATING FORMULA FOR EATING DISORDERS—Continued

	Rating
Self-induced weight loss to less than 85 percent of expected minimum weight with incapacitating episodes of more than two but less than six weeks total duration per year.	30
Binge eating followed by self-induced vomiting or other measures to prevent weight gain, or resistance to weight gain even when below expected minimum weight, with diagnosis of an eating disorder and incapacitating episodes of up to two weeks total duration per year.	10
Binge eating followed by self-induced vomiting or other measures to prevent weight gain, or resistance to weight gain even when below expected minimum weight, with diagnosis of an eating disorder but without incapacitating episodes.	0

Note 1: An incapacitating episode is a period during which bed rest and treatment by a physician are required.
Note 2: Ratings under diagnostic codes 9201 to 9440 will be evaluated using the General Rating Formula for Mental Disorders. Ratings under diagnostic codes 9520 and 9521 will be evaluated using the General Rating Formula for Eating Disorders.

(Authority: 38 U.S.C. 1155)

■ 8. Amend Appendix A to part 4 by revising the entries for Sec. 4.130 to read as follows:

Appendix A to Part 4—Table of Amendments and Effective Dates Since 1946

Sec.	Diagnostic code No.	
*	*	* * * * * * *
4.130		Re-designated from § 4.132 November 7, 1996.
	9200	Removed February 3, 1988.
	9201	Criterion February 3, 1988; Title August 4, 2014.
	9202	Criterion February 3, 1988; removed August 4, 2014.
	9203	Criterion February 3, 1988; removed August 4, 2014.
	9204	Criterion February 3, 1988; removed August 4, 2014.
	9205	Criterion February 3, 1988; criterion November 7, 1996; Removed August 4, 2014.
	9206	Criterion February 3, 1988; removed November 7, 1996.
	9207	Criterion February 3, 1988; removed November 7, 1996.
	9208	Criterion February 3, 1988; removed November 7, 1996.
	9209	Criterion March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9210	Criterion March 10, 1976; criterion February 3, 1988; criterion November 7, 1996; Title August 4, 2014.
	9211	Added November 7, 1996.
	9300	Criterion March 10, 1976; criterion February 3, 1988; criterion November 7, 1996.
	9301	Criterion March 10, 1976; criterion February 3, 1988; criterion November 7, 1996; Title August 4, 2014.
	9302	Criterion March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9303	Criterion March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9304	Criterion March 10, 1976; criterion February 3, 1988; criterion November 7, 1996; Title August 4, 2014.
	9305	Criterion March 10, 1976; criterion February 3, 1988; criterion November 7, 1996; Title August 4, 2014.
	9306	Criterion March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9307	Criterion March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9308	Criterion March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9309	Criterion March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9310	Criterion March 10, 1976; criterion February 3, 1988; criterion November 7, 1996; Title August 4, 2014.
	9311	Criterion March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9312	Added March 10, 1976; criterion February 3, 1988; criterion November 7, 1996; Title August 4, 2014.
	9313	Added March 10, 1976; removed February 3, 1988.
	9314	Added March 10, 1976; removed February 3, 1988.
	9315	Added March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9316–9321	Added March 10, 1976; removed February 3, 1988.
	9322	Added March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9323	Added March 10, 1976; removed February 3, 1988.
	9324	Added March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9325	Added March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9326	Added March 10, 1976; removed February 3, 1988; added November 7, 1996; Title August 4, 2014.
	9327	Added November 7, 1996; removed August 4, 2014.
	9400–9411	Evaluations February 3, 1988.
	9400	Criterion March 10, 1976; criterion February 3, 1988.
	9401	Criterion March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9402	Criterion March 10, 1976; criterion February 3, 1988; removed November 7, 1996.
	9403	Criterion March 10, 1976; criterion February 3, 1988; criterion November 7, 1996; Title August 4, 2014.
	9410	Added March 10, 1976; criterion February 3, 1988; Title August 4, 2014.
	9411	Added February 3, 1988.
	9412	Added November 7, 1996.
	9413	Added November 7, 1996; Title August 4, 2014.
	9416	Added November 7, 1996; Title August 4, 2014.
	9417	Added November 7, 1996; Title August 4, 2014.
	9421	Added November 7, 1996; Title August 4, 2014.
	9422	Added November 7, 1996; Title August 4, 2014.
	9423	Added November 7, 1996; Title August 4, 2014.

Sec.	Diagnostic code No.	
	9424	Added November 7, 1996; Title August 4, 2014.
	9425	Added November 7, 1996; Title August 4, 2014.
	9431	Added November 7, 1996.
	9432	Added November 7, 1996.
	9433	Added November 7, 1996; Title August 4, 2014.
	9434	Added November 7, 1996.
	9435	Added November 7, 1996; Title August 4, 2014.
	9440	Added November 7, 1996.
	9500	Criterion March 10, 1976; criterion February 3, 1988.
	9501	Criterion March 10, 1976; criterion February 3, 1988.
	9502	Criterion March 10, 1976; criterion February 3, 1988.
	9503	Removed March 10, 1976.
	9504	Criterion September 9, 1975; removed March 10, 1976.
	9505	Added March 10, 1976; criterion February 3, 1988.
	9506	Added March 10, 1976; criterion February 3, 1988.
	9507	Added March 10, 1976; criterion February 3, 1988.
	9508	Added March 10, 1976; criterion February 3, 1988.
	9509	Added March 10, 1976; criterion February 3, 1988.
	9510	Added March 10, 1976; criterion February 3, 1988.
	9511	Added March 10, 1976; criterion February 3, 1988.
	9520	Added November 7, 1996.
	9521	Added November 7, 1996.

* * * * *

■ 9. Amend Appendix B to part 4 by revising the entries for diagnostic codes 9201 through 9521 to read as follows:

Appendix B to Part 4—Numerical Index of Disabilities

Diagnostic code No.	
*	* * * * * * *
	Mental Disorders
9201	Schizophrenia.
9208	Delusional disorder.
9210	Other specified and unspecified schizophrenia spectrum and other psychotic disorders.
9211	Schizoaffective Disorder.
9300	Delirium.
9301	Major or mild neurocognitive disorder due to HIV or other infections.
9304	Major or mild neurocognitive disorder due to traumatic brain injury.
9305	Major or mild vascular neurocognitive disorder.
9310	Unspecified neurocognitive disorder.
9312	Major or mild neurocognitive disorder due to Alzheimer's disease.
9326	Major or mild neurocognitive disorder due to another medical condition or substance/medication-induced major or mild neurocognitive disorder.
9400	Generalized anxiety disorder.
9403	Specific phobia; social anxiety disorder (social phobia).
9404	Obsessive compulsive disorder.
9410	Other specified anxiety disorder.
9411	Posttraumatic stress disorder.
9412	Panic disorder and/or agoraphobia.
9413	Unspecified anxiety disorder.
9416	Dissociative amnesia; dissociative identity disorder.
9417	Depersonalization/derealization disorder.
9421	Somatic symptom disorder.
9422	Other specified somatic symptom and related disorder.
9423	Unspecified somatic symptom and related disorder.
9424	Conversion disorder (functional neurological symptom disorder).
9425	Illness anxiety disorder.
9431	Cyclothymic disorder.
9432	Bipolar disorder.
9433	Persistent depressive disorder (dysthymia).
9434	Major depressive disorder.
9435	Unspecified depressive disorder.
9440	Chronic adjustment disorder.
9520	Anorexia nervosa.
9521	Bulimia nervosa.
*	* * * * * * *

■ 10. In Appendix C to part 4, revise the entries for mental disorders to read as follows:

Appendix C to Part 4—Alphabetical Index of Disabilities

	Diagnostic code No.
* * * * * * *	
Mental disorders:	
Anorexia nervosa	9520
Bipolar disorder	9432
Bulimia nervosa	9521
Chronic adjustment disorder	9440
Conversion disorder (functional neurological symptom disorder).	9424
Cyclothymic disorder	9431
Delirium	9300
Delusional disorder	9208
Depersonalization/derealization disorder	9417
Dissociative amnesia; dissociative identity disorder	9416
Generalized anxiety disorder	9400
Illness anxiety disorder	9425
Major depressive disorder	9434
Major or mild neurocognitive disorder due to Alzheimer's disease	9312
Major or mild neurocognitive disorder due to another medical condition or substance/medication-induced major or mild neurocognitive disorder	9326
Major or mild neurocognitive disorder due to HIV or other infections	9301
Major or mild neurocognitive disorder due to traumatic brain injury	9304
Major or mild vascular neurocognitive disorder	9305
Obsessive compulsive disorder	9404
Other specified and unspecified schizophrenia spectrum and other psychotic disorders	9210
Other specified anxiety disorder	9410
Other specified somatic symptom and related disorder	9422
Panic disorder and/or agoraphobia	9412
Persistent depressive disorder (dysthymia)	9433
Posttraumatic stress disorder	9411
Schizoaffective disorder	9211
Schizophrenia	9201
Somatic symptom disorder	9421
Specific phobia; social anxiety disorder (social phobia)	9403
Unspecified somatic symptom and related disorder	9423
Unspecified anxiety disorder	9413
Unspecified depressive disorder	9435
Unspecified neurocognitive disorder	9310
* * * * * * *	

[FR Doc. 2014–18150 Filed 8–1–14; 8:45 am]
BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2011–0609; FRL–9914–48–Region 10]

Approval and Promulgation of Implementation Plans; Alaska: Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving the State Implementation Plan (SIP) submittals from Alaska to address the interstate transport provisions of the Clean Air Act (CAA) for the 2006 fine particulate matter ($PM_{2.5}$), 2008 ozone, and 2008 lead (Pb) National Ambient Air Quality Standards (NAAQS). The CAA requires that each SIP contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. The EPA has determined that Alaska's SIP submittals on March 29, 2011, and July 9, 2012, contain adequate provisions to ensure that air emissions in Alaska do not significantly contribute to nonattainment or interfere with maintenance of the 2006 $PM_{2.5}$, 2008 ozone, and 2008 Pb NAAQS in any other state.

DATES: This final rule is effective on September 3, 2014.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA–R10–OAR–2011–0609. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT–107, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Keith Rose at: (206) 553–1949,

rose.keith@epa.gov, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us" or "our" is used, it is intended to refer to the EPA. Information is organized as follows:

Table of Contents

I. Background

On March 29, 2011, and July 9, 2012, Alaska submitted SIP revisions to the EPA demonstrating that the Alaska SIP meets the interstate transport requirements of CAA section 110(a)(2)(D)(i) for the 2006 $PM_{2.5}$, 2008 ozone, and 2008 lead NAAQS. On April 28, 2014, we proposed approval of Alaska's submittals (79 FR 23303). An explanation of the CAA requirements and implementing regulations that are met by these SIP revisions, a detailed explanation of the revisions, and the EPA's reasons for the proposed action were provided in the notice of proposed rulemaking on April 28, 2014, and will not be restated here. The public comment period for our proposed action ended on May 28, 2014. We received one comment expressing support for EPA's proposed approval of the state's interstate transport SIP submission.

II. Final Action

The EPA is approving the SIP submittals from Alaska on March 29, 2011, and July 9, 2012, to address the interstate transport provisions of the CAA section 110(a)(2)(D)(i)(I) for the 2006 $PM_{2.5}$, 2008 ozone, and 2008 Pb NAAQS. The EPA has determined that Alaska's SIP submittals on March 29, 2011, and July 9, 2012, contain adequate provisions to ensure that air emissions in Alaska do not significantly contribute to nonattainment or interfere with maintenance of the 2006 $PM_{2.5}$, 2008 ozone, and 2008 Pb NAAQS in any other state.

III. 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 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 Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and the EPA notes that it will not 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. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 3, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Lead, Particulate matter, and Reporting and recordkeeping requirements.

Dated: July 8, 2014.

Dennis J. McLerran,

Regional Administrator, Region 10.

Therefore, 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—Alaska

■ 2. In § 52.70, the table in paragraph (e) is amended by adding two entries at the end of the table to read as follows:

§ 52.70 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED ALASKA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
*	*	*	*	*
Section 110(a)(2) Infrastructure and Interstate Transport				
*	*	*	*	*
Interstate Transport Requirements—2008 Ozone and 2006 $PM_{2.5}$ NAAQS.	Statewide	3/29/2011	8/4/14 [*Insert* ***Federal Register*** *citation].*	Approves SIP for purposes of CAA section 110(a)(2)(D)(i)(I) for the 2008 Ozone and 2006 $PM_{2.5}$ NAAQS.
Interstate Transport Requirements—2008 Lead NAAQS.	Statewide	7/9/2012	8/4/14 [*Insert* ***Federal Register*** *citation].*	Approves SIP for purposes of CAA section 110(a)(2)(D)(i)(I) for the 2008 Lead NAAQS.

[FR Doc. 2014–18200 Filed 8–1–14; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2010–0332; FRL–9914–45–Region 6]

Approval and Promulgation of Implementation Plans; Texas; Reasonably Available Control Technology for the 1997 8-Hour Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) as it applies to the volatile organic compound (VOC) sources in the offset lithographic printing source category. We are approving revisions to the regulations for this source category as they apply in the Dallas/Fort Worth (DFW), El Paso and Houston/Galveston/Brazoria (HGB) areas. These revisions are based on the recommendations for Reasonably Available Control Technology (RACT) in the Control Technique Guideline (CTG) issued in 2006 entitled, "Lithographic Printing Materials and Letterpress Printing Materials." We are also approving the corresponding RACT analysis for this category for both the HGB and DFW 1997 8-hour ozone nonattainment areas. The EPA is approving these revisions pursuant the federal Clean Air Act (the Act, CAA) and consistent with the EPA's guidance.

DATES: This final rule is effective on September 3, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2010–0332. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., 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 *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Belk, Air Planning Section (6PD–L), telephone: (214) 665–2164, email address: *belk.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to EPA.

Table of Contents

I. Background

The background for today's final rule is discussed in our March 12, 2014 proposal to approve revisions to the Texas SIP (79 FR 13963). In that action, we proposed to approve one submittal in full, and portions of two separate submittals: A Texas SIP revision submitted by the Texas Commission on Environmental Quality (TCEQ) in April, 2010, which updates the regulations that apply to offset lithographic printing based on the 2006 CTG for this category, and the portions of two other Texas SIP revisions submitted by the TCEQ in April, 2010, containing a RACT analysis for this source category for the DFW and the HGB areas. The TCEQ SIP submittals we proposed to approve March 12, 2014, and which we are approving in this final action are:

(a) VOC CTG Update: CTG Category Offset Lithographic Rulemaking, adopted on March 10, 2010 and submitted April 5, 2010, providing rule revisions to 30 TAC, Chapter 115 Control of Air Pollution from Volatile Organic Compounds, Subchapter E, Division 4, "Offset Lithographic Printing" which apply to offset lithographic printing lines located in the Dallas-Fort Worth (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant counties), El Paso, and Houston-Galveston-Brazoria (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties) areas. This submittal addresses recommendations for Reasonably Available Control Technology (RACT) in the Control Technique Guideline (CTG) issued in 2006 entitled, "Lithographic Printing Materials and Letterpress Printing Materials" for the DFW and HGB areas, and also updates the rules for this source category for DFW, El Paso, and HGB.

(b) a portion of the 2010 HGB Attainment Demonstration SIP Revision for the 1997 8-hour Ozone Nonattainment Area, the RACT Analysis for the Offset Lithographic CTG Category, adopted March 10, 2010 and submitted April 6, 2010, and

(c) a portion of the 2010 DFW RACT, Rule, and Contingency SIP Revision for

the 1997 8-hour Ozone Nonattainment Area, the RACT Analysis for the Offset Lithographic CTG Category, adopted March 10, 2010 and submitted April 6, 2010.

Our March 12, 2014 proposal provides a detailed description of the revisions and the rationale for EPA's proposed actions, together with a discussion of the opportunity to comment. The public comment period for these actions closed on April 11, 2014. See the Technical Support Document in the docket for this rulemaking and our proposal at 79 FR 13963 for more information. We did not receive any comments regarding our proposal. Therefore, we are finalizing our action as proposed.

II. Final Action

The EPA is approving Texas' 2010 SIP revisions for the VOC CTG source category Offset Lithographic Printing rules. We are approving revisions to the following sections within 30 TAC Chapter 115: 115.440, 115.441, 115.442, 115.443, 115.445, 115.446, and 115.449. In addition, the EPA is finding that for this CTG category Texas has RACT-level controls in place for the HGB and DFW Areas under the 1997 8-hour ozone standard. The EPA is approving these revisions in accordance with sections 110, 172(c) and 182 of the federal Clean Air Act and consistent with the EPA's guidance.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 October 3, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 18, 2014.

Samuel Coleman,

Acting Regional Administrator, Region 6.

Therefore, 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 SS—Texas

■ 2. In § 52.2270:

■ a. In paragraph (c), the table titled "EPA Approved Regulations in the Texas SIP" is amended by revising the entries for Sections 115.440, 115.442, 115.443, 115.445, 115.446 and 115.449 and adding a new entry in sequential order for Section 115.441.

■ b. In paragraph (e), the table titled "EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP" is amended by adding two entries at the end of the table for "VOC RACT finding for Lithographic Printing under the 1997 8-hour ozone NAAQS, including the 2006 EPA-issued CTG ".

The revisions and additions read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
Subchapter E—Solvent-Using Processes				
*	*	*	*	*
Division 4: Offset Lithographic Printing				
Section 115.440	Applicability and Definitions	3/10/2010	8/4/2014 [*Insert* ***Federal Register*** *citation*].	
Section 115.441	Exemptions	3/10/2010	8/4/2014 [*Insert* ***Federal Register*** *citation*].	
Section 115.442	Control Requirements	3/10/2010	8/4/2014 [*Insert* ***Federal Register*** *citation*].	
Section 115.443	Alternate Control Requirements	3/10/2010	8/4/2014 [*Insert* ***Federal Register*** *citation*].	
Section 115.445	Approved Test Methods	3/10/2010	8/4/2014 [*Insert* ***Federal Register*** *citation*].	
Section 115.446	Monitoring and Recordkeeping Requirements.	3/10/2010	8/4/2014 [*Insert* ***Federal Register*** *citation*].	
Section 115.449	Compliance Schedules	3/10/2010	8/4/2014 [*Insert* ***Federal Register*** *citation*].	
*	*	*	*	*

* * * * *

(e) * * *

* * * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or non-attainment area	State submittal/ effective date	EPA approval date	Comments
*	*	*	*	*
VOC RACT finding for Lithographic Printing under the 1997 8-hour ozone NAAQS, including the 2006 EPA-issued CTG.	Houston-Galveston-Brazoria (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller Counties, TX).	4/6/2010	8/4/2014 [*Insert* ***Federal Register*** *citation*].	HGB as Severe.
VOC RACT finding for Lithographic Printing under the 1997 8-hour ozone NAAQS, including the 2006 EPA-issued CTG.	Dallas-Fort Worth (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties, TX).	4/6/2010	8/4/2014 [*Insert* ***Federal Register*** *citation*].	DFW as Moderate and Serious.

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[FR Doc. 2014–18182 Filed 8–1–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R07–OAR–2014–0468; FRL–9914–52–Region 7]

Approval and Promulgation of Implementation Plans; State of Nebraska; Fine Particulate Matter New Source Review Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State Implementation Plan (SIP) for the State of Nebraska. This action will amend the SIP to include revisions to Nebraska's Air Quality Regulations "Definitions", "Construction Permits—When Required", and "Prevention of Significant Deterioration of Air Quality" to make the state regulations consistent with the Federal regulations for the fine Particulate Matter ($PM_{2.5}$) Prevention of Significant Deterioration (PSD) program. This revision will amend the state minor source construction permitting program including the addition of a minor source permitting threshold for $PM_{2.5}$. These revisions are necessary to properly manage the increment requirements (maximum allowable deterioration to the air quality) of the PSD program and assure continued attainment with the $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). This action also recognizes the state's request to not include, into the SIP, provisions relating to Significant Impact Levels (SILs) and Significant Monitoring Concentrations (SMCs). These provisions were vacated and remanded by the U.S. Court of Appeals for the District of Columbia on January 22, 2013.

DATES: This direct final rule will be effective October 3, 2014, without further notice, unless EPA receives adverse comment by September 3, 2014. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0468, by one of the following methods:

1. *www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: crable.gregory@epa.gov.*
3. *Mail or Hand Delivery:* Greg Crable, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2014–0468. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Greg Crable, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7391, or by email at *crable.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?

EPA is approving revisions into the SIP to include amendments to Title 129 of the Nebraska Air Quality Regulations as they apply to Prevention of Significant Deterioration (PSD) of air quality. We are approving rule revisions to Chapter 1, "Definitions"; Chapter 17, "Construction Permits—When Required"; and Chapter 19, "Prevention of Significant Deterioration of Air Quality". The revisions make the state regulations consistent with Federal regulations for the $PM_{2.5}$ PSD program. This revision will amend the state minor source construction permitting program including the addition of a minor source permitting threshold for $PM_{2.5}$. A level consistent with the significance thresholds for PSD was added to be consistent with Federal regulations. These revisions are necessary to properly manage the increment requirements (maximum allowable deterioration to the air quality) of the PSD program and assure continued attainment with the $PM_{2.5}$ NAAQS. The rules are amended to correspond with the Federal regulation for implementation of the $PM_{2.5}$ PSD program as identified in 40 CFR 52.21.

The following definitions are revised to match the Federal regulation: Baseline area; major source baseline date; minor source baseline date; regulated NSR pollutant; regulated pollutant for fee purposes; significant; and significant emissions unit.

Revisions provide clarification that only pollutants specifically listed in state statute require a construction permit application fee and adds emission levels for $PM_{2.5}$ to the table of significant levels that, if exceeded, would preclude the issuance of a construction permit. Also, revisions included the incorporation of Federal regulations by reference, the requirements for sources that impact Federal Class I areas; added $PM_{2.5}$ to the definition of "significant" for PSD purposes; added $PM_{2.5}$ to the list of

allowable ambient air increments for PSD purposes and $PM_{2.5}$ parameters to the list of exceptions from an air quality analysis for PSD purposes; and finally, added a definition of significant impact levels for $PM_{2.5}$.

This action is also consistent with the state's request to not include the SIP provisions relating the Significant Impact Levels (SILs) and Significant Monitoring Concentrations (SMCs). On January 22, 2013, the U.S. Court of Appeals for the District of Columbia vacated and remanded the provisions at 40 CFR 51.166(k)(2) and 52.21(k)(2) concerning implementation of the $PM_{2.5}$ SILs and vacated the provisions at 40 CFR 51.166(i)(5)(i)(c) and 52.21(i)(5)(i)(c) (adding the $PM_{2.5}$ SMCs) that were promulgated as part of the October 20, 2010, PSD rule for $PM_{2.5}$ PSD—Increments, SILs and SMCs, 75 FR 64864.

II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is EPA taking?

EPA is approving the state's request to revise the SIP to include amendments to the Nebraska air quality rules as they apply to the PSD of air quality. The rule is amended to correspond with the final Federal regulation necessary for the $PM_{2.5}$ implementation of the PSD program. Per the state's June 27, 2013, request, EPA is not including provisions of the 2010 $PM_{2.5}$ PSD—Increments, SILs and SMCs rule (75 FR 64865, October 20, 2010) relating to SILs and SMCs that were affected by the January 22, 2013, U.S. Court of Appeals decision into SIP.

We are publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. EPA does not anticipate adverse comment because the revisions to the existing rules are routine and consistent with the Federal regulations, thereby, strengthening the SIP. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule. If adverse comments are received on this direct final rule we will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. Should EPA receive adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). This action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies 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 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Thus Executive Order 13132 does not apply to this action. This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Burden is defined at 5 CFR 1320.3(b).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 3, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the final

rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Air quality, Prevention of significant deterioration, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: July 21, 2014.

Mike Brincks,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, the Environmental Protection Agency is amending 40 CFR parts 52 and 70 as set forth below:

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 CC—Nebraska

■ 2. In § 52.1420 the table in paragraph (c) is amended by revising the entries for 129–1, 129–17, and 129–19 to read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Explanation
	STATE OF NEBRASKA Department of Environmental Quality Title 129—Nebraska Air Quality Regulations			
129–1	Definitions	4/1/2012	8/4/2014 [*Insert* ***Federal Register*** *citation*].	
*	* * *	*	* *	*
129–17	Construction Permits—When Required	4/1/2012	8/4/2014 [*Insert* ***Federal Register*** *citation*].	Approval does not include Nebraska's revisions to sections 001.02T and 013.04T pertaining to ethanol production facilities, which were not submitted by the State.
129–19	Prevention of Significant Deterioration of Air Quality	4/1/2012	8/4/2014 [*Insert* ***Federal Register*** *citation*].	Provisions of the 2010 $PM_{2.5}$ PSD—Increments, SILs and SMCs rule (75 FR 64865, October 20, 2010) relating to SILs and SMCs that were affected by the January 22, 2013 U.S. Court of Appeals decision are not SIP approved.
*	* * *	*	* *	*

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PART 70—STATE OPERATING PERMITS PROGRAMS

■ 3. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 4. Appendix A to Part 70 is amended by adding, in alphabetical order, new paragraph (l) under the heading "Nebraska; City of Omaha; Lincoln-Lancaster County Health Department" to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Nebraska; City of Omaha; Lincoln-Lancaster County Health Department

* * * * *

(l) The Nebraska Department of Environmental Quality approved a revision to NDEQ Title 129, Chapter 1 on December 1, 2011, which became effective April 1, 2012. This revision was submitted on February 13, 2013. We are approving this program revision effective October 3, 2014.

* * * * *

[FR Doc. 2014–18257 Filed 8–1–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 37

[Docket No. CDC–2014–0011; NIOSH–276]

RIN 0920–AA57

Specifications for Medical Examinations of Coal Miners

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Interim final rule.

SUMMARY: With this action, the Department of Health and Human Services (HHS), in accordance with a final rule recently published by the Department of Labor's Mine Safety and

Health Administration (MSHA), is amending its regulations to establish standards for the approval of facilities that conduct spirometry examinations and to require that all coal mine operators submit a plan for the provision of spirometry and X-ray examinations to all surface and underground coal miners.

DATES: This rule is effective on August 4, 2014. Comments must be received by October 3, 2014. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 4, 2014.

ADDRESSES: You may submit comments, identified by "RIN 0920–AA57," by any of the following methods:

- *Internet:* Access the Federal e-rulemaking portal at *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, OH 45226–1998.

Instructions: All submissions received must include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking. All relevant comments will be posted without change to *http://www.regulations.gov* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: A. Scott Laney, Research Epidemiologist, Division of Respiratory Disease Studies, NIOSH, Centers for Disease Control and Prevention, 1095 Willowdale Road, MS HG900.2, Morgantown, WV 26505–2888; (304) 285–5754 (this is not a toll-free number); *alaney@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Public Participation

Interested persons or organizations are invited to participate in this rulemaking by submitting written views, arguments, recommendations, and data. Comments are invited on any topic related to this rulemaking.

II. Background

A. History of Coal Workers' Health Surveillance Program and Statutory Authority

All mining work generates fine particles of dust in the air. Coal miners who inhale excessive dust are known to develop a group of diseases of the lungs and airways, including silicosis, and Coal Workers' Pneumoconiosis (CWP), and the chronic obstructive pulmonary disease, including chronic bronchitis and emphysema.[1] To address such threats to the U.S. coal mining workforce, the Coal Mine Health and Safety Act was enacted in 1969 (Pub. L. 91–173) and amended by the Federal Mine Safety and Health Act of 1977 (Pub. L. 95–164, 30 U.S.C. 801 *et seq.*) (Mine Act). The statutes included an enforceable 2 milligrams per cubic meter limit on respirable dust exposure during underground coal mine work (30 U.S.C. 842(b)(2)).[2] The science available at that time indicated that enforcement of this limit would greatly reduce the development of CWP, but could not ensure that all miners would be protected from developing disabling or lethal disease.

The National Institute for Occupational Safety and Health (NIOSH) Coal Workers' Health Surveillance Program (CWHSP), also authorized by the Mine Act, was established to detect CWP and prevent its progression in individual miners, while at the same time providing information for evaluation of temporal and geographic trends in CWP. The Mine Act grants the HHS Secretary general authority to issue regulations as is deemed appropriate to carry out provisions of the Act and specifically directs that medical examinations for coal miners shall be given in accordance with specifications prescribed by the Secretary (30 U.S.C. 843(a), 957), and grants NIOSH the authority to conduct activities in the field of coal mine health on behalf of the Secretary (30 U.S.C. 951(b)).

To inform each miner of his or her health status, the Act requires that coal mine operators provide each miner who begins work at a coal mine for the first time a chest roentgenogram (hereafter chest radiograph or X-ray) through an approved facility as soon as possible after employment starts. Three years later a miner must be offered a second chest radiograph. If this second examination reveals evidence of CWP, the miner is entitled to a third chest radiograph 2 years after the second. Further, all miners working in a coal mine must be offered a chest radiograph approximately every 5 years. All chest radiographs are to be given in accordance with specifications prescribed by the Secretary of Health and Human Services (30 U.S.C. 843(a)).

Under NIOSH supervision, a summary report based on the readings of the periodic chest radiograph is sent to each participating coal miner, who then has the opportunity to take action to reduce further dust exposure if early dust-induced lung disease is detected. Miners with evidence of CWP have specific rights under 30 CFR Part 90[3] to transfer to jobs with lower dust levels (see also 42 CFR 37.7). The combined results of these radiographic examinations of miners (radiographic surveillance) also enable NIOSH to track rates and patterns of CWP among the participating miners, to evaluate whether the implemented dust controls are effective in controlling CWP.

B. Need for Rulemaking

On May 1, 2014, the Mine Safety and Health Administration (MSHA) in the Department of Labor published a final rule revising existing health and safety standards in 30 CFR Part 72 to improve health protections for coal miners, including the expansion of requirements for medical surveillance [79 FR 24814]. Section 72.100(a) of the MSHA final

[1] Petsonk EL, Parker JE [2008]. Coal workers' lung diseases and silicosis. In: Fishman AP, Elias J, Fishman J, Grippi M, Senior R, Pack A eds. Fishman's Pulmonary Diseases and Disorders. 4th ed. New York: McGraw-Hill, pp. 967–980.

[2] The Mine Safety and Health Administration (MSHA) published a final rule lowering the existing exposure limit from 2.0 mg/m^3 to 1.5 mg/m^3 in underground and surface coal mines (79 FR 24814, May 1, 2014).

[3] 30 U.S.C. 843(b).

rule requires that both underground and surface coal mine operators provide to each miner chest X-rays and spirometry tests using facilities approved by NIOSH, as well as the documentation of occupational history and symptom assessment. Section 72.100(c) of the rule prescribes an initial examination to be provided no later than 30 days after a miner begins employment at a coal mine for the first time, a follow-up exam no later than 3 years after the first, and another no later than 2 years after the second if the second test shows evidence of pneumoconiosis or the spirometry test shows evidence of reduced lung function. In addition to the mandatory exams, § 72.100(b) requires operators to provide each miner with an opportunity to have an X-ray and spirometry examination at least every 5 years. Section 72.100(a)(2) specifies that test results are to be furnished to the Secretary of Health and Human Services, and, at the request of the miner, to the miner's designated physician. Section 72.100(d) of the MSHA final rule requires each coal mine operator to develop a plan for providing X-rays, spirometry, symptom assessment, and occupational history and submit it to NIOSH for approval; operators must also submit a roster of each miner covered by the plan. The MSHA final rule's expansion of that agency's medical surveillance requirements causes HHS to amend its regulations in 42 CFR Part 37 pertaining to the Coal Workers' Health Surveillance Program, thereby expanding the scope of the Program to include coal miners who work in surface coal mines and adding spirometry testing and symptom assessment for all miners.

C. Statutory Authority

As discussed above, § 203 of the Mine Act directs the HHS Secretary to prescribe time intervals and specifications for the provision of chest X-rays, and standards for the reading, classification, and submission of the films [30 U.S.C. 843(a)]. The Secretary is also authorized to supplement the required X-rays with additional tests as deemed necessary to protect the health and safety of U.S. coal miners.

III. Issuance of an Interim Final Rule With Immediate Effective Date

Rulemaking under the Administrative Procedure Act (APA) generally requires a public notice and comment period and consideration of the submitted comments prior to promulgation of a final rule (5 U.S.C. 553). However, the APA provides for exceptions to its notice and comment procedures when an agency finds that there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. In accordance with the provisions in 5 U.S.C. 553(b)(3)(B), HHS finds good cause to waive the use of prior notice and comment procedures for this interim final rule (IFR) and to make this action effective immediately.

This IFR amends 42 CFR Part 37 to allow coal miners who work in surface mines to participate in the CWHSP and to expand the Program to include spirometry testing to detect decreased lung function among both underground and surface coal miners. HHS has determined that it is impracticable to use prior notice and comment procedures for this IFR because the effective date of the final rule published by MSHA on May 1, 2014, requiring that NIOSH establish standards to provide spirometry testing, occupational history, and symptom assessment for all underground and surface coal miners, is August 1, 2014. NIOSH is committed to expanding the existing health surveillance program to provide spirometry testing to all coal miners as soon as possible, and believes that it would be contrary to the public interest to delay those individuals' eligibility for inclusion in the program beyond the August 1, 2014 effective date. Thus, HHS is waiving the prior notice and comment procedures in the interest of protecting the health of all coal miners and allowing them to participate in the CWHSP as soon as possible.

Stakeholders were given opportunities to participate in MSHA's proposed rulemaking during seven public hearings held between December 2010 and February 2011. The public comment period for the proposed rule was extended three times since the proposed rule was published on October 19, 2010. MSHA received public comments on the provision related to NIOSH, 30 CFR 72.100, and summarized them in the preamble to the final rule (79 FR 24814, 24927–24929). Commenters were overall supportive of the provision, and MSHA was responsive to those comments that expressed concern or were critical of the measure.

Under 5 U.S.C. 553(d)(3), HHS finds good cause to make this IFR effective immediately. As stated above, in order to protect the health of miners in both underground and surface coal mines, it is necessary that HHS act quickly to amend the existing standards in 42 CFR Part 37 to include surface miners and to establish criteria for the provision of spirometry testing. While amendments to Part 37 are effective on the date of publication of this IFR, they are interim and will be finalized following the receipt of any substantive public comments. (See Section I. Public Participation, above.)

IV. Summary of Interim Final Rule

This interim final rule expands the existing Coal Workers' Health Surveillance Program to provide chest radiographic examinations to miners who work in surface coal mines and establishes new requirements for spirometry testing for all coal miners under existing Part 37 of 42 CFR—Specifications for Medical Examinations of Underground Coal Miners. The title of the Part is amended to read Specifications for Medical Examinations of Coal Miners.

The following is a section-by-section summary which describes and explains the amended provisions of Part 37. The public is invited to provide comment on any aspect of the interim final rule. The amended regulatory text is provided in the last section of this notice.

A. Subpart—Chest Radiographic Examinations

Section 37.1 Scope

Existing § 37.1 provides the scope of the provisions in Subpart—Chest Radiographic Examinations, and is amended to clarify the purpose of this subpart. Under this subpart, coal mine operators are required to provide X-ray examinations to each current and new coal miner, using medical facilities approved by NIOSH according to the standards established in this subpart.

Section 37.2 Definitions

Existing § 37.2 contains definitions for terms that appear throughout this subpart and the new Subparts (Subpart—Spirometry Examinations and Subpart—General Requirements). In this section, the definition of "miner" is amended to remove language excluding surface coal miners from coverage under this part. "NIOSH" is amended to update the address of the Division of Respiratory Disease Studies and to reflect that programmatic responsibility is expanded to include medical examinations other than chest radiographs, and to clarify that the program also includes medical surveillance activities. The definition of "operator" is amended to mirror the definition in the Mine Act, and to reflect the inclusion of surface coal miners in the medical examination and surveillance program.

Section 37.3 Chest Radiographs Required for Miners

Existing § 37.3 requires mine operators to provide miners an opportunity to receive a chest radiograph. This section is amended to remove the word "underground" and remove obsolete dates and examples. The section is also amended to specify that evidence of decreased lung function demonstrated by a spirometry exam conducted pursuant to § 37.92(b)(2) may trigger a third chest radiograph.

Section 37.4 Plans for Chest Radiographic Examinations

Existing § 37.4 requires that mine operators submit to NIOSH a plan for chest radiographic examinations, including the beginning and ending dates of the 6-month period for voluntary examinations, and the name and location of the approved X-ray facility or facilities. A form for the documentation of the plan is available on the CWHSP Web site at *http://www.cdc.gov/niosh/topics/surveillance/ords/CoalWorkersHealthSurvProgram.html.* This section is removed from this subpart and moved to new § 37.100; specific amendments are discussed below.

Section 37.5 Approval of Plans

Existing § 37.5 outlines the process undertaken by the Secretary of HHS to approve or deny approval of an operator's plan for chest radiographs. This section is removed from this subpart and moved to new § 37.101; specific amendments are discussed below.

Section 37.6 Chest Radiographic Examinations Conducted by the Secretary

Existing § 37.6 details the conditions under which the HHS Secretary will determine whether to conduct a chest radiographic examination. This section is amended to change the section number to § 37.4 and to replace outdated text with current terminology.

Section 37.7 Transfer of Affected Miner to Less Dusty Area

Existing § 37.7 specifies that any miner who exhibits evidence of the development of CWP may transfer from his or her position to another position in the mine with a lower concentration of respirable dust, as compliant with the recently-updated 30 CFR 90.3. This section is removed from this subpart and moved to new § 37.102; specific amendments are discussed below.

Section 37.8 Radiographic Examination at Miner's Expense

Existing § 37.8 allows that the miner may pay for an X-ray exam himself or herself, and NIOSH will provide the classification and report as if the exam was conducted pursuant to a mine operator's plan. This section is removed from this subpart and moved to new § 37.103; specific amendments are discussed below.

Section 37.40 General Provisions

Existing § 37.40 outlines general provisions for chest X-rays. This section is amended to update the terminology.

Section 37.50 Interpreting and Classifying Chest Radiographs—Film

Existing § 37.50 establishes procedures for the classification of film X-rays. It is amended slightly to update terminology.

Section 37.51 Interpreting and Classifying Chest Radiographs—Digital Radiography Systems

Existing § 37.51 establishes procedures for the classification of digital X-rays. It is amended slightly to update terminology.

Section 37.52 Proficiency in the Use of Systems for Classifying the Pneumoconioses

Existing § 37.52 establishes the A and B Reader approval programs. This section is amended to update terminology.

Section 37.53 Method of Obtaining Definitive Classifications

Existing § 37.53 establishes that radiographs will be independently classified by an A Reader and B Reader, or two B Readers, whose classifications must be in agreement as defined in § 37.53(b); if sufficient agreement is lacking, NIOSH shall obtain a third classification. The section is amended to clarify that the section addresses radiographic classifications rather than interpretations, and to update terminology.

Section 37.60 Submitting Required Chest Radiographs and Miner Identification Documents

Existing § 37.60 establishes the protocol for submitting radiographs to NIOSH. This section is amended to update terminology.

Section 37.70 Review of Classifications

Existing § 37.70(a) establishes that a miner may request that NIOSH reevaluate a CWP interpretation that the miner believes is in error. The section heading and paragraph (a) are amended to replace the words "interpretation" and "interpretations" with "classification" and "classifications." Paragraph (b) is amended to strike an obsolete reference to standards established in 1978.

B. Subpart—Spirometry Examinations

This subpart is added to Part 37 and establishes standards for spirometry testing for all coal miners, working in both underground and surface mines. The new MSHA rule reduces permissible exposure and increases requirements for dust monitoring, however MSHA acknowledges that in spite of these changes, both surface and underground coal miners remain exposed to hazardous levels of respirable dust that can result in serious and fatal lung diseases. To facilitate early detection of lung injury and thereby provide an additional level of secondary health protection to miners, MSHA now requires that mine operators offer a periodic spirometry examination and symptom assessment, to document respiratory symptoms and lung function, in addition to the previous requirement for providing chest radiographic examinations and obtaining occupational histories.

Section 37.90 Scope

New § 37.90 provides the scope of the provisions in Subpart—Spirometry Examinations, and is amended to clarify the purpose of this subpart. Under this subpart, coal mine operators are required to provide spirometry examinations to each current and new coal miner, using medical facilities approved by NIOSH according to the standards established in this subpart.

Section 37.91 Definitions

New § 37.91 defines terms used in this subpart. The following new terms are added in this rulemaking: "ATS," "ERS," "facility," "FET," "FEV1," "FEV6," "FVC," "PEF," and "spirometry examination."

Section 37.92 Spirometry Examinations Required for Miners

New § 37.92 requires coal mine operators to provide all miners an opportunity to receive a spirometry examination. Paragraph (a) of this section specifies the timing and the new content for the miners' ongoing voluntary periodic health examination, as required under the revised MSHA rule. The examination now includes a respiratory assessment and spirometry testing in addition to the previously-required chest radiograph and occupational history. Underground coal

mines with previously-existing mine surveillance plans will continue on their already-established schedules for offering periodic health surveillance. Periodic surveillance schedules for mines that are new to health surveillance, primarily surface mines, will be established by NIOSH in conjunction with approval of mine plans.

Paragraph (b) of this section specifies the timing and content of the respiratory assessment for newly hired miners. To record and provide accurate and timely recognition of important lung functional losses that have been documented to occur during the early years of mining, an initial test is specified within each new miner's first 30 days of employment and a second test after three years of work. If an accelerated loss of function is recognized after three years, then a third test after two additional years is offered to the miner, to determine whether the rate of decline has stabilized. These early examinations are intended to record any early changes in symptoms and spirometry and also provide a more stable baseline for assessing trends in lung function over the miner's subsequent career. The mandatory examinations specified in paragraph (b) are targeted to miners who begin work at a coal mine for the first time. The first spirometry test for experienced miners will be provided when they participate in the next scheduled voluntary examination (as provided in paragraph (a) of this section). For underground coal mines, examinations will be provided according to the already-established 5 year cycle. For surface mines that are new to surveillance, initial voluntary examinations will be provided over the first 5 years after implementation of expanded surveillance under the IFR at times established by NIOSH when mine plans are approved. This staged approach is necessary to effectively manage services to the more than 90,000 existing U.S. coal miners.

Paragraph (c) explains that NIOSH will notify the miner when he or she is due to receive a second or third examination, and clarifies that a miner must provide written authorization for NIOSH to notify the coal operator of when a third examination is due. However, even if the miner does not complete the examination, the availability of the examination will constitute operator compliance with the plan. This procedure parallels the long established approach to offering third chest radiographs to new miners.

Paragraph (d) states that the availability of spirometry testing must be indicated in the operator's plan required by § 37.100.

Section 37.93 Approval of Spirometry Facilities

New § 37.93 establishes standards by which NIOSH will approve facilities that conduct spirometry tests, including ensuring that spirometry results are of adequate quality, and specifying programmatic approaches to quality assurance and addressing deficiencies. High quality spirometry is essential for the test results to provide information that can be useful in protecting miners' lung health. Professional organizations have recognized that to optimize the utility of test results, close attention must be paid to a number of important factors. These factors include the type and performance of the testing equipment, the specific training and experience of the test providers, specific testing procedures, programmatic attention to test quality, and the specific approaches to data management and interpretation of results. The approval of facilities that are authorized to provide spirometry under this subpart provides a mechanism to document the specific services offered and the approaches taken by each facility to address these important technical factors.

Paragraph (b) describes the factors considered important in assuring quality spirometry testing for miners covered by this program. Pursuant to the standards established in the 2005 American Thoracic Society (ATS) and European Respiratory Society (ERS) consensus statement, Standardisation of Spirometry, which is incorporated by reference, testing instruments must be capable of demonstrating calibration, accuracy, and freedom from leaks as required on a daily basis, and results documented. Spirometers must provide an ongoing automatic assessment of test quality during testing, to permit immediate feedback to the technologist and miner. Results of each miner's tests will be provided to NIOSH within 14 calendar days, which will facilitate timely feedback with suggestions for quality improvement. NIOSH may periodically conduct audits to evaluate the quality of spirometry produced by the facility. Records pertaining to the provisions in this section are maintained by NIOSH under CDC/ATSDR Privacy Act System of Records Notice 0920–0149, Morbidity Studies in Coal Mining, Metal and Non-Metal Mining and General Industry. As specified in § 37.96(e), personally identifiable information in the possession of NIOSH will be released only with the written consent of the miner or, if the miner is deceased, the written consent of the miner's next of kin or legal representative.

Paragraphs (c) and (d) state that if a facility is found to be noncompliant with the regulations in this subpart or if a quality assurance audit finds the facility to be under-performing, the facility will be notified. Facility approvals can be revoked if facilities show deficiencies that are not rectified in a timely manner, within 60 days of notification.

Paragraph (e) requires the confidentiality of protected information.

Section 37.94 Respiratory Assessment Form

New § 37.94 requires that a respiratory assessment form must be completed for each miner upon examination. The form is required in order to provide recording of respiratory symptoms and certain other information relevant to miner lung health using a valid, concise, and consistent format.

Section 37.95 Specifications for Performing Spirometry Examinations

New § 37.95 establishes standards for the performance of spirometry tests. As discussed in § 37.93, if validated and standardized approaches are not taken, there can be no assurance of providing accurate and consistent test results.

Paragraph (a) of this section requires that persons administering the spirometry testing demonstrate completion of NIOSH-approved spirometry training, and maintain their knowledge by periodically completing an approved refresher course. NIOSH approves sponsors to provide spirometry training courses. A listing of current courses is maintained on the NIOSH Web site (*http://www.cdc.gov/niosh*). Private courses may also be available that are not listed on the NIOSH Web site. Stakeholders are encouraged to contact NIOSH if they have questions about spirometry training opportunities.

Paragraph (b) of this section requires that testing performed under this subpart utilize equipment complying with standards published in the 2005 ATS/ERS Standardisation of Spirometry for size of display, precision, and accuracy as verified by an independent testing laboratory. Requirements for validation checks are established in the ATS Standardization of Spirometry: 1994 Update, which is incorporated by reference. These requirements are met by many of the spirometers that are currently marketed. Although not required, spirometers may also export results electronically if they meet an available industry standard for the file specification, or if the data file content,

format, and approach to the transfer is approved by NIOSH.

Paragraph (c) of this section specifies certain required procedures during performance of testing, including testing procedures delineated in the 2005 ATS/ERS Standardisation of Spirometry and the 2010 Standardisation of Lung Function Testing, authors' replies to readers' comments, which are incorporated by reference. If the spirometer model does not support an approved approach to exporting data files, then certain numerical results must be entered into an electronic Spirometry Results Form (Form CDC/NIOSH (M)2.17) and transmitted to NIOSH, accompanied by images of the three spirometry flow volume and volume time curves reported using a secure internet transfer site.

Section 37.96 Spirometry Interpretations, Reports, and Notifications

New § 37.96 establishes requirements for the interpretation of spirometry test results, as well as specifications for the content, deletion, and transmission of test reports. This section also addresses the notification of miners of the test results and their confidentiality. Paragraph (a) of this section requires qualified health care professionals at the facilities to interpret results using a standardized approach, described in the 2005 ATS/ERS Interpretative Strategies for Lung Function Tests, and the 2014 Official ATS Standards: Spirometry in the Occupational Setting, which are incorporated by reference.

Paragraph (b) specifies the content of spirometry test reports and the deletion of files and forms associated with the examination. The requirement for deletion of these files and forms is included to help protect the confidentiality of this personal information.

Paragraph (c) requires that findings are communicated to the miner or the miner's designated physician.

Paragraphs (d) and (e) of this section further specify the responsibilities of approved facilities to assure the confidentiality of all personal identifying information associated with testing performed under this subpart, to transfer all completed forms and spirometry results to NIOSH, and after NIOSH has indicated successful receipt of the data, to delete the records, to the extent feasible. Requirements for the transmission of spirometry data files are specified in the 2005 ATS/ERS Standardisation of Spirometry, which is incorporated by reference. NIOSH will send complete reports of spirometry examinations to the miner, along with any recommendations for follow-up.

Section 37.97 Standards Incorporated by Reference

New § 37.97 identifies standards incorporated by reference throughout this subpart.

C. Subpart—General Requirements

This new subpart establishes general requirements for all surface and underground coal mine operators.

Section 37.100 Coal Mine Operator Plan for Medical Examinations

New § 37.100 requires that all coal mine operators submit a plan for providing miners with X-ray and spirometry exams, occupational histories, and respiratory assessment.

Paragraph (a)(1) of this section specifies that on or after August 1, 2014, a person becoming a coal mine operator, for example by purchasing an existing mine or developing a new mine, or a coal mine operator without an approved plan must submit a plan within 60 days that provides for chest radiographs and occupational histories.

Paragraph (a)(2) states that all operators with approved examination plans providing only for chest radiographs and occupational histories, will be notified by MSHA when they are required to submit an amended examination plan that includes spirometry and respiratory assessments. Such plans must be submitted to NIOSH within 60 days of that MSHA notification. New plans submitted from this time forward will provide covered workers with chest radiographs, spirometry tests, respiratory assessments, and occupational histories as specified in the IFR.

Paragraph (b) lists the required components of the operator's plan, including the identification of the medical facilities that will conduct the spirometry and X-ray exams, and the approximate dates and times during which the test will be provided. The plan must also provide assurances that operators will not solicit medical results or findings from miners; will instruct facilities about management of data as specified; and that examinations will be made at no charge to the miner.

Paragraph (c) of this section specifies that operators may provide for alternate medical testing facilities and personnel.

Paragraph (d) specifies that a change of operators does not affect the existing plan.

Paragraph (e) specifies that the operator must advise NIOSH of any change in its plan and that the change is subject to the same review and approval as the original plan.

Paragraph (f) specifies requirements for notifying employees of proposed mine plans or proposed changes to mine plans.

Paragraph (g) notes requirements for periodic resubmission of plans.

Section 37.101 Approval of Plans

New § 37.101 establishes that the operator's plan will be approved by NIOSH if it is found to meet the requirements in this subpart. Where an approval is denied, NIOSH will give notice in writing to the operator, who may amend the plan.

Section 37.102 Transfer of Affected Miner to Less Dusty Area

New § 37.102 establishes the evidentiary threshold required for a miner who is thought to be developing pneumoconiosis related to coal mine dust exposure to request transfer to a less dusty environment in the mine.

Section 37.103 Medical Examinations at Miner's Expense

New § 37.103 states that any miner who wishes to obtain an X-ray or spirometry exam at his or her own expense may do so. NIOSH will provide an interpretation and report as if the results were submitted under an operator's plan.

V. Regulatory Assessment Requirements

A. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This interim final rule is not being treated as a "significant" action under E.O. 12866. It amends existing regulations in 42 CFR Part 37 to add new requirements on mine operators to provide symptom assessment and spirometry testing for the surveillance of decreased lung function to all coal miners, and to extend existing requirements to provide chest X-rays and occupational histories for underground coal miners to surface coal mine operators. The amendments to Part 37 described in this action are made

pursuant to the MSHA final rule published on May 1, 2014 (79 FR 24814) which requires the expansion of the scope and content of current respiratory health surveillance, and are part of that agency's efforts to reduce lung disease among coal miners. MSHA estimated this expanded respiratory health surveillance would result in annualized costs to underground mines of $173,500 per year and for surface mines of $559,900 per year. The Department of Labor has determined that its rule fulfills the requirements of E.O. 12866 for this rule and provides estimates of the aggregate cost of benefits and costs of expanding the CWHSP administered by NIOSH under its rule (see MSHA's Regulatory Economic Analysis at *http://www.msha.gov/rea.htm*).

The rule does not interfere with State, local, or tribal governments in the exercise of their governmental functions.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires each agency to consider the potential impact of its regulations on small entities including small businesses, small governmental units, and small not-for-profit organizations. This rule establishes requirements for the provision of chest X-rays and spirometry tests to all coal miners, and sets standards for the approval of testing facilities and transmission of test data.

The potential impact on small businesses has been analyzed by MSHA, in the Regulatory Economic Analysis published in support of that agency's May 1, 2014 final rule (see *http://www.msha.gov/REGS/REA/CoalMineDust2010.pdf*). This interim final rule does not impose any new requirements on small radiographic or spirometry facilities that participate in the Coal Workers' Health Surveillance Program administered by NIOSH under 42 CFR Part 37. This interim final rule will not impose a significant economic burden on small coal mines. Accordingly, HHS certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.

C. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, requires an agency to invite public comment on, and to obtain OMB approval of, any regulation that requires 10 or more people to report information to the agency or to keep certain records. This interim final rule continues to impose the same information collection requirements as under the existing rule, including the submission of the following forms:

- Chest Radiograph Classification Form [CDC/NIOSH (M)2.8]
- Miner Identification Document [CDC/NIOSH (M)2.9]
- Coal Mine Operator's Plan [CDC/NIOSH (M)2.10]
- Radiographic Facility Certification Document [CDC/NIOSH (M)2.11(E)]
- Physician Application for Certification [CDC/NIOSH (M)2.12(E)]
- Consent, Release, and History Form [CDC/NIOSH (M)2.6]

These forms were previously approved by OMB for data collected under the National Coal Workers' X-Ray Surveillance Program (CWXSP)—Federal Mine Safety and Health Act of 1977 (42CFR37) (OMB Control No. 0920–0020, exp. May 31, 2017), although the addition of surface coal miners to the CWHSP increases the burden.

The expansion of the CWHSP in accordance with this rulemaking will result in the participation of additional coal miner operators, coal miners, and physicians. The provisions in this interim final rule that contain data collection requirements are:

Section 37.100 Coal mine operator plan for medical examinations. Every operator must submit a mine plan (Form CDC/NIOSH (M)2.10 or (M)2.18) every 3 to 4 years, providing information on how they plan to notify their miners of the opportunity to obtain the chest radiographic examination. Completing this form with all requested information (including a roster of current employees) is estimated to take approximately 30 minutes.

Section 37.43 Approval of radiographic facilities that use film and Section 37.44 Approval of radiographic facilities that use digital radiography systems. X-ray facilities seeking NIOSH approval to provide miner X-rays under the CWHSP must complete an approval packet, including a Radiographic Facility Certification Document (Form CDC/NIOSH (M)2.11). The forms associated with this approval process require approximately 30 minutes for completion. This form has been revised since the last OMB approval. A space has been added for the room number in which each X-ray unit listed for approval is located. This is needed to identify the location of the X-ray unit in hospitals and distinguish between units that may be identical except for the serial number. The serial number is not readily visible, so this will aid in identifying individual X-ray units. No additional burden to the facility is anticipated.

Section 37.20 Miner identification document. Miners who elect to participate in the CWHSP must fill out the Miner Identification Document (Form CDC/NIOSH (M)2.9) which requires approximately 20 minutes to complete. This document records demographic and occupational history, as well as information required under the regulations from X-ray facilities in relation to coal miner examinations. In addition to completing this form, acquiring the chest image takes approximately 15 minutes.

Section 37.50 Interpreting and classifying chest radiographs—film and Section 37.51 Interpreting and classifying chest radiographs—digital radiography systems. NIOSH utilizes a radiographic classification system developed by the International Labour Office (ILO), in the determination of pneumoconiosis among coal miners. Physicians (A and B Readers) fill out the Chest Radiograph Classification Form (Form CDC/NIOSH (M)2.8) regarding their classification of the X-rays (each X-ray has at least two separate classifications). As stated above, this form has been revised since the last OMB approval. Based on prior practice it takes the physician approximately 3 minutes to complete each form. No additional burden to the physician is anticipated.

Section 37.52 Proficiency in the use of systems for classifying the pneumoconiosis. Physicians taking the B Reader Examination are asked to complete the Physician Application for Certification (Form CDC/NIOSH (M)2.12), which is a registration form that takes approximately 10 minutes to complete. This form has been revised since the last OMB approval. No additional burden to the physician is anticipated.

Section 37.93 Approval of spirometry facilities. Spirometry facilities seeking NIOSH approval to provide spirometry examinations under the CWHSP must complete an approval packet, including a Spirometry Facility Certification Document (Form CDC/NIOSH (M)2.14). The form and gathering supporting documentation associated with this approval process requires approximately 30 minutes to complete.

Section 37.95 Specifications for performing spirometry examinations. Clinic personnel are required to complete the Spirometry Pre-Test Checklist form (Form CDC/NIOSH (M)2.15) for each miner prior to administering the spirometry test. This information is used by the clinic personnel to determine if the miner can perform the spirometry test safely and

identify any factors that may affect the spirometry results. Completion of the form will take approximately 5 minutes.

Section 37.96 Spirometry interpretations, reports, and notifications. Spirometry facilities that do not submit spirometry results using a NIOSH-approved electronic database will submit the Spirometry Results Form (Form CDC/NIOSH (M)2.17) for each miner. This information allows NIOSH to identify the miner, conduct quality assurance audits, and interpret results. It will take approximately 10 minutes to complete the form.

Section 37.96 Spirometry interpretations, reports, and notifications. Spirometry facilities must submit the Spirometry Notification Form (Form CDC/NIOSH (M)2.16) to NIOSH upon completion of a spirometry examination. Miners must fill out their mailing address for notification of results; this will take approximately 2 minutes. The remainder of the information documents that the facility completed and transmitted the required components of the spirometry examination. Completion of the entire form will require 10 minutes.

Section 37.94 Respiratory assessment form. The Respiratory Assessment Form (Form CDC/NIOSH (M)2.13) is designed to assess respiratory symptoms and certain medical conditions and risk factors. Completion of the entire form will require 5 minutes.

Section 37.202 Payment for autopsy. The Pathologist Invoice submitted by the pathologist must contain a statement that the pathologist is not receiving any other compensation for the autopsy. Each participating pathologist may use their individual invoice as long as this statement is added. It is estimated that only 5 minutes is required for the pathologist to add this statement to the standard invoice that they routinely use.

Section 37.203 Autopsy specifications. The pathologist must submit information found at autopsy, slides, blocks of tissue, and a final diagnosis indicating presence or absence of pneumoconiosis. The format of the autopsy reports are variable depending on the pathologist conducting the autopsy. Since an autopsy report is routinely completed by a pathologist, the only additional burden is the specific request for a clinical abstract of terminal illness and final diagnosis relating to pneumoconiosis. Therefore, only 5 minutes of additional burden is estimated for the pathologist's report.

There is no additional recordkeeping burden associated with the quality assurance programs referenced in § 37.43 Approval of radiographic facilities that use film, § 37.44 Approval of radiographic facilities that use digital radiography systems, and § 37.93 Approval of spirometry facilities, because these provisions reflect standard industry practice and do not impose any new recordkeeping requirements.

HHS estimates that the paperwork burden associated with this rulemaking will be 16,358 hours.

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden/ response (hours)	Total burden (hours)
Coal mine operators	Form 2.10 and Form 2.18	958	1	30/60	480
X-ray facility supervisor	Form 2.11	40	1	30/60	20
Coal miner	Form 2.9	10,383	1	20/60	3,461
B Reader physicians	Form 2.8	200	104	3/60	1,040
Physicians taking B reader examination	Form 2.12	50	1	10/60	8
Next-of-kin of deceased miner	Form 2.6	5	1	15/60	1
Spirometry facility employee	Form 2.13	10,383	1	5/60	865
Spirometry facility supervisor	Form 2.14	200	1	30/60	100
Spirometry technician	Form 2.15	10,383	1	5/60	865
Spirometry facility employee	Form 2.16	10,383	1	10/60	1,730
Spirometry technician	Form 2.17	10,383	1	10/60	1,730
X-ray—Coal Miners	No form required	10,383	1	15/60	2,596
Spirometry Test—Coal Miners	No form required	10,383	1	20/60	3,461
Pathologist—Invoice	No form required	5	1	5/60	0.4
Pathologist—Report	No form required	5	1	5/60	0.4
Total					16,358

D. Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the Department will report the promulgation of this rule to Congress prior to its effective date. The report will state that the Department has concluded that this rule is not a "major rule" because it is not likely to result in an annual effect on the economy of $100 million or more.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector "other than to the extent that such regulations incorporate requirements specifically set forth in law." For purposes of the Unfunded Mandates Reform Act, this rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by State, local or tribal governments in the aggregate, or by the private sector. For 2014, the inflation-adjusted threshold is $152 million.

F. Executive Order 12988 (Civil Justice)

This rule has been drafted and reviewed in accordance with Executive Order 12988, "Civil Justice Reform," and will not unduly burden the Federal court system. Chest radiograph classifications that result in a finding of pneumoconiosis may be an element in claim processing and adjudication conducted by DOL's Black Lung Compensation Program. This interim final rule affects radiographs submitted to DOL for the purpose of reviewing and administering those claims. This rule has been reviewed carefully to eliminate drafting errors and ambiguities.

G. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have "federalism implications." The rule does not "have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, HHS has evaluated the environmental health and safety effects of this rule on children. HHS has determined that the rule would have no effect on children.

I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, HHS has evaluated the effects of this rule on energy supply, distribution or use, and has determined that the rule will not have a significant adverse effect.

J. Plain Writing Act of 2010

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS has attempted to use plain language in promulgating the interim final rule consistent with the Federal Plain Writing Act guidelines.

VI. Interim Final Rule

List of Subjects in 42 CFR Part 37

Chronic Obstructive Pulmonary Disease, Coal Workers' Pneumoconiosis, Incorporation by reference, Lung diseases, Mine safety and health, Occupational safety and health, Part 90 miner, Part 90 transfer rights, Pneumoconiosis, Respiratory and pulmonary diseases, Silicosis, Spirometry, Surface coal mining, Underground coal mining, X-rays.

Text of the Rule

For the reasons discussed in the preamble, the Department of Health and Human Services amends 42 CFR part 37 as follows:

PART 37—SPECIFICATIONS FOR MEDICAL EXAMINATIONS OF COAL MINERS

■ 1. The authority citation for part 37 continues to read as follows:

Authority: Sec. 203, 83 Stat. 763 (30 U.S.C. 843), unless otherwise noted.

Subpart—Chest Radiographic Examinations

■ 2. Revise the heading of the first subpart to read as set forth above.

■ 3. Revise § 37.1 to read as follows:

§ 37.1 Scope.

Under this subpart, coal mine operators are required to provide radiographic examinations to each current and new coal miner, using medical facilities approved by NIOSH in accordance with standards established in this subpart.

■ 4. Amend § 37.2 by revsing the definitions of "miner", "NIOSH" and "operator" to read as follows:

§ 37.2 Definitions.

* * *

Miner means any individual working in a coal or other mine.

NIOSH means the National Institute for Occupational Safety and Health (NIOSH), located within the Centers for Disease Control and Prevention (CDC). Within NIOSH, the Division of Respiratory Disease Studies (DRDS), 1095 Willowdale Road, Morgantown, WV 26505, formerly called the Appalachian Laboratory for Occupational Safety and Health, is the organizational unit that has programmatic responsibility for the medical examination and surveillance program.

* * * * *

Operator means any owner, lessee, or other person who operates, controls, or supervises a coal or other mine or any independent contractor performing services or construction at such mine.

* * * * *

■ 5. Revise § 37.3 to read as follows:

§ 37.3 Chest radiographs required for miners.

(a) *Voluntary examinations.* Every operator must provide to each miner who is employed in or at any of its coal mines and who was employed in coal mining prior to December 30, 1969, or who has completed the required examinations under § 37.3(b) an opportunity for a chest radiograph at no cost to the miner in accordance with this subpart:

(1) NIOSH will notify the operator of each coal mine of a period within which the operator may provide examinations to each miner employed at its coal mine. The period must begin no sooner than October 15, 2012, and end no later than a date specified by NIOSH separately for each coal mine. Within the period specified by NIOSH for each mine, the operator may select a 6-month period within which to provide examinations in accordance with a plan approved under § 37.101.

(2) For all voluntary examinations, NIOSH will notify the operator of each coal mine when sufficient time has elapsed since the end of the previous 6-month period of examinations. NIOSH will specify to the operator of each mine a period within which the operator may provide examinations to its miners employed at its coal mine. The period must begin no sooner than 3.5 years and end no later than 4.5 years subsequent to the ending date of the previous 6-month period specified for a coal mine either by the operator on an approved plan or by NIOSH if the operator did not submit an approved plan. Within the period specified by NIOSH for each mine, the operator may select a 6-month period within which to provide examinations in accordance with a plan approved under § 37.101.

Example: NIOSH finds that examinations were previously provided to miners employed at mine Y in a 6-month period from July 1, 2013, to December 31, 2013. NIOSH notifies the operator at least 3 months before July 1, 2017 (3.5 years after December 31, 2013) that the operator may select and designate on its plan the next 6-month period within which to offer examinations to its miners employed at mine Y. The 6-month period must be scheduled between July 1, 2017, and July 1, 2018 (between 3.5 and 4.5 years after December 31, 2013).

(3) Within either the next or future period(s) specified by NIOSH to the operator for each of its coal mines, the operator of the coal mine may select a different 6-month period for each of its mines within which to offer examinations. In the event the operator does not submit an approved plan, NIOSH will specify a 6-month period to the operator within which miners must have the opportunity for examinations.

(b) *Mandatory examinations.* Every operator must provide to each miner who begins working in or at an underground coal mine for the first time after December 30, 1969 or in or at a surface coal mine for the first time after August 1, 2014:

(1) An initial chest radiograph, as soon as possible, but in no event later than 30 days after commencement of employment or within 30 days of approval of a plan to provide chest radiographs. An initial chest radiograph

given to a miner according to former regulations for this subpart prior to August 1, 2014 will also be considered as fulfilling this requirement.

(2) A second chest radiograph, in accordance with this subpart, 3 years following the initial examination if the miner is still engaged in coal mining. A second radiograph given to a miner according to former regulations under this subpart prior to August 1, 2014 will be considered as fulfilling this requirement.

(3) A third chest radiograph 2 years following the second chest radiograph if the miner is still engaged in coal mining and if the second radiograph shows evidence of category 1 (1/0, 1/1, 1/2), category 2 (2/1, 2/2, 2/3), category 3 (3/2, 3/3, 3/+) simple pneumoconioses, or complicated pneumoconioses (ILO Classification) or if the second spirometry examination specified in § 37.92(b)(2) shows evidence of decreased lung function to the extent specified in § 37.92(b)(3).

(c) *Notification.* NIOSH will notify the miner when he or she is due to receive the second or third mandatory examination under (b) of this section. Similarly, NIOSH will notify the coal mine operator when the miner is to be given a second examination. The operator will be notified concerning a miner's third examination only with the miner's written consent, and the notice to the operator must not state the medical reason for the examination or that it is the third examination in the series. If the miner is notified by NIOSH that the third mandatory examination is due and the operator is not so notified, availability of the radiographic examination under the NIOSH-approved operator's plan will constitute the operator's compliance with the requirement to provide a third mandatory examination even if the miner refuses to take the examination.

(d) *Availability of chest radiographs.* The opportunity for chest radiographs to be made available by an operator for purposes of this subpart must be provided in accordance with a plan that has been submitted and approved in accordance with this subpart.

§ 37.4 [Removed]

■ 6. Remove § 37.4.

§ 37.5 [Removed]

■ 7. Remove § 37.5.

§ 37.6 [Redesignated as § 37.4]

■ 8. Redesignate § 37.6 as § 37.4 and in the section heading and in paragraph (a)(1) remove the word "roentgenographic" and add in its place "radiographic".

§ 37.7 [Removed]

■ 9. Remove § 37.7.

§ 37.8 [Removed]

■ 10. Remove § 37.8.

■ 11. Amend § 37.10 in paragraph (a) by revising the first sentence to read as follows:

§ 37.10

(a) Certain material is incorporated by reference into this subpart, Subpart—Chest Radiographic Examinations, with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. * * *

* * * * *

§ 37.40 [Amended]

■ 12. Amend § 37.40 in paragraph (b) by removing the word "Roentgenographic" and adding in its place "Radiographic".

§ 37.50 [Amended]

■ 13. Amend § 37.50 in paragraph (a) by removing the phrase "Roentgenographic Interpretation" and adding in its place "Chest Radiograph Classification".

§ 37.51 [Amended]

■ 14. Amend § 37.51 in paragraph (b) by removing the phrase "Roentgenographic Interpretation" and adding in its place "Chest Radiograph Classification".

§ 37.52 [Amended]

■ 15. Amend § 37.52 in paragraph (a)(2)(i) by removing the phrase "Roentgenographic Interpretation" and adding in its place "Radiographic Interpretation".

§ 37.53 [Amended]

■ 16. Amend § 37.53 by removing the terms "interpreted", "interpretation", and "interpretations" and adding in their place "classified", "classification", and "classifications", respectively, wherever they occur, and in paragraph (b) by removing the phrase "Roentgenographic Interpretation" and adding in its place "Chest Radiograph Classification".

§ 37.60 [Amended]

■ 17. Amend § 37.60 in the section heading and paragraphs (a) introductory text and (a)(1) by removing the phrase "Roentgenographic Interpretation" and add in its place "Chest Radiograph Classification".

§ 37.70 [Amended]

■ 18. Amend § 37.70 in paragraph (a) by removing the terms "interpretation" and "interpretations" and adding in their place "classification" and "classifications", respectively, wherever they occur, and in paragraph (b) by removing the phrase "made subsequent to August 1, 1978,".

■ 19. Add a subpart, titled Spirometry Examinations, after the undesignated center heading "Review and Availability of Records" to read as follows:

Subpart—Spirometry Examinations

Sec.

§ 37.90 Scope.

Under this subpart, coal mine operators are required to provide spirometry examinations to each current and new coal miner, using medical facilities approved by NIOSH in accordance with standards established in this subpart.

§ 37.91 Definitions.

Definitions provided in § 37.2 will have the same meaning in this subpart. Any term defined in the Federal Mine Safety and Health Act of 1977 and not defined in § 37.2 or this section will have the meaning given it in the Act. As used in this subpart:

ATS means American Thoracic Society.

ERS means European Respiratory Society.

Facility means a facility or organization licensed to provide health care by the State or Territory in which services are provided, such as a hospital, a clinic, or other provider that performs spirometry examinations.

FET means forced expiratory time, which is the time from the beginning of exhalation (the back-extrapolated "time zero") to the end of the expiratory maneuver.

FEV1 means forced expiratory volume in the first second, which is the volume of air that can forcibly be blown out in one second, after full inspiration.

FEV6 means forced expiratory volume in the first six seconds, which is the volume of air that can forcibly be blown out in six seconds, after full inspiration.

FVC means forced vital capacity, which is the volume of air that can forcibly be blown out after full inspiration.

PEF means peak expiratory flow, which is the maximal airflow during a forced expiratory maneuver.

Spirometry examination means a pulmonary function test that measures

expiratory volume and airflow rates and may determine the presence and severity of lung function impairments, if such are present.

§ 37.92 Spirometry examinations required for miners.

(a) *Voluntary examinations.* Each operator must provide to all miners who are employed in or at any of its coal mines the opportunity to have a spirometry examination and a respiratory assessment at no cost to the miner at least once every 5 years in accordance with this subpart. The examinations will be available during a 6-month period that begins no less than 3.5 years and not more than 4.5 years from the end of the last 6-month period.

(b) *Mandatory examinations.* Every operator must provide to each miner who begins work in or at a coal mine for the first time on or after August 1, 2014, a spirometry examination and respiratory assessment at no cost to the miner in accordance with this subpart.

(1) *Initial spirometry examination.* An initial spirometry examination and respiratory assessment will be provided to all miners who begin work in or at a coal mine for the first time on or after August 1, 2014 within the first 30 days of their employment or within 30 days of approval of a plan to provide spirometry examinations.

(2) *Second examination.* A follow-up second spirometry examination and respiratory assessment will be provided to the miner no later than 3 years after the initial spirometry examination if the miner is still engaged in coal mining.

(3) *Third examination.* A third spirometry examination and respiratory assessment will be provided no later than 2 years after the examinations in paragraphs § 37.3(b)(2) and paragraph (b)(2) of this section if the chest radiograph shows evidence of pneumoconiosis as defined in § 37.3(b)(3) or if the second spirometry test results demonstrate more than a 15 percent decline in the value of percent predicted FEV1 since the initial test. Percent predicted FEV1 will be calculated according to prediction equations published in Spirometric Reference Values from a Sample of the General U.S. Population, American Journal of Respiratory and Critical Care Medicine, 159(1):179–187, January 1999, (incorporated by reference, see § 37.97). A correction factor to Caucasian reference values will be applied when testing individuals of Asian descent as specified in the ATS Technical Standards: Spirometry in the Occupational Setting, p. 987 (incorporated by reference, see § 37.97).

(c) *Notification.* NIOSH will notify the miner when he or she is due to receive the second or third mandatory examination under (b) of this section. Similarly, NIOSH will notify the coal mine operator when the miner is to be given a second examination. The operator will be notified concerning a miner's third examination only with the miner's written consent, and the notice to the operator must not state the medical reason for the examination or that it is the third examination in the series. If the miner is notified by NIOSH that the third mandatory examination is due and the operator is not so notified, availability of the spirometry examination under the NIOSH-approved operator's plan will constitute the operator's compliance with the requirement to provide a third mandatory examination even if the miner does not take the examination.

(d) *Availability of spirometry testing.* The opportunity for spirometry to be available for purposes of this subpart must be indicated in an operator's plan that has been submitted and approved in accordance with this subpart.

§ 37.93 Approval of spirometry facilities.

(a) Facilities seeking approval to provide the spirometry examinations specified under this subpart must have the ability to provide spirometry of high technical quality. Thus, NIOSH-approved facilities must meet the requirements specified in this subpart for the following activities: Training technicians to perform the tests; conducting spirometry tests using equipment and procedures that meet required specifications; collecting the respiratory assessment form; transmitting data to NIOSH; and communicating with miners as required for scheduling, testing, and notification of results. Facilities seeking approval may apply to NIOSH using the Spirometry Facility Certification Document (Form CDC/NIOSH (M)2.14), available at *http://www.cdc.gov/niosh/topics/surveillance/ords/CoalWorkersHealthSurvProgram.html.*

(b) *Spirometry quality assurance.* A spirometry quality assurance program must be in place to minimize the rate of invalid test results. This program must include all of the following components:

(1) *Instrument calibration checks.* Testing personnel must fully comply with the 2005 ATS/ERS Standardisation of Spirometry guidelines for instrument calibration check procedures, pp. 322–323, including Table 3 (incorporated by reference, see § 37.97). Calibration check procedures must include daily (day of testing) leak and volume accuracy checks and linearity checks according to the frequency established by the 2005 ATS/ERS guidelines. Instrument calibration check records must be maintained by the facility and available for inspection.

(2) *Automated maneuver and test session quality checks.* The spirometer software must automatically perform quality assurance checks on expiratory maneuvers during each spirometry testing session. Messages must alert the technician to maneuver acceptability errors and test session non-repeatability. Each spirometry test session must have the goal of obtaining 3 acceptable with 2 repeatable forced expiratory maneuvers, as defined by the 2005 ATS/ERS Standardisation of Spirometry, p. 325 (incorporated by reference, see § 37.97).

(3) *Ongoing monitoring of test quality.* Facilities must submit spirometry results to NIOSH within 14 calendar days of testing as specified in § 37.95(d) to permit NIOSH to monitor test quality and provide a report to the miner. NIOSH may provide feedback to the appropriate technician(s) along with suggestions for improvement.

(4) *Quality assurance audits.* NIOSH may periodically conduct audits to review examinations submitted by approved facilities and assess the quality of spirometry provided. Such audits may include a review of all spirometry examination data obtained during a specified time period or review of spirometry test data collected over time on selected miners.

(c) *Noncompliance.* If NIOSH determines that a facility is not compliant with the policies and procedures specified in this subpart, or determines as the result of a quality assurance audit specified in this section that a facility is not performing spirometry examinations of adequate quality, the facility will be notified of the deficiency. The facility must promptly make appropriate arrangements for the deficiency to be rectified.

(d) *Revocation of approval.* If a facility fails to rectify deficiencies within 60 days of notification, NIOSH approval of the facility may be revoked. An approval which has been revoked may be reinstated at the discretion of NIOSH after it receives satisfactory assurances and evidence that all deficiencies have been corrected and that effective controls have been instituted by the facility to prevent a recurrence.

(e) *Maintenance of records.* In conducting medical examinations pursuant to this part, physicians and radiographic facilities must maintain the results and analyses of these

examinations (including any hard copies or digital files containing individual data, interpretations, classifications, and images) in a manner consistent with applicable statutes and regulations governing the treatment of individually identifiable health information, including, as applicable, the HIPAA Privacy and Security Rules (45 CFR part 160 and 45 CFR part 164, subparts A, C, and E).

§ 37.94 Respiratory assessment form.

As part of the spirometry examination and concurrent with it, personnel at the facility must complete a Respiratory Assessment form (Form CDC/NIOSH (M)2.13), available at *http://www.cdc.gov/niosh/topics/surveillance/ords/CoalWorkersHealthSurvProgram.html*, for the miner.

§ 37.95 Specifications for performing spirometry examinations.

(a) *Persons administering the spirometry examination.* Each person administering spirometry examinations must successfully complete a NIOSH-approved spirometry training course and maintain a valid certificate by periodically completing NIOSH-approved spirometry refresher training courses, identified on the NIOSH Web site at *http://www.cdc.gov/niosh/*;. A copy of the certificate of completion from a NIOSH-approved spirometry training or refresher course, with validation dates printed on the document, must be available for inspection. NIOSH will assign each person administering spirometry examinations a unique identification number, which must be entered into the spirometry system computer whenever instrument quality assurance or miner testing is done or on the Spirometry Results form (Form CDC/NIOSH (M)2.17), available at *http://www.cdc.gov/niosh/topics/surveillance/ords/CoalWorkersHealthSurvProgram.html*.

(b) *Spirometer specifications.* Spirometry testing equipment must meet the 2005 ATS/ERS Standardisation of Spirometry specifications for spirometer accuracy and precision and real-time display size and content, pp. 331–333, including Table 2 on p. 322 and Table 6 on p. 332 (incorporated by reference, see § 37.97). Facilities must make available for inspection written verification from a third-party testing laboratory (not the manufacturer or distributor) that the model of spirometer being used has successfully passed its validation checks as required by the Standardization of Spirometry; 1994 Update protocol, Appendix B pp. 1126–1134, including Table C1 (incorporated by reference, see § 37.97). Facilities may request such documentation from spirometer manufacturers. For each forced expiratory maneuver submitted for a miner under this part, the spirometry data file must retain a record of the parameters defined in the 2005 ATS/ERS Standardisation of Spirometry, p. 335 including Table 8 (incorporated by reference, see § 37.97). Spirometers that provide electronic transfer of spirometry data results files must use the format, content, and data structure specified by the 2005 ATS/ERS Standardisation of Spirometry, p. 335, or a procedure for data transfer that is approved by NIOSH.

(c) *Spirometry examination procedures.* Administration of spirometry examinations must include the following:

(1) *Pre-test checklist.* A short Spirometry Pre-Test Checklist (Form CDC/NIOSH (M) 2.15), available at *http://www.cdc.gov/niosh/topics/surveillance/ords/CoalWorkersHealthSurvProgram.html*, must be administered prior to each spirometry examination to identify possible contraindications to testing, or factors that might affect results.

(2) *Respiratory assessment.* A standardized Respiratory Assessment form (Form CDC/NIOSH (M)2.13), available at *http://www.cdc.gov/niosh/topics/surveillance/ords/CoalWorkersHealthSurvProgram.html*, must be completed at the initial spirometry examination and repeated at each spirometry examination.

(3) *Collection of anthropometric and demographic information.* The miner's standing height must be measured in stocking feet using a stadiometer (or equivalent device) each time the miner has a spirometry test. The miner's weight must also be measured (in stocking feet). The miner's birth date, race, and ethnicity must also be recorded. These data will be entered into the spirometry system computer and transmitted with the spirometry data file. For facilities with spirometers that do not permit electronic transfer of data files as specified in § 37.96(d), the Spirometry Results form (Form CDC/NIOSH (M) 2.17), available at *http://www.cdc.gov/niosh/topics/surveillance/ords/CoalWorkersHealthSurvProgram.html*, will be completed for each miner tested, and will report the numerical results of the highest and second highest results for the FVC and FEV1 and the highest PEF from at least three maximal, acceptable expiratory maneuvers (also called trials), as well as the FEV6 derived from those maneuvers reported.

(4) *Examination.* The spirometry examination will be conducted in accordance with test procedures defined in the 2005 ATS/ERS Standardisation of Spirometry, pp. 323–326, and the Standardisation of Lung Function Testing, Replies to Readers, pp. 1496–1498 (both incorporated by reference, see § 37.97).

(i) The technician must be able to view real-time testing display screens as specified in the 2005 ATS/ERS Standardisation of Spirometry, p. 322 (incorporated by reference, see § 37.97).

(ii) A miner will be tested in the standing position, but may be seated if he or she experiences lightheadedness or other signs or symptoms that raise a safety concern relating to the standing position during the spirometry test.

(d) *Submission of test results.* NIOSH-approved facilities must submit results of spirometry examinations electronically with content as specified in § 37.96(b), pre-test screening checklists, and standardized respiratory assessments within 14 calendar days of testing a miner.

(e) *Records retention.* On-site records of the results will include spirometry examination reports and retention of all spirometry examinations, pre-test checklists, and standardized respiratory assessment results in electronic or printed format until notification to delete or render the information inaccessible, as described in § 37.100(b)(6)(ii), is received from NIOSH.

§ 37.96 Spirometry interpretations, reports, and notifications.

(a) *Interpretation of spirometry examinations.* Interpretations will be carried out by physicians or other qualified health care professionals with expertise in spirometry who have all required licensure and privileges to provide this service in their State or Territory. Interpretations must be carried out using procedures and criteria consistent with recommendations in the ATS Technical Standards: Spirometry in the Occupational Setting, pp. 987–990, and the ATS/ERS Interpretative Strategies for Lung Function Tests, p. 950, p. 956 including Table 5, and p. 957 including Table 6 (both incorporated by reference, see § 37.97).

(b) *Spirometry test reports at the facilities.* (1) Spirometry test reports must contain, at a minimum, the miner's age, height, gender, race, and weight, numerical values (FVC, FEV6, FEV1, FEV1/FVC, FEV1/FEV6, FET, and PEF) and volume-time and flow-volume spirograms for all recorded expiratory maneuvers, normal reference value set used, the predicted, percent predicted and lower limit of normal values, miner

position during testing (standing or sitting), dates of test and last calibration check, ambient temperature and barometric pressure (volume spirometers), and the technician's unique identification number.

(2) NIOSH will notify the submitting facility when to permanently delete or, if this is not technologically feasible for the spirometry system used, render permanently inaccessible all files and forms associated with a miner's spirometry examination from its electronic and physical files.

(c) *Notifying miners of spirometry examination results.* (1) Findings must be communicated to the miner or, if requested by the miner, to the miner's designated physician. The health care professional at the NIOSH-approved facility must inform the miner if the spirometry examination shows abnormal results or if the respiratory assessment suggests he or she may benefit from the medical follow-up or a smoking cessation intervention.

(2) NIOSH will notify the miner of his or her spirometry examination results and the results of a comparison between current and previously submitted spirometry examinations and will advise the miner to contact a health care professional as appropriate based on the results.

(d) *Submission of results.* Each facility must submit spirometry results and completed forms to NIOSH within 14 days after a miner has received an examination under this subpart. If specified under a facility's approval, it must submit spirometry results and the completed Respiratory Assessment Form (Form CDC/NIOSH (M)2.13) and Spirometry Notification Form (Form CDC/NIOSH (M)2.16), available at *http://www.cdc.gov/niosh/topics/surveillance/ords/CoalWorkersHealthSurvProgram.html*, via electronic transmission. Facilities must utilize a secure internet data transfer site specified by NIOSH. The transmitted spirometry data files must include a variable length record providing all parameters in the format, content, and data structure described by the 2005 ATS/ERS Standardisation of Spirometry, p. 335 including Table 8 (incorporated by reference, see § 37.97), or an alternate data file that is approved by NIOSH. If electronic transmission of spirometry results is not possible, for example if a facility's spirometer does not provide an approved electronic transfer of spirometry files, then the miner's Spirometry Results Form (Form CDC/NIOSH (M)2.17), available at *http://www.cdc.gov/niosh/topics/surveillance/ords/CoalWorkersHealthSurvProgram.html*, must be completed and submitted accompanied by image files documenting the flow-volume and volume time curves for each trial reported on the Results Form. Such facilities must also send a completed Respiratory Assessment Form (Form CDC/NIOSH (M)2.13) and Spirometry Notification Form (Form CDC/NIOSH (M)2.16). Data submission to NIOSH by such a facility must be carried out as specified in the facility's approval.

(e) *Confidentiality of spirometry examinations.* Individual medical information and spirometry results are considered protected health information under HIPAA and may only be released as specified by HIPAA or to NIOSH as specified in §§ 37.93 and 37.96 of this subpart. Personally identifiable information in the possession of NIOSH will be released only with the written consent of the miner or, if the miner is deceased, the written consent of the miner's next of kin or legal representative. To provide on-site back-up and assure complete data transfer, facilities will retain the forms and results (in electronic or paper format) from a miner's examination until instruction has been received from NIOSH to delete the associated files and forms or, if this is not technologically feasible, render the data permanently inaccessible.

§ 37.97 Standards incorporated by reference.

(a) Certain material is incorporated by reference into this subpart, Subpart—Spirometry Examinations, with the approval of the Director of the **Federal Register** under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, NIOSH must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at NIOSH, Division of Respiratory Disease Studies, 1095 Willowdale Road, Morgantown, WV 26505. To arrange for an inspection at NIOSH, call 304–285–5749. Copies are also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) American Journal of Respiratory and Critical Care Medicine, American Thoracic Society (ATS), 25 Broadway, 18th Floor, New York, NY 10004. Phone: (800) 635–7181, extension 8065. Email: *Hope.Robinson@sheridan.com*. *http://www.atsjournals.org/action/showHome:*

(1) Standardization of Spirometry; 1994 Update. Official Statement of the ATS, adopted November 11, 1994. American Journal of Respiratory and Critical Care Medicine 152(3):1107–1136, September 1995, into § 37.95(b). This ATS Official Statement is also available at *http://www.thoracic.org/statements/resources/archive/201.pdf*.

(2) Official American Thoracic Society Technical Standards: Spirometry in the Occupational Setting ("ATS Technical Standards: Spirometry in the Occupational Setting"). Redlich CA, Tarlo SM, Hankinson JL, Townsend MC, Eschenbacher WL, Von Essen SG, Sigsgaard T, and Weissman DN. American Journal of Respiratory and Critical Care Medicine 189(8):983–994, April 15, 2014, into §§ 37.92(b) and 37.96(a).

(3) Spirometric Reference Values from a Sample of the General U.S. Population. Hankinson JL, Odencrantz JR, Fedan KB. American Journal of Respiratory and Critical Care Medicine, 159(1):179–187, January 1999, into § 37.92(b).

(c) European Respiratory Journal, 442 Glossop Road, Sheffield, S10 2PX, UK. Phone: 44 114 267 28 60; Fax: 44 114 266 50 64. Email: *info@ersj.org.uk*. *http://erj.ersjournals.com/*.

(1) Standardisation of Spirometry ("2005 ATS/ERS Standardisation of Spirometry"). ATS/ERS Task Force: Standardization of Lung Function Testing. Miller MR, Hankinson J, Brusasco V, Burgos F, Casaburi R, Coates A, Crapo R, Enright P, van der Grinten CPM, Gustafsson P, Jensen R, Johnson DC, MacIntyre N, McKay R, Navajas D, Pedersen OF, Pellegrino R, Viegi G, and Wanger J. European Respiratory Journal 26(2):319–338, August 2005, into §§ 37.93(b); 37.95(b) and (c); and 37.96(d). The ATS/ERS Standardisation of Spirometry is also available on the ATS Web site at *https://foundation.thoracic.org/statements/resources/pft/PFT2.pdf*.

(2) Interpretative Strategies for Lung Function Tests ("ATS/ERS Interpretative Strategies for Lung Function Tests"). ATS/ERS Task Force: Standardisation of Lung Function Testing. Pellegrino R, Viegi G, Brusasco V, Crapo RO, Burgos F, Casaburi R, Coates A, van der Grinten CPM, Gustafsson P, Hankinson J, Jensen R, Johnson DC, MacIntyre N, McKay R, Miller MR, Navajas D, Pedersen OF, and Wanger J. European Respiratory Journal 26(5):948–968, November 2005, into § 37.96(a). The ATS/ERS Standardisation of Lung Function Testing is also available on the ATS Web site at *http://www.thoracic.org/statements/resources/pft/pft5.pdf*.

(3) Standardisation of Lung Function Testing, the Authors' Replies to Readers' Comments ("Standardisation of Lung Function Testing, Replies to Readers"). Miller MR, Hankinson J, Brusasco V, Burgos F, Casaburi R, Coates A, Enright P, van der Grinten C, Gustafsson P, Jensen R, MacIntyre N, McKay RT, Pedersen OF, Pellegrino R, Viegi G, and Wanger J. European Respiratory Journal 36(6):1496–1498, December 2010, into § 37.95(c). The Standardisation of Lung Function Testing, Replies to Readers is also available on the ATS Web site at *http://www.thoracic.org/statements/resources/pft/clarification-12-2010.pdf.*

■ 20. Add a subpart, titled General Requirements, after Subpart—Spirometry Examinations to read as follows:

Subpart—General Requirements

Sec.

§ 37.100 Coal mine operator plan for medical examinations.

(a) Each coal mine operator must submit and receive NIOSH approval of a plan for the provision of chest radiographs, occupational histories, spirometry examinations, and respiratory assessments of miners, using the appropriate forms provided by NIOSH.

(1) During the transition from August 1, 2014 until the time when spirometry facilities are approved by NIOSH, any person becoming a coal mine operator on or after August 1, 2014, or any coal mine operator without an approved plan as of that date must submit a plan within 60 days that provides for chest radiographs and occupational histories.

(2) Coal mine operators with previously approved plans for only chest radiographs and occupational histories, or with plans developed pursuant to paragraph (a)(1) of this section, will be notified by MSHA when the plans must be amended to include spirometry examinations and respiratory assessments. Amendments must be submitted to NIOSH within 60 days of MSHA's notification.

(b) The coal mine operator's plan must include:

(1) The name, address, and telephone number of the operator(s) submitting the plan;

(2) The name, MSHA identification number for respirable dust measurements, and address of the mine included in the plan;

(3) The proposed beginning and ending date of the 6-month period(s) for voluntary radiography and spirometry examinations (see § 37.3(a) and § 37.92(a)), the estimated number of miners to be given or offered examinations during the 6-month period under the plan, and a roster specifying the names and current home mailing addresses of each miner covered by the plan;

(4) The name and location of the approved X-ray and spirometry facility or facilities, and the approximate date(s) and time(s) of day during which the radiographs and spirometry tests will be given to miners to enable a determination of whether the examinations will be conducted at a convenient time and place;

(5) If a mobile medical examination facility is proposed to provide some or all of the surveillance tests specified in paragraph § 37.100(a), the plan shall provide that each miner be given adequate notice of the opportunity to have the examination and that no miner shall have to wait for an examination more than 1 hour before or after his or her work shift. In addition, the plan shall include:

(i) The number of change houses at the mine.

(ii) One or more alternate non-mobile approved medical examination facilities for the reexamination of miners and for the mandatory examination of miners when necessary [see §§ 37.3(b) and 37.92(b)], or an assurance that the mobile facility will return to the location(s) specified in the plan as frequently as necessary to provide for medical surveillance examinations in accordance with these regulations.

(iii) The name and location of each change house at which examinations will be given. For mines with more than one change house, the examinations shall be given at each change house or at a change house located at a convenient place for each miner.

(6) Assurances that:

(i) The operator will not solicit a physician's spirometric, radiographic or other findings concerning any miner employed by the operator,

(ii) Instructions have been given to the person(s) giving the examinations that duplicate spirograms or copies of spirograms (including copies of electronic files) and radiographs or copies of radiographs (including, for digital radiographs, copies of electronic files) will not be made, and to the extent that it is technically feasible all related electronic files must be permanently deleted from the facility records or rendered permanently inaccessible following the confirmed transfer of such data to NIOSH, and that (except as may be necessary for the purpose of this part) the physician's spirometric, radiographic and other findings, as well as the occupational history and respiratory assessment information obtained from a miner will not be disclosed in a manner that would permit identification of the individual with their information, and

(iii) The spirometry and radiographic examinations will be made at no charge to the miner.

(c) Operators may provide for alternate spirometry or radiography facilities in plans submitted for approval.

(d) The change of operators of any mine operating under a plan approved pursuant to § 37.101(a) shall not affect the plan of the operator which has transferred responsibility for the mine. Every plan shall be subject to revision in accordance with paragraph (e) of this section.

(e) The operator must advise NIOSH of any change in its plan. Each change in an approved plan is subject to the same review and approval as the originally approved plan.

(f) The operator must promptly display in a visible location on the bulletin board at the mine its proposed plan or proposed change in plan when it is submitted to NIOSH. The proposed plan or change in plan must remain posted in a visible location on the bulletin board until NIOSH either grants or denies approval of it at which time the approved plan or denial of approval must be permanently posted. In the case of an operator who does not have a bulletin board, such as an operator that is a contractor, the operator must otherwise notify its employees of the examination arrangements. Upon request, the contractor must show NIOSH written evidence that its employees have been notified.

(g) Upon notification from NIOSH that sufficient time has elapsed since the previous period of examinations, the operator will resubmit its plan for each of its coal mines to NIOSH for approval for the next period of examinations (see §§ 37.3(a)(2) and 37.92(a)). The plan must include the proposed beginning and ending dates of the next period of examinations and all information required by paragraph (b) of this section.

§ 37.101 Approval of plans.

(a) If, after review of any plan submitted pursuant to this subpart, NIOSH determines that the action to be taken under the plan by the operator meets the specifications of this subpart and will effectively achieve its purpose, NIOSH will approve the plan and notify

the operator submitting the plan of the approval. Approval may be conditioned upon such terms as the Secretary deems necessary to carry out the purpose of § 203 of the Act.

(b) Where NIOSH has reason to believe that it will deny approval of a plan NIOSH will, prior to the denial, give notice in writing to the operator(s) of an opportunity to amend the plan. The notice must specify the ground(s) upon which approval is proposed to be denied.

(c) If a plan is denied approval, NIOSH will advise the operator(s) in writing of the reasons for the denial.

§ 37.102 Transfer of affected miner to less dusty area.

(a) Any miner who, in the judgment of NIOSH, has evidence of the development of pneumoconiosis, must be afforded the option of transferring from his or her position to another position in an area of the mine where the concentration of respirable dust in the mine atmosphere is in compliance with the MSHA requirements in Part 90 of title 30, Code of Federal Regulations. A classification of one or more of the miner's chest radiographs as showing category 1 (1/0, 1/1, 1/2), category 2 (2/1, 2/2, 2/3), or category 3 (3/2, 3/3, 3/+) simple pneumoconioses, or complicated pneumoconiosis (ILO Classification) will be accepted as such evidence. NIOSH will, at its discretion, also accept other medical examinations provided to NIOSH for review, such as computed tomography scans of the chest or lung biopsies, as evidence of the development of pneumoconiosis.

(b) Any transfer under this section shall be in accordance with the procedures specified in 30 CFR part 90.

§ 37.103 Medical examination at miner's expense.

Any miner who wishes to obtain a medical examination at the miner's own expense at an approved spirometry or radiography facility and to have the complete examination submitted to NIOSH may do so, provided that the examination is made no sooner than 6 months after the most recent examination of the miner submitted to NIOSH. NIOSH will provide interpretation and radiographic classification and reporting of the results of examinations made at the miner's expense in the same manner as if they were submitted under an operator's plan. Any change in the miner's transfer rights under the Act that may result from this examination will be subject to the terms of § 37.102.

Dated: July 30, 2014.

Sylvia M. Burwell,

Secretary.

[FR Doc. 2014–18336 Filed 8–1–14; 8:45 am]

BILLING CODE 4162–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 447

Payments for Services

CFR Correction

■ In Title 42 of the Code of Federal Regulations, Parts 430 to 481, revised as of October 1, 2013, on page 403, remove the undesignated center heading above § 447.88.

[FR Doc. 2014–18426 Filed 8–1–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2014–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL) Modified	Communities affected
Harrison County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1229			
Blue River (backwater effects from Ohio River).	At the Ohio River confluence	+431	Unincorporated areas of Harrison County.
	Approximately 530 feet downstream of State Route 462	+431	
Blue River	Approximately 1.7 miles downstream of Main Street	+540	Unincorporated areas of Harrison County.
	Approximately 0.5 mile downstream of Main Street	+545	
Blue River	Approximately 1,150 feet upstream of Norfolk Southern Railway.	+551	Unincorporated areas of Harrison County.
	Approximately 0.77 mile upstream of Norfolk Southern Railway.	+554	
Indian Creek Tributary 27	Approximately 1,940 feet downstream of State Route 64	+645	Unincorporated areas of Harrison County.
	Approximately 0.41 mile upstream of Private Drive #5755	+699	
Ohio River	At the Meade County boundary	+431	Town of Mauckport, Town of New Amsterdam, Unincorporated areas of Harrison County.
	At the Jefferson County boundary	+446	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
^ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Town of Mauckport
Maps are available for inspection at Harrison County Plan Commission, 245 Atwood Street Northeast, Suite 215, Corydon, IN 47112.

Town of New Amsterdam
Maps are available for inspection at Harrison County Plan Commission, 245 Atwood Street Northeast, Suite 215, Corydon, IN 47112.

Unincorporated Areas of Harrison County
Maps are available for inspection at Harrison County Plan Commission, 245 Atwood Street Northeast, Suite 215, Corydon, IN 47112.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: July 11, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–18363 Filed 8–1–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2014–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal

Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL) Modified	Communities affected
Cass County, Indiana, and Incorporated areas Docket No.: FEMA–B–1229			
Crooked Creek	Approximately 0.44 mile upstream of the Wabash River confluence.	+569	Unincorporated areas of Cass County.
	Approximately 0.39 mile upstream of West County Road 100 North.	+636	
Goose Creek	At the upstream side of Cliff Drive	+591	City of Logansport, Unincorporated areas of Cass County.
	Approximately 200 feet upstream of Humphrey Boulevard	+598	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
^ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Logansport
Maps are available for inspection at City Hall, 601 East Broadway Street, Room 303, Logansport, IN 46947.

Unincorporated Areas of Cass County
Maps are available for inspection at Cass County Government Building, 200 Court Park, Logansport, IN 46947.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: July 11, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–18359 Filed 8–1–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2014–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

State	City/town/county	Source of flooding	Location	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Elevation in meters (MSL) Modified
City of Newport News, Virginia Docket No.: FEMA–B–1158				
Virginia	City of Newport News	Newmarket Creek	Approximately 0.45 mile downstream of Hampton Roads Center Parkway.	+18
			Approximately 0.94 mile upstream of Hampton Roads Center Parkway.	+21
	City of Newport News	Newmarket Creek	Approximately 1,287 feet downstream of Harpersville Road.	+24
			Approximately 0.56 mile upstream of Harpersville Road.	+26
	City of Newport News	Newmarket Creek Tributary.	Approximately 765 feet downstream of Agusta Drive.	+22
			Approximately 167 feet upstream of Agusta Drive.	+22
	City of Newport News	Stoney Run	Approximately 0.8 mile downstream of Old Courthouse Way.	+8
			Approximately 0.56 mile upstream of Woodside Lane.	+47

State	City/town/county	Source of flooding	Location	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Elevation in meters (MSL) Modified
	City of Newport News	Stoney Run-Colony Pines Branch.	Approximately 776 feet downstream of Richneck Road.	+27
			Approximately 1,450 feet upstream of Windsor Castle Drive.	+40
	City of Newport News	Stoney Run-Denbigh Branch.	Just downstream of Richneck Road	+27
			Just downstream of McManus Boulevard	+33

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
^ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Newport News

Maps are available for inspection at the Department of Engineering, 2400 Washington Avenue, Newport News, VA 23607.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: July 11, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–18364 Filed 8–1–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 162

[CMS–0043–F]

RIN 0938–AS31

Administrative Simplification: Change to the Compliance Date for the International Classification of Diseases, 10th Revision (ICD–10–CM and ICD–10–PCS) Medical Data Code Sets

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: This final rule implements section 212 of the Protecting Access to Medicare Act of 2014 by changing the compliance date for the International Classification of Diseases, 10th Revision, Clinical Modification (ICD–10–CM) for diagnosis coding, including the Official ICD–10–CM Guidelines for Coding and Reporting, and the International Classification of Diseases, 10th Revision, Procedure Coding System (ICD–10–PCS) for inpatient hospital procedure coding, including the Official ICD–10–PCS Guidelines for Coding and Reporting, from October 1, 2014 to October 1, 2015. It also requires the continued use of the International Classification of Diseases, 9th Revision, Clinical Modification, Volumes 1 and 2 (diagnoses), and 3 (procedures) (ICD–9–CM), including the Official ICD–9–CM Guidelines for Coding and Reporting, through September 30, 2015.

DATES: These regulations are effective on September 3, 2014.

FOR FURTHER INFORMATION CONTACT:
Denesecia Green, (410) 786–8797.
Geanelle G. Herring, (410) 786–4466.
Kamahanahokulani Farrar, (410) 786–2155.

SUPPLEMENTARY INFORMATION:

I. Executive Summary and Background

A. Executive Summary

1. Purpose

Prior to the enactment of the Protecting Access to Medicare Act of 2014 (PAMA) (Pub. L. 113–93) on April 1, 2014, the health care industry was actively preparing to transition to the International Classification of Diseases, 10th Revision, Clinical Modification (ICD–10–CM) for diagnosis coding and the International Classification of Diseases, 10th Revision, Procedure Coding System (ICD–10–PCS) for inpatient hospital procedure coding (herein collectively referred to as ICD–10) on October 1, 2014. Many in the health care industry had invested time and resources in system upgrades, testing, training, and undertaking the necessary changes to workflow processes. However, PAMA required the Secretary to adopt ICD–10 no sooner than October 1, 2015.

This final rule establishes October 1, 2015, as the new ICD–10 compliance date. This final rule also requires the continued use of the International Classification of Diseases, 9th Revision, Clinical Modification, Volumes 1 and 2 (diagnoses), and 3 (procedures), including the Official ICD–9–CM Guidelines for Coding and Reporting (herein collectively referred to as ICD–9–CM), through September 30, 2015.

a. Need for the Regulatory Action

This final rule establishes October 1, 2015 as the compliance date for ICD–10. It also requires the continued use of ICD–9–CM through September 30, 2015.

b. Legal Authority for the Regulatory Action

Section 212 of PAMA, titled "Delay in Transition from ICD–9–CM to ICD–10 Code Sets" is the legal authority for the regulatory action.

2. Summary of the Major Provisions

As noted previously, this final rule changes the compliance date for ICD–10 from October 1, 2014 to October 1, 2015 and requires covered entities to continue using ICD–9–CM through September 30, 2015.

3. Summary of Costs and Benefits

In the September 5, 2012 **Federal Register** (77 FR 54664), the Department of Health and Human Services (HHS) published a final rule titled "Administrative Simplification: Adoption of a Standard for a Unique Health Plan Identifier; Addition to the National Provider Identifier

Requirements; and a Change to the Compliance Date for the International Classification of Diseases, 10th Edition (ICD–10–CM and ICD–10–PCS) Medical Data Code Sets" (herein referred to as the 2012 ICD–10 Delay final rule) in which the Secretary changed the compliance date for ICD–10 from October 1, 2013 to October 1, 2014. In that rule, we estimated there would be a significant cost to industry from a delay of ICD–10 because commercial health plans, medium and large hospitals, and large physician practices were far along in their implementation and had devoted funds, resources, and staff to the effort. In our analysis, we estimated that a 1-year delay of the compliance date for ICD–10 would add a range of 10 to 30 percent to the total cost that these entities had already spent or budgeted for the transition to ICD–10 on October 1, 2013.

We use the same rationale and methodology in our analysis of costs and benefits in the Regulatory Impact Analysis (RIA) of this final rule, and conclude that a delay of 1-year, as opposed to a longer delay, will be the least costly and most fiscally responsible way to implement the requirements of section 212 of PAMA. We estimate the cost of a 1-year delay to HIPAA covered entities will be $1.1 to $6.8 billion.

B. Background

In the January 16, 2009 **Federal Register** (74 FR 3328), HHS published a final rule (herein referred to as the 2009 ICD–10 final rule) in which the Secretary adopted ICD–10 as the Health Insurance Portability and Accountability Act of 1996 (HIPAA) standard code set to replace ICD–9–CM. The 2009 ICD–10 final rule established an October 1, 2013 compliance date for ICD–10. For more background on the adoption of ICD–10, see the 2009 ICD–10 final rule and the August 22, 2008 proposed rule titled "HIPAA Administrative Simplification: Modification to Medical Data Code Set Standards to Adopt ICD–10–CM and ICD–10–PCS" (herein referred to as the 2008 ICD–10 proposed rule) (73 FR 49796).

In late 2011 and early 2012, three issues emerged that led the Secretary to reconsider the compliance date for ICD–10: (1) The industry transition to ASC X12 Version 5010 did not proceed as effectively as expected; (2) providers became concerned that other statutory initiatives were stretching their resources; and (3) there was a lack of readiness for the ICD–10 transition, as indicated by industry surveys and polls. As a result, HHS published the 2012 ICD–10 Delay final rule in which the compliance date for ICD–10 was delayed from October 1, 2013 to October 1, 2014.

II. Provisions of the Final Rule

Section 212 of PAMA provides that the Secretary may not adopt ICD–10 under HIPAA prior to October 1, 2015. We interpret this provision as requiring the Secretary to delay the October 1, 2014 implementation of ICD–10, and we believe the provision gives the Secretary discretion to choose a new compliance date of October 1, 2015, or later. We are establishing October 1, 2015 as the new compliance date.

All segments of the health care industry have invested significant time and resources in financing, training, and implementing necessary changes to systems, workflow processes, and clinical documentation practices in order to prepare for ICD–10. The American Academy of Professional Coders (AAPC) provides training and education to medical coders, physicians and their practice management staff. In a June 2014 survey [1] of 5,000 AAPC members, nearly 75 percent of the survey respondents reported that they are making significant progress toward preparing for ICD–10 implementation. The survey also indicated that about 25 percent of those surveyed had completed all of the necessary ICD–10 training; 13 percent indicated that they were prepared for the October 1, 2014 implementation date; and 23 percent were actively testing with their ICD–10 vendors when PAMA was signed into law. The industry has made significant progress toward ICD–10 compliance and has gained momentum in its efforts. A delay of longer than 1 year would slow or even stop progress towards ICD–10 implementation. In order to preserve this momentum and encourage continued compliance efforts, we are establishing the shortest delay permitted by law, which is 1 year.

Additionally, we believe it is important to require implementation of ICD–10 as soon as the law permits because it will allow the industry to begin reaping the benefits of ICD–10 as soon as possible. ICD–10 provides greater specificity of diagnosis-related groups; improves quality measurement and reporting capabilities; improves tracking of illnesses; and reflects greater accuracy of reimbursement for medical services. ICD–10's granularity will improve data capture and analytics of public health surveillance and reporting, national quality reporting, research and data analysis, and provide detailed data to inform health care delivery and health policy decisions.

ICD–10 reflects the advances in medicine and medical technology that U.S. physician specialty groups called for as they provided extensive input into the development of the ICD–10–CM code-set to capture more precise codes for the conditions they treat. ICD–10 includes significant improvements over ICD–9–CM in coding primary care encounters, external causes of injury, mental disorders, and preventive health. For example, ICD–10 reflects improved diagnosis of chronic illness and identifies underlying causes, complications of disease, and conditions that contribute to the complexity of a disease, and captures the severity and stage of diseases such as chronic kidney disease, dementia, and asthma.

Finally, a 1-year delay, as opposed to a longer delay, is the least expensive option for the industry. As estimated in the 2012 ICD–10 Delay final rule [2] and repeated in this final rule, a 1-year delay increases costs for covered entities by a range of 10 to 30 percent. We conclude that a delay beyond 1 year would be significantly more costly and have a damaging impact on the healthcare industry. For example, extending the delay beyond 1 year could render current ICD–10 system updates and releases obsolete, which would diminish the investments stakeholders have already made to prepare for the ICD–10 transition. Stakeholders would need to restart their system preparation and would not be able to leverage past system investments.

In order to implement section 212 of PAMA, we are changing the compliance date for ICD–10 from October 1, 2014 to October 1, 2015 in 45 CFR 162.1002(c) by changing "October 1, 2014" to "October 1, 2015" to read, "[f]or the period on and after October 1, 2015."

Our regulations at 45 CFR 162.1002(b) currently require compliance with ICD–9–CM through September 30, 2014. We are changing our regulations to require the continued use of ICD–9–CM through September 30, 2015. Accordingly, we are revising 45 CFR 162.1002(b) by

[1] ICD–10 Monitor: Exclusive: ICD–10 Implementation—Where Do We Really Stand? *http://icd10monitor.com/enews/item/1220-exclusive-icd-10-implementation-where-do-we-really-stand?utm_source=Real%20Magnet&utm_medium=Email&utm_campaign=42358626.*

[2] Administrative Simplification: Adoption of a Standard for a Unique Health Plan Identifier; Addition to the National Provider Identifier Requirements; and a Change to the Compliance Date for the International Classification of Diseases, 10th Edition (ICD–10–CM and ICD–10–PCS) Medical Data Code Sets; Final Rule. *http://www.gpo.gov/fdsys/pkg/FR-2012-09-05/pdf/2012-21238.pdf* pages 50–53.

changing "September 30, 2014" to "September 30, 2015" to read, "[f]or the period on and after October 16, 2003 through September 30, 2015."

III. Waiver of Proposed Rulemaking

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), we are required to publish a notice of proposed rulemaking (NPRM) in the **Federal Register**. Section 553(b) of the APA provides an exception to this requirement. Section 553(b)(B) of the APA authorizes HHS to waive normal rulemaking requirements if it finds that notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. We believe waiving normal notice and comment rulemaking requirements is justified because covered entities need to know how to proceed with respect to ICD–9–CM and ICD–10 now, or they will not have adequate time to prepare to accurately submit, process, and pay for health care claims.

The October 1, 2014 compliance date for ICD–10 was established in the 2012 ICD–10 Delay final rule. Section 212 of PAMA was enacted on April 1, 2014, six months prior to the October 1, 2014 ICD–10 compliance date, at a critical time when most health care entities had already configured and tested systems and business processes, and devoted staff and financial resources in preparation for compliance on October 1, 2014. IT systems were changed to align with new payment policies and rules, staff was trained on new workflow processes, and trading partner agreements were updated to begin using ICD–10 on October 1, 2014.

After section 212 of PAMA was enacted, many industry stakeholders asked the Secretary to clarify which ICD version could or must be used and when. Many interpreted section 212 of PAMA as requiring a delay of ICD–10 to October 1, 2015, while others interpreted the law as allowing the Secretary to postpone implementation of ICD–10 for longer than a year. Other industry stakeholders suggested that section 212 of PAMA permitted covered entities to use either ICD–9–CM or ICD–10 on October 1, 2014. These widely different interpretations reflected the industry's uncertainty about when it would be required to use specific versions of the ICD coding system, and we recognized a growing apprehension among stakeholders in light of this uncertainty.

There are also a number of important business and implementation decisions that industry stakeholders have to make now. For example, budgeting, project management, and systems planning for the continued use of ICD–9–CM on October 1, 2014 and for the delayed implementation of ICD–10 on October 1, 2015, must begin as soon as possible for all covered entities. Both large and small providers and health plans generally develop budgets and allot resources for transitions far in advance and particularly for those transitions that impact IT systems, business policies, and processes. Most covered entities have allocated funds, assigned human resources, and have employed contractors to assist with or manage various aspects of the transition to ICD–10 based on an October 1, 2014 compliance date. These resources, trading partner agreements, vendor systems, and maintenance contracts will have to be reconsidered and reallocated within a very short period of time to accommodate the delay. Many covered entities have also begun to train their staff for ICD–10 implementation and must decide immediately whether to continue this training. The absence of a firm implementation date impedes decision-making for budgetary development, projecting planning, and systems preparation. If covered entities are unable to make these decisions timely, some may choose to slow or even suspend ICD–10 preparations.

Covered entities will also have to accomplish systems and business process changes in a relatively short period of time. Many providers have programmed their IT systems to submit ICD–10 codes on October 1, 2014, and have implemented changes in business processes to accommodate these changes. Most health plans have programmed their claims processing systems to accept and process ICD–10 codes on October 1, 2014. These systems will have to be reconfigured to process ICD–9–CM coded claims for an additional year while also preparing to process ICD–10 coded claims on and after October 1, 2015. It is imperative that covered entities know the new compliance dates now so they can begin immediately to take the necessary steps to comply.

A seamless industry transition to a required code set is necessary in order to avoid payment disruptions. If covered entities are not prepared to accept and process ICD–9–CM codes on October 1, 2014, there could be significant disruptions in health care payments. The inability of health plans to successfully process claims directly impacts the timeliness of provider reimbursements for services rendered. Many providers, especially small and rural providers, rely on the timeliness of payments in order to continue to do business. A risk to a provider's economic well-being is a risk to patient care.

In order to minimize industry disruption, it is important for the Secretary to announce the new compliance dates as soon as possible. Even with the extra few months this final rule affords, time is short. If we were to engage in full notice and comment rulemaking, covered entities would be left with uncertainty until a final rule could be published, which would be unlikely to happen prior to October 1, 2014. And even if the process could be expedited, a final rule would be issued too close to October 1, 2014 to give most covered entities sufficient time to comply with the requirements of the rule. Accordingly, we find there is good cause to waive the normal notice and comment rulemaking procedures, as they are impracticable and contrary to the public interest.

IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it does not require a review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

V. Regulatory Impact Analysis

A. Statement of Need

As stated previously, section 212 of PAMA specifies that "[t]he Secretary of Health and Human Services may not, prior to October 1, 2015, adopt ICD–10 code sets as the standard for code sets under section 1173(c) of the Social Security Act (42 U.S.C. 1320d–2(c)) and section 162.1002 of title 45, Code of Federal Regulations." This final rule establishes a new ICD–10 compliance date of October 1, 2015. It also requires the continued use of ICD–9–CM through September 30, 2015.

B. Overall Impact

We have examined the impacts of this final rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993, as further amended), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as "economically significant"); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million in 1995 dollars or more in any one year). We estimate that this rule is "economically significant" as measured by the $100 million threshold, and hence also a major rule under the Congressional Review Act. Accordingly, we have prepared a Regulatory Impact Analysis (RIA) that presents the costs and benefits of this rule.

In determining the costs of this final rule, we needed to establish, as a baseline, what costs would likely be incurred absent this final rule, and then compare this baseline to the costs of the ICD–10 delay announced in this final rule. The costs estimated in this RIA include costs to industry and government entities for an October 1, 2015 compliance date. For the RIA in this final rule we have also relied largely on the estimates in the RIA of the 2012 ICD–10 Delay final rule because that rule also estimated the cost of a 1-year delay in the compliance date for ICD–10.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any one year of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately $141 million. This final rule contains a mandate that would likely impose spending costs on the healthcare industry of more than $141 million. Therefore, in this RIA we illustrate the costs of the 1-year delay in compliance date for ICD–10.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct requirement costs on State and local governments, preempts State laws, or otherwise has Federalism implications. We do not anticipate that the 1-year delay in the compliance date for ICD–10 will have a significant impact on State and local governments, preempt State laws, or otherwise have Federalism implications.

C. Anticipated Effects on Impacted Entities

ICD codes are used in nearly every sector of the health care industry. All HIPAA covered entities will be affected by a delay in the compliance date of ICD–10. Covered entities include all health plans, health care clearinghouses, and health care providers that transmit health information in electronic form in connection with a transaction for which the Secretary has adopted a standard.

While covered entities are required to transition to ICD–10, many other entities not covered by HIPAA also use ICD codes for a variety of purposes because their operational and business needs often intersect with those of covered entities. For practical and business purposes, we expect these non-covered entities will voluntarily transition to ICD–10. Entities that are not considered covered entities, but that may be affected by the transition to ICD–10, include: Workers' compensation programs and automobile and personal liability insurers, hardware and software vendors for health care practice management systems and electronic health record systems, researchers, public health organizations, educational institutions, and coding entities.

D. Scope and Methodology of the Impact Analysis for ICD–10

This RIA estimates the costs of a delay of compliance with ICD–10. In this RIA we are analyzing only the impact of a delay, not the impact of ICD–10 implementation, which we addressed in the 2008 ICD–10 proposed rule (73 FR 49476) and the January 2009 ICD–10 final rule (74 FR 3328). For purposes of this analysis, we reference estimates made in the RIA of the 2012 ICD–10 Delay final rule because it also delayed compliance with ICD–10 by 1 year.

While we assume that a delay of the implementation of ICD–10 will affect a broad range of health care providers, as illustrated in Table 1, we only examine the costs and benefits of a delay on two types of health care providers: Hospitals and small providers. We do not analyze the impact on other providers, including, but not limited to, nursing and residential care facilities, dentists, or durable medical equipment (DME) suppliers, though we understand that there is likely to be an impact on most of these providers. As was the case for our impact analysis in the 2008 ICD–10 proposed rule, there continues to be very little publicly available data on the use of electronic data interchange (EDI) among dentists, DME suppliers, nursing homes, and residential care facilities. The lack of data for these types of health care providers has been noted in other studies on administrative simplification.[3]

We do not include an analysis of costs or benefits to health care clearinghouses and transaction vendors in this RIA. Transaction vendors are entities that process claims or payments for entities such as health plans. Not all transaction vendors meet the HIPAA definition of a health care clearinghouse, which constitute a subset of transaction vendors. Payment vendors also would be a type of transaction vendor—a transaction vendor that "associates" or "re-associates" health care claim payments with the payments' remittance advice for either a health plan or provider. For our purposes, transaction vendors do not include developers or retailers of computer software or entities that are involved in installing, programming or maintaining computer software. However, we did not calculate costs and benefits to health care clearinghouses and transaction vendors in this RIA because, as in our previous impact analyses in the August 2008 ICD–10 proposed rule and the 2012 ICD–10 Delay final rule, we assume that any associated costs and benefits will be passed on to the health plans or providers and will be included in the costs and benefits we apply to health plans and providers.

Although self-insured group health plans meet the HIPAA definition of "health plan," we did not include them in this impact analysis. While self-insured group health plans will be required to implement ICD–10, we assume that, with a few exceptions, such plans do not send or receive HIPAA electronic transactions because

[3] "Excess Billing and Insurance-Related Administrative Costs," by James Kahn, in *The Healthcare Imperative; Lowering Costs and Improving Outcomes: Workshop Series Summary*, edited by Pierre L. Yong, Robert S. Saunders, and Leigh Anne Olsen, Institute of Medicine of the National Academies, the National Academies Press, Washington, DC: 2010.

most are not involved in the day-to-day activities of a health plan, and outsource those services to third party administrators (TPAs) or transaction vendors.

We do delineate a cost to TPAs in this RIA. Although TPAs do not meet the definition of "health plans," and therefore are not required by HIPAA to use code sets such as ICD–10, as a practical matter they will need to make the transition in order to continue to conduct electronic transactions on behalf of self-insured group health plans. The impact of a delay of the compliance date of ICD–10 on TPAs will be similar to the commercial insurer cost/benefit impact profile as TPAs serve a similar function and will have to implement and test their systems in the same manner as health plans. Therefore, when we refer to "commercial health plans" in this RIA, we are including TPAs in the category of "small health plans" in the RIA.

In the 2012 ICD–10 Delay final rule (77 FR 22991) and in this RIA, we do not include the costs for software vendors, including software vendors for practice management and EHR systems, as they ultimately pass their costs to their clients.

E. Cost of a 1-Year Delay of Implementation of ICD–10 for Health Plans

1. Cost of a 1-Year Delay to Commercial Health Plans and TPAs

Health plans are a varied group in terms of size, and the cost of a delay is calculated using a range that reflects this variance. In terms of costs, commercial health plans are far along in their ICD–10 implementation and have devoted funds, resources, and staff to the effort. When PAMA was enacted, the majority of commercial health plans were in the external testing phase of their ICD–10 implementation plans.[4] A 1-year delay of ICD–10 compliance will allow entities more time to thoroughly test, but the testing and the continued maintenance of contracts and personnel required for the transition will be 1-year longer than was budgeted.

Continued training, testing, and retention of personnel, and contracts are expected to be the primary costs associated with a 1-year delay for commercial health plans. Commercial health plans will perform additional work in preparing their systems to process ICD–9 coded claims for an additional year while also converting their systems to process ICD–10 coded claims on and after October 1, 2015. We estimate the costs of the delay for commercial health plans and third party administrators to be between $547 million and $2,786 million.

2. Cost of a 1-Year Delay to Medicare

We believe many government health programs were prepared to be ICD–10 compliant on October 1, 2014, and, like commercial payers, will incur costs from a 1-year delay. As an example, components affected by a 1-year delay at the Centers for Medicare & Medicaid Services (CMS), in particular, Medicare Fee-for-Service (herein referred to as Medicare), estimate that there will be additional costs. Like other government payers, Medicare has programmed its claims processing systems to accept and process ICD–10 codes on October 1, 2014. These systems will have to be reconfigured to process ICD–9–CM-coded claims for an additional year while also preparing to process ICD–10-coded claims on and after October 1, 2015. Therefore, costs include expenditures like extending contracts and reprogramming work for the ICD–9–CM systems and ICD–10 systems while continuing to test ICD–10 in the new 2015 systems environment. Other additional costs include an increased need for outreach and education claims processing manual updates, technical assistance, and training.

It was estimated in the 2012 final rule that a 1-year delay of ICD–10 compliance would be reflected by additional work at an estimated total cost of $5 to $10 million for the Medicare program. Because the Medicare program was so far along in its ICD 10 implementation when PAMA was enacted, we now estimate that the cost of a 1 year delay will be $21 to $32 million for the Medicare program spread across FYs 2014 and 2015.

3. Cost of a 1-Year Delay to State Medicaid Agencies

State Medicaid Agencies (SMAs) completed a cost impact assessment for a 1-year delay in April of 2014. SMAs face similar costs as commercial health plans as a result of the 1-year delay of ICD–10. SMAs will incur costs due to contractual obligations which may require modifications, extensions, or procurements. Other costs to SMAs include the need to test ICD–10 codes in the new 2015 systems environment, which will be needed even by SMAs that have successfully tested to date. SMA resources will need to be maintained at full pre-implementation and go-live levels through 2015 in order to prepare for the October 1, 2015 implementation. These will likely affect planning and implementation of other IT initiatives for SMAs, potentially resulting in additional costs and delays for those initiatives. SMAs report the total cost for both state and federal of a 1-year delay for all SMAs is $169 to $182 million.

F. Cost of a 1-Year Delay to Providers

1. Hospitals and Large Providers

We expect that many hospitals and large provider organizations have already spent funds in preparation for the ICD–10 transition. As with health plans, a delay of the compliance date will add to their costs because large providers must maintain personnel staffing levels, make significant system changes; renegotiate the contracts necessary to extend preparations an extra year, and retest systems in the new 2015 systems environment. Likewise, large providers must maintain technological resources for an extra year.

According to our estimates in the 2012 ICD–10 delay final rule, the cost of a 1-year delay to hospitals and large physician practices will be $409 million to $3.7 billion.

2. Small Providers

There are some surveys that estimate the associated costs for providers transitioning to ICD–10, and we referenced some of these studies in the 2012 ICD–10 Delay proposed rule (77 FR 22997). In that proposed rule, we did not estimate the cost to small providers of the 1-year delay because these costs were negligible.

Given the lack of statistically valid data regarding the resources small providers have expended, as well as their state of readiness for an October 1, 2014 compliance date as compared to an October 1, 2015 compliance date, we do not estimate the cost or benefits to small providers in this RIA. However, based on other relevant areas of the health care industry, we assume that the change in compliance date will negatively impact some percentage of small providers in terms of cost. Nonetheless, the 1-year delay may also give relief to small providers that were not prepared by affording them another year in which to spread costs and resources.

G. Summary of Costs of a 1-Year Delay of the Compliance Date of ICD–10

Except for estimates of the impact on Medicare and State Medicaid agencies, we are using the cost estimates from the 2012 ICD–10 Delay final rule to

[4] Twenty of the top 25 health insurance companies indicated that they were prepared to test with trading partners, according to a scan of their Web sites. The top 25 health insurance companies were identified by US News (*http://health.usnews.com/health-news/health-insurance/articles/2013/12/16/top-health-insurance-companies*).

conclude that a 1-year delay of the ICD–10 compliance date would add a range of 10 to 30 percent to the total cost that these entities have already spent or budgeted for an October 1, 2014 implementation date, for an additional cost to commercial entities of approximately $1 billion to $6.8 billion.

We summarize the range of low and high estimates of a 1-year delay of the compliance date for ICD–10 in Table 1.

TABLE 1—SUMMARY OF COSTS IN 2015 OF A 1-YEAR DELAY IN THE COMPLIANCE DATE OF ICD–10 *

	Low (in millions)	High (in millions)	Mean (average) (in millions)
Cost to Commercial Health Plans	$547	$2,786	$1,667
Cost to Medicare	21	32	27
Cost to State Medicaid Agencies	169	182	176
Cost to Hospitals and Large Provider Organizations	422	3,849	2,136
Total Costs	1,161	6,850	4,007

* In 2014 Dollars.

H. Considered Alternatives to a 1-Year Delay of the ICD–10 Compliance Date

Section 212 of PAMA states that "the Secretary of Health and Human Services may not, prior to October 1, 2015, adopt ICD–10 code sets as the standard for code sets under section 1173(c) of the Social Security Act (42 U.S.C. 1320d–2(c)) and section 162.1002 of title 45, Code of Federal Regulations." We interpret the statute as mandating a delay of the compliance date of ICD–10, and permitting the Secretary discretion to select the length of the delay, as long as implementation is required no sooner than October 1, 2015. This final rule adopts a compliance date of October 1, 2015.

We considered a number of delays of different durations before establishing October 1, 2015 as the compliance date for ICD–10. However, we concluded that a delay beyond 1 year would be significantly more costly and have a damaging impact on industry. For example, extending the delay beyond 1 year could render current ICD–10 system updates and releases obsolete, which would diminish the investments stakeholders have already made to prepare for the ICD–10 transition. All segments of the health care industry have invested significant time and resources in financing, training, and implementing necessary changes to systems, workflow processes, and clinical documentation practices. Stakeholders would need to restart their system preparation and would not be able to leverage past system investments.

As estimated in the 2012 ICD–10 Delay final rule [5] and repeated in this final rule, a 1-year delay increases costs for covered entities by a range of 10 to 30 percent. As indicated in the RIA in this final rule, we estimate little to no benefit or cost savings in delays of ICD–10 beyond the minimum 1-year delay required by PAMA. Although industry readiness has not been studied, stakeholders representing a significant majority of the industry have reported that they invested significant time and resources and were prepared for the October 1, 2014 ICD–10 compliance date. A delay of longer than 1 year would slow or stop progress towards ICD–10 implementation, delay the efficiencies that can be achieved through ICD–10 implementation, and create wasteful spending. Therefore, we believe that an October 1, 2015 compliance date is the most appropriate alternative.

I. Regulatory Flexibility Analysis: Impact on Small Providers of a Delay in the Compliance Date of ICD–10

The Regulatory Flexibility Act (RFA) of 1980 (Pub. L. 96–354) requires agencies to describe and analyze the impact of the final rule on small entities unless the Secretary can certify that the regulation will not have a significant impact on a substantial number of small entities. According to the Small Business Administration's size standards, a small entity is defined as follows according to health care categories: Office of Physicians are defined as small entities if they have revenues of $11 million or less; most other health care providers (dentists, chiropractors, optometrists, mental health specialists) are small entities if they have revenues of $7.5 million or less; hospitals are small entities if they have revenues of $38.5 million or less. (For details, see the SBA's Web site at *http://www.sba.gov/sites/default/files/Size_Standards_Table.pdf.* Refer to Sector 62—Health Care and Social Assistance).

As in the 2012 Delay final rule, we continue to assume for purposes of the RFA, that all physician practices are small entities. We conclude that a 1-year delay in implementation of the ICD–10 will affect a "substantial number" of small entities. However, we assert in this final rule, that the 1-year delay of the compliance date of ICD–10 will be more beneficial to small entities than it will be burdensome. The benefits are derived from the additional time that small entities will have for ICD–10 implementation. Therefore, we certify that the provisions in this final rule will not have a significant economic impact on a substantial number of small entities.

J. Accounting Statement and Table

The total costs of a 1-year delay of the compliance date will likely be incurred over a 12-month period. However, due to the range of impacted entities, including educational institutions, those 12 months may span different dates and different budget periods. Given the diverse approaches to budgeting in the industry, there is no precise way of calculating how much of the cost and cost avoidance falls outside of the October 1, 2014 to October 1, 2015 timeframe. For simplicity's sake, we calculate costs of a delay of the compliance date for ICD–10 as occurring in calendar year 2015.

As required by OMB Circular A–4,[6] Table 2 is an accounting statement showing the classification of the expenditures associated with the

[5] Administrative Simplification: Adoption of a Standard for a Unique Health Plan Identifier; Addition to the National Provider Identifier Requirements; and a Change to the Compliance Date for the International Classification of Diseases, 10th Edition (ICD–10–CM and ICD–10–PCS) Medical Data Code Sets; Final Rule. *http://www.gpo.gov/fdsys/pkg/FR-2012-09-05/pdf/2012-21238.pdf* pages 50–53.

[6] "Circular A–4," September 17, 2003, Office of Management and Budget (OMB), *http://www.whitehouse.gov/omb/circulars_a004_a-4/.*

provisions of this final rule. Table 2 provides our best estimates of the costs and benefits associated with a 1-year delay of the compliance date of ICD–10.

TABLE 2—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES FOR 1-YEAR DELAY OF ICD–10 COMPLIANCE DATE FROM FY 2014 TO FY 2015

[In millions of dollars]

Category	Primary estimate (millions)	Minimum estimate (millions)	Maximum estimate (millions)	Source citation (RIA, preamble, etc.)
COSTS				
Annualized Monetized costs:				
7% Discount	$4,007.0	$1,161.0	$6,850.0	RIA.
3% Discount	4,007.0	1,161.0	6,850.0	RIA.

List of Subjects in 45 CFR Part 162

Administrative practice and procedures, Electronic transactions, Health facilities, Health insurance, Hospitals, Incorporation by reference, Medicaid, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR Part 162 as follows:

PART 162—ADMINISTRATIVE REQUIREMENTS

■ 1. The authority citation for part 162 continues to read as follows:

Authority: Secs. 1171 through 1180 of the Social Security Act (42 U.S.C. 1320d–1320d–9), as added by sec. 262 of Pub. L. 104–191, 110 Stat 2021–2031, sec. 105 of Pub. L. 110–233, 122 Stat. 881–992, and sec. 264 of Pub. L. 104–191, 110 Stat 2033–2034 (42 U.S.C. 1320d–2 (note)), secs. 1104 and 10109 of Pub. L. 111–148, 124 Stat 146–154 and 915–917.

§ 162.1002 [Amended]

■ 2. Section 162.1002 is amended as follows:

■ A. In paragraph (b) introductory text by removing the date "September 30, 2014" and adding in its place the date "September 30, 2015".

■ B. In paragraph (c) introductory text by removing the date "October 1, 2014" and adding in its place the date "October 1, 2015".

Dated: July 17, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

Approved: July 25, 2014.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

[FR Doc. 2014–18347 Filed 7–31–14; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 214

Railroad Workplace Safety

CFR Correction

■ In Title 49 of the Code of Federal Regulations, Parts 200 to 299, revised as of October 1, 2013, on page 189, in § 214.315, paragraph (b) is reinstated to read as follows:

§ 214.315 Supervision and communication.

* * * * *

(b) A job briefing for on-track safety shall be deemed complete only after the roadway worker has acknowledged understanding of the on-track safety procedures and instructions presented.

* * * * *

[FR Doc. 2014–18425 Filed 8–1–14; 8:45 am]

BILLING CODE 1505–01–D

Proposed Rules

Federal Register
Vol. 79, No. 149
Monday, August 4, 2014

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0489; Directorate Identifier 2014–NM–048–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 CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This proposed AD was prompted by a report indicating that inboard and outboard hydraulic lines of the brakes were found connected to the incorrect ports on the swivel assembly of the main landing gear (MLG). This proposed AD would require modifying the MLG by installing a new bracket on the left and right lower aft-wing planks. We are proposing this AD to prevent incorrect installation of the brake hydraulic lines, which could cause the brakes and the anti-skid system to operate incorrectly, and cause catastrophic failure of the airplane during a high-speed rejected takeoff.

DATES: We must receive comments on this proposed AD by September 18, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* 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 proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0489; 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, 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–2014–0489; Directorate Identifier 2014–NM–048–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–2014–10, dated February 12, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The MCAI states:

> Cases of inboard and outboard hydraulic brake lines connected to the incorrect port of the swivel assembly on the main landing gear were found in service, including a runway overrun event. Cross-connected brake hydraulic lines can cause the brakes and/or the anti-skid system to operate incorrectly. During a high speed rejected take-off, inability for the brakes to operate correctly could be catastrophic.
>
> This [Canadian] AD mandates the modification to prevent inadvertent cross-connection of the inboard and outboard hydraulic brake lines.

The required action in this AD includes installing a new bracket on the left and right lower aft-wing planks of the MLG. 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–2014–0489.

Relevant Service Information

Bombardier, Inc. has issued Service Bulletin 601R–32–110, dated December 19, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

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 the same type design.

"Contacting the Manufacturer" Paragraph in This Proposed AD

Since late 2006, we have included a standard paragraph titled "Airworthy Product" in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to the FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase "its delegated agent" to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

One commenter to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) stated the following: "The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin."

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

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it "Contacting the Manufacturer." This paragraph now clarifies that for any requirement in this proposed AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the FAA, TCCA, or Bombardier's TCCA Design Approval Organization (DAO).

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

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

Costs of Compliance

We estimate that this proposed AD affects 526 airplanes of U.S. registry.

We also estimate that it would take about 6 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 $375 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $465,510, or $885 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 proposed regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2014–0489; Directorate Identifier 2014–NM–048–AD.

(a) Comments Due Date

We must receive comments by September 18, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Reason

This AD was prompted by a by a report indicating that inboard and outboard hydraulic lines of the brakes were found connected to the incorrect ports on the swivel assembly of the main landing gear (MLG). We are issuing this AD to prevent incorrect installation of the brake hydraulic lines, which could cause the brakes and the anti-skid system to operate incorrectly, and cause catastrophic failure of the airplane during a high-speed rejected take-off.

(f) Compliance

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

(g) Modification

Within 6,600 flight hours after the effective date of this AD, but no later than 36 months after the effective date of this AD: Modify the MLG by installing a new bracket on the left and right lower aft-wing planks, in accordance with the Accomplishment Instruction of Bombardier Service Bulletin 601R–32–110, dated December 19, 2013.

(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 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, 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 Airworthiness Directive CF–2014–10, dated February 12, 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–2014–0489.

(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 July 18, 2014.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–18367 Filed 8–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0492; Directorate Identifier 2013–NM–134–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. 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 Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. This proposed AD was prompted by a report of two cases of heavy (hard to move) aileron control caused by aileron cables stuck in a clump of ice in the wheel bay. This proposed AD would require installing drain tubes on the center wing rear spar. We are proposing this AD to prevent accumulated water near or on the aileron control cables, which could freeze and result in reduced control of the airplane.

DATES: We must receive comments on this proposed AD by September 18, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* 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 proposed AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0492; 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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2014–0492; Directorate Identifier 2013–NM–134–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

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0140, dated July 12, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for all Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. The MCAI states:

> Two cases have been reported of heavy aileron control caused by aileron cables stuck in a clump of ice in the wheel bay. Investigation results revealed that, in case of water accumulation on the top of the center wing torsion box inside the cabin (zones 171 and 172), the water drains through the existing drain holes/gaps in the web plates on top of the center wing rear spar. The water could then accumulate in the area where the aileron control cables are situated. With the freezing temperatures normally encountered during flight, ice accretion could occur near or even on the aileron control cables.
>
> This condition, if not corrected, could result in reduced control of the aeroplane.
>
> For the reasons described above, this [EASA] AD requires the installation of drain tubes on the center wing rear spar.

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–2014–0492.

Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletin SBF100–51–021, dated April 23, 2013, including the following attachments:

- Fokker Parts List Local SB10051021–XU–B, Revision A, Sequence 1, dated April 4, 2013;
- Fokker Parts List Supply SB10051021–XU–B, Revision A, Sequence 1, dated April 10, 2013;
- Fokker Parts List Local SB10051021–XU–A, Revision B, Sequence 1, dated April 10, 2013;
- Fokker Parts List Supply SB10051021–XU–A, Revision B, Sequence 1, dated April 10, 2013; and
- Fokker Manual Change Notification MCNM F100–160, dated April 23, 2013.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

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 the same type design.

"Contacting the Manufacturer" Paragraph in This Proposed AD

Since late 2006, we have included a standard paragraph titled "Airworthy Product" in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to the FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase "its delegated agent" to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

One commenter to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) stated the following: "The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin."

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

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

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-

approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

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

Costs of Compliance

We estimate that this proposed AD affects 4 airplanes of U.S. registry.

We also estimate that it would take about 8 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 $1,380 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $8,240, or $2,060 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 proposed regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker Services B.V.: Docket No. FAA–2014–0492; Directorate Identifier 2013–NM–134–AD.

(a) Comments Due Date

We must receive comments by September 18, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 51, Standard Practices/Structures.

(e) Reason

This AD was prompted by a report of two cases of heavy (difficult to move) aileron control caused by aileron cables stuck in a clump of ice in the wheel bay. We are issuing this AD to prevent accumulated water near or on the aileron control cables, which could freeze and result in reduced control of the airplane.

(f) Compliance

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

(g) Installation of Water Drain Tubes

Within 36 months after the effective date of this AD, install water drain tubes on the center wing rear spar, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–51–021, dated April 23, 2013, including the attachments identified in paragraphs (g)(1) through (g)(5) of this AD.

(1) Fokker Parts List Local SB10051021–XU–B, Revision A, Sequence 1, dated April 4, 2013.

(2) Fokker Parts List Supply SB10051021–XU–B, Revision A, Sequence 1, dated April 10, 2013.

(3) Fokker Parts List Local SB10051021–XU–A, Revision B, Sequence 1, dated April 10, 2013.

(4) Fokker Parts List Supply SB10051021–XU–A, Revision B, Sequence 1, dated April 10, 2013.

(5) Fokker Manual Change Notification MCNM F100–160, dated April 23, 2013.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2013–0140, dated July 12, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0492.

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.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 July 23, 2014.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–18373 Filed 8–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0491; Directorate Identifier 2014–NM–023–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 CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. This proposed AD was prompted by a determination that the forward lugs of the flap hinge box might not conform to engineering drawings, which could result in premature fatigue cracking. This proposed AD would require revising the maintenance or inspection program to include new airworthiness limitations tasks; and measuring the forward lug edge distance of each flap hinge box, and inspecting for cracking and damage (i.e., deformation or bearing failure) of the forward lug edge of each flap hinge box, and repair if necessary. We are proposing this AD to detect and correct non-conforming flap hinge box forward lugs, which could result in failure of the lugs and detachment of the flap hinge box and consequent detachment of the flap surface.

DATES: We must receive comments on this proposed AD by September 18, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* 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 proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0491; 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: Ricardo Garcia, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7331; 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–2014–0491; Directorate Identifier 2014–NM–023–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–2014–01, dated January 3, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> The aeroplane manufacturer has determined that the flap hinge box forward lugs edge distance may not conform to the engineering drawings. Non-conforming flap hinge box forward lugs may result in premature fatigue cracking.
>
> Failure of the lugs could lead to the detachment of the flap hinge box and consequently the detachment of the flap surface. The loss of a flap surface could adversely affect the continued safe operation of the aeroplane.
>
> This [Canadian] AD mandates the incorporation of new Time Limits/Maintenance Checks (TLMC) Airworthiness Limitations (AWL) tasks, and the measurement [and inspection for cracking and damage] of the forward lug edge distance of each flap hinge-box and rectification as required.

Corrective actions include repairing damage and cracking. 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–2014–0491.

Relevant Service Information

Bombardier has issued the following service information. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

- Bombardier Service Bulletin 600–0762, dated September 26, 2013 (for Model CL–600–1A11 airplanes).

• Bombardier Service Bulletin 601–0631, dated September 26, 2013 (for Models CL–600–2A12 and CL–600–2B16 airplanes).

• Bombardier Service Bulletin 604–57–007, dated September 26, 2013 (for Model CL–600–2B16 airplanes).

• Bombardier Service Bulletin 605–57–005, dated September 26, 2013 (for Model CL–600–2B16 airplanes).

• Canadair Challenger Temporary Revision 5–157, dated July 8, 2013, to Canadair Challenger Time Limits/Maintenance Checks Manual, PSP 605.

• Canadair Challenger Temporary Revision 5–158, dated July 8, 2013, to Canadair Challenger Time Limits/Maintenance Checks Manual, PSP 605.

• Canadair Challenger Temporary Revision 5–262, dated July 8, 2013, to Canadian Challenger Time Limits/Maintenance Checks Manual PSP 601.

• Canadair Challenger Temporary Revision 5–275, dated July 8, 2013, to Canadian Challenger Time Limits/Maintenance Checks Manual PSP 601A.

• Canadair Challenger Temporary Revision 5–276, dated July 8, 2013, to Canadian Challenger Time Limits/Maintenance Checks Manual PSP 601A.

• Tasks 57–50–00–121 and 57–52–01–102 of Section 5–10–30 of Part 2, "Airworthiness Limitations," of Bombardier CL–605 Time Limits/Maintenance Checks Manual, Revision 8, dated July 8, 2013.

• Tasks 57–50–00–121 and 57–52–01–102 of Section 5–10–30 of Part 2, "Airworthiness Limitations," of Bombardier CL–604 Time Limits/Maintenance Checks Manual, Revision 20, dated July 8, 2013.

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 the same type designs.

This AD requires revisions to certain operator maintenance documents to include new actions (e.g., inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (k) of this AD. The request should include a description of changes to the required actions that will ensure the continued damage tolerance of the affected structure.

"Contacting the Manufacturer" Paragraph in This Proposed AD

Since late 2006, we have included a standard paragraph titled "Airworthy Product" in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to the FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase "its delegated agent" to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

One commenter to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) stated the following: "The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin."

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

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it "Contacting the Manufacturer." This paragraph now clarifies that for any requirement in this proposed AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the FAA, TCCA, or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

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

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

Costs of Compliance

We estimate that this proposed AD affects 105 airplanes of U.S. registry.

We also estimate that it would take about 45 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 $401,625, or $3,825 per product.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2014–0491; Directorate Identifier 2014–NM–023–AD.

(a) Comments Due Date

We must receive comments by September 18, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category.

(1) Bombardier, Inc. Model CL–600–1A11 (CL–600) airplanes, serial numbers 1004 through 1085 inclusive.

(2) Bombardier, Inc. Model CL–600–2A12 (CL–601) airplanes, serial numbers 3001 through 3066 inclusive.

(3) Bombardier, Inc. Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants) airplanes, serial numbers 5001 through 5194 inclusive.

(4) Bombardier, Inc. Model CL–600–2B16 (CL–604 Variants) airplanes; serial numbers 5301 through 5665 inclusive, and 5701 through 5953 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by a determination that the flap hinge box forward lugs edge distance might not conform to engineering drawings, which could result in premature fatigue cracking. We are issuing this AD to detect and correct non-conforming flap hinge box forward lugs, which could result in failure of the lugs and detachment of the flap hinge box and consequent detachment of the flap surface.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 60 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, by incorporating the applicable airworthiness limitation (AWL) tasks as specified in table 1 to paragraph (g) of this AD. The initial compliance time for doing the task is at the applicable times specified in table 1 to paragraph (g) of this AD.

Note 1 to paragraph (g) of this AD: For the incorporation of tasks specified in the temporary revisions (TRs) specified in table 1 to paragraph (g) of this AD that are a part of the maintenance or inspection program revision required by paragraph (g) of this AD, such incorporation may be done by inserting a copy of the applicable TRs specified in table 1 to paragraph (g) of this AD into the applicable "time limits/maintenance checks" (TLMC) manuals specified in table 1 to paragraph (g) of this AD. When the applicable TRs specified in table 1 to paragraph (g) of this AD have been included in general revisions of the applicable TLMC manual specified in table 1 to paragraph (g) of this AD, the general revisions may be inserted in the applicable TLMC manual specified in table 1 to paragraph (g) of this AD.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—TASKS

Affected airplanes	Task No.	Canadair service information	Initial compliance time
Model CL–600–1A11 (CL–600 Variant) airplanes with inboard flaps having greater than 7,400 total flight cycles but equal to or less than 14,850 total flight cycles as of the effective date of this AD.	57–40–00–186	Canadair Challenger Temporary Revision (TR) 5–158, dated July 8, 2013, of the Canadair Challenger Time Limits/Maintenance Checks (TLMC) Manual, PSP 605.	Within 500 flight cycles after the effective date of this AD, but not later than 15,100 total flight cycles.
Model CL600–1A11 (CL–600 Variant) airplanes with inboard flaps having greater than 14,850 total flight cycles as of the effective date of this AD.	57–40–00–186	Canadair Challenger TR 5–158, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 605.	Within 250 flight cycles after the effective date of this AD.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—TASKS—Continued

Affected airplanes	Task No.	Canadair service information	Initial compliance time
Model CL–600–1A11 (CL–600 Variant) airplanes with inboard flaps having equal to or less than 7,400 total flight cycles.	57–40–00–186	Canadair Challenger TR 5–158, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 605.	Before the accumulation of 7,900 total flight cycles.
Model CL–600–1A11 (CL–600 Variant) airplanes with outboard flaps having greater than 7,500 total flight cycles, but equal to or less than 11,350 total flight cycles as of the effective date of this AD.	57–40–00–160	Canadair Challenger TR 5–157, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 605.	Within 500 flight cycles after the effective date of this AD, but no later than 11,600 total flight cycles.
Model CL–600–1A11 (CL–600 Variant) airplanes with outboard flaps having greater than 11,350 total flight cycles as of the effective date of this AD.	57–40–00–160	Canadair Challenger TR 5–157, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 605.	Within 250 flight cycles after the effective date of this AD.
Model CL–600–1A11 (CL–600 Variant) airplanes with outboard flaps having equal to or less than 7,500 total flight cycles.	57–40–00–160	Canadair Challenger TR 5–157, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 605.	Before the accumulation of 8,000 total flight cycles.
Model CL–600–2A12 (CL–601 Variant) airplanes with inboard flaps having greater than 7,400 total flight cycles, but equal to or less than 14,850 total flight cycles, as of the effective date of this AD.	57–40–01–101	Canadair Challenger TR 5–262, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 601–5.	Within 500 flight cycles after the effective date of this AD, but no later than 15,100 total flight cycles.
Model CL–600–2A12 (CL–601 Variant) airplanes with inboard flaps with greater than 14,850 total flight cycles as of the effective date of this AD.	57–40–01–101	Canadair Challenger TR 5–262, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 601–5.	Within 250 flight cycles after the effective date of this AD.
Model CL–600–2A12 (CL–601 Variant) airplanes with inboard flaps with equal to or less than 7,400 total flight cycles as of the effective date of this AD.	57–40–01–101	Canadair Challenger TR 5–262, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 601–5.	Before the accumulation of 7,900 total flight cycles.
Model CL–600–2A12 (CL–601 Variant) airplanes with outboard flaps with greater than 7,500 total flight cycles but equal to or less than 11,350 total flight cycles as of the effective date of this AD.	57–40–00–175	Canadair Challenger TR 5–262, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 601–5.	Within 500 flight cycles after the effective date of this AD, but not later than 11,600 total flight cycles.
Model CL–600–2A12 (CL–601 Variant) airplanes with outboard flaps having greater than 11,350 total flight cycles as of the effective date of this AD.	57–40–00–175	Canadair Challenger TR 5–262, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 601–5.	Within 250 flight cycles after the effective date of this AD.
Model CL–600–2A12 (CL–601 Variant) airplanes with outboard flaps having equal to or less than 7,500 total flight cycles as of the effective date of this AD.	57–40–00–175	Canadair Challenger TR 5–262, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 601–5.	Before the accumulation of 8,000 total flight cycles.
Model CL–600–2B16 (CL–601–3A and –3R Variant) airplanes having S/Ns 5001 through 5194 inclusive with inboard flaps having greater than 7,400 total flight cycles but equal to or less than 14,850 total flight cycles as of the effective date of this AD.	57–40–00–101	Canadair Challenger TR 5–276, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 601A–5.	Within 500 flight cycles after the effective date of this AD, but not later than 15,100 total flight cycles.
Model CL–600–2B16 (CL–601–3A and –3R Variant) airplanes having S/Ns 5001 through 5194 inclusive, with inboard flaps having greater than 14,850 total flight cycles as of the effective date of this AD.	57–40–00–101	Canadair Challenger TR 5–276, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 601A–5.	Within 250 flight cycles.
Model CL–600–2B16 (CL–601–3A and –3R Variant) airplanes having S/Ns 5001 through 5194 inclusive, with inboard flaps having equal to or less than 7,400 total flight cycles as of the effective date of this AD.	57–40–00–101	Canadair Challenger TR 5–276, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 601A–5.	Before the accumulation of 7,900 total flight cycles.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—TASKS—Continued

Affected airplanes	Task No.	Canadair service information	Initial compliance time
Model CL–600–2B16 (CL–601–3A and –3R Variant) airplanes having S/Ns 5001 through 5194 inclusive, with outboard flaps having greater than 7,500 total flight cycles but equal to or less than 11,350 total flight cycles as of the effective date of this AD.	57–40–00–174	Canadair Challenger TR 5–276, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 601A–5.	Within 500 flight cycles after the effective date of this AD, but no later than 11,600 total flight cycles.
Model CL–600–2B16 (CL–601–3A and –3R Variant) airplanes having S/Ns 5001 through 5194 inclusive, with outboard flaps having greater than 11,350 total flight cycles as of the effective date of this AD.	57–40–00–174	Canadair Challenger TR 5–276, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 601A–5.	Within 250 flight cycles after the effective date of this AD.
Model CL–600–2B16 (CL–601–3A and –3R Variant) airplanes having S/Ns 5001 through 5194 inclusive, with outboard flaps having equal to or less than 7,500 total flight cycles as of the effective date of this AD.	57–40–00–174	Canadair Challenger TR 5–276, dated July 8, 2013, of the Canadair Challenger TLMC Manual, PSP 601A–5.	Before the accumulation of 8,000 total flight cycles.
Model CL–600–2B16 (CL–604 Variant) airplanes with inboard and outboard flaps.	57–50–00–121	Section 5–10–30 of Part 2, "Airworthiness Limitations," of Bombardier CL–604 TLMC Manual, Revision 8, dated July 8, 2013.	Before the accumulation of 7,800 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs later.
Model CL–600–2B16 (CL–604 Variant) airplanes, S/Ns 5301 through 5665 inclusive.	57–52–01–102	Section 5–10–30 of Part 2, "Airworthiness Limitations," of Bombardier CL–604 TLMC Manual, Revision 8, dated July 8, 2013.	At the time specified in the task.
Model CL–600–2B16 (CL–604 Variant) airplanes, S/Ns 5701 through 5953 inclusive.	57–50–00–121 and 57–52–01–102	Section 5–10–30 of Part 2, "Airworthiness Limitations," of Bombardier CL–605 TLMC Manual, Revision 8, dated July 8, 2013.	At the applicable time specified in the tasks.

(h) **Lug Edge Measurement and Inspection**

At the applicable times specified in table 2 to paragraphs (h) and (i)(1) of this AD, measure the forward lug edge distance of all flap hinge boxes, in accordance with the applicable service bulletin specified in paragraphs (h) and (i)(1) of this AD; and do a general visual inspection for cracking and damage (i.e., deformation or bearing failure) of the forward lug edge of all flap hinge boxes.

TABLE 2 TO PARAGRAPHS (h) AND (i)(1) OF THIS AD—COMPLIANCE TIMES FOR LUG EDGE MEASUREMENT AND INSPECTION

Airplane models	Affected flaps	Compliance time	Service information
Model CL–600–1A11 (CL–600) airplanes having S/N 1004 through 1085 inclusive.	Inboard flaps having less than or equal to 7,400 total flight cycles as of the effective date of this AD.	Before the accumulation of 7,900 total flight cycles, or within 48 months after the effective date of this AD, whichever occurs first.	Bombardier Service Bulletin 600–0762, dated September 26, 2013.
Model CL–600–1A11 (CL–600) airplanes having S/N 1004 through 1085 inclusive.	Inboard flaps having greater than 7,400 total flight cycles, but equal to or less than 14,850 total flight cycles as of the effective date of this AD.	Before the accumulation of 15,100 total flight cycles, or within 500 flight cycles or 48 months after the effective date of this AD; whichever occurs first.	Bombardier Service Bulletin 600–0762, dated September 26, 2013.
Model CL–600–1A11 (CL–600) airplanes having S/N 1004 through 1085 inclusive.	Inboard flaps having greater than 14,850 total flight cycles as of the effective date of this AD.	Within 250 flight cycles or 48 months after the effective date of this AD, whichever occurs first.	Bombardier Service Bulletin 600–0762, dated September 26, 2013.
Model CL–600–1A11 (CL–600) airplanes having S/N 1004 through 1085 inclusive.	Outboard flaps having equal to or less than 7,500 total flight cycles as of the effective date of this AD.	Before the accumulation of 8,000 total flight cycles, or within 48 months after the effective date of this AD, whichever occurs first.	Bombardier Service Bulletin 600–0762, dated September 26, 2013.
Model CL–600–1A11 (CL–600) airplanes having S/N 1004 through 1085 inclusive.	Outboard flaps having greater than 7,500 total flight cycles but less than or equal to 11,350 total flight cycles as of the effective date of this AD.	Within 500 flight cycles or 48 months after the effective date of this AD, whichever occurs first; but not exceeding 11,600 total flight cycles.	Bombardier Service Bulletin 600–0762, dated September 26, 2013.

TABLE 2 TO PARAGRAPHS (h) AND (i)(1) OF THIS AD—COMPLIANCE TIMES FOR LUG EDGE MEASUREMENT AND INSPECTION—Continued

Airplane models	Affected flaps	Compliance time	Service information
Model CL–600–1A11 (CL–600) airplanes having S/N 1004 through 1085 inclusive.	Outboard flaps having greater than 11,350 total flight cycles as of the effective date of this AD.	Within 250 flight cycles or within 48 months after the effective date of this AD, whichever occurs first.	Bombardier Service Bulletin 600–0762, dated September 26, 2013.
Model CL–600–2A12 (CL–601 Variant) and CL–600–2B16 (CL–601–3A and –3R Variants) airplanes having S/N 3001 through 3066 inclusive, and 5001 through 5194 inclusive.	Inboard flaps having less than or equal to 7,400 total flight cycles as of the effective date of this AD.	Before the accumulation of 7,900 total flight cycles, or within 48 months after the effective date of this AD, whichever occurs first.	Bombardier Service Bulletin 601–0631, dated September 26, 2013.
Model CL–600–2A12 (CL–601 Variant) and CL–600–2B16 (CL–601–3A and –3R Variant) airplanes having S/N 3001 through 3066 inclusive, and 5001 through 5194 inclusive.	Inboard flaps having greater than 7,400 total flight cycles, but equal to or less than 14,850 total flight cycles, as of the effective date of this AD.	Within 500 flight cycles or within 48 months after the effective date of this AD, whichever occurs first; but not exceeding 15,100 total flight cycles.	Bombardier Service Bulletin 601–0631, dated September 26, 2013.
Model CL–600–2A12 (CL–601 Variant) and CL–600–2B16 (CL–601–3A and –3R Variant) airplanes having S/N 3001 through 3066 inclusive, and 5001 through 5194 inclusive.	Inboard flaps having greater than 14,850 total flight cycles as of the effective date of this AD.	Within 250 flight cycles or within 48 months after the effective date of this AD, whichever occurs first.	Bombardier Service Bulletin 601–0631, dated September 26, 2013.
Model CL–600–2A12 (CL–601 Variant) and CL–600–2B16 (CL–601–3A and –3R Variant) airplanes having S/N 3001 through 3066 inclusive, and 5001 through 5194 inclusive.	Outboard flaps having less than or equal to 7,500 total flight cycles as of the effective date of this AD.	Before the accumulation of 8,000 total flight cycles, or within 48 months after the effective date of this AD, whichever occurs first.	Bombardier Service Bulletin 601–0631, dated September 26, 2013.
Model CL–600–2A12 (CL–601 Variant) and CL–600–2B16 (CL–601–3A and –3R Variant) airplanes having S/N 3001 through 3066 inclusive, and 5001 through 5194 inclusive.	Outboard flaps having greater than 7,500 total flight cycles, but equal to or less than 11,350 total flight cycles, as of the effective date of this AD.	Within 500 flight cycles or within 48 months after the effective date of this AD; but not exceeding 11,600 total flight cycles.	Bombardier Service Bulletin 601–0631, dated September 26, 2013.
Model CL–600–2A12 (CL–601 Variant) and CL–600–2B16 (CL–601–3A and –3R Variant) airplanes having S/N 3001 through 3066 inclusive, and 5001 through 5194 inclusive.	Outboard flaps having greater than 11,350 total flight cycles as of the effective date of this AD.	Within 250 flight cycles or 48 months after the effective date of this AD, whichever occurs first.	Bombardier Service Bulletin 601–0631, dated September 26, 2013.
Model CL–600–2B16 (CL–604 Variant) airplanes having S/Ns 5301 through 5665 inclusive.	Outboard and inboard flaps	Before the accumulation of 7,800 total flight cycles or within 48 months after the effective date of this AD, whichever occurs first.	Bombardier Service Bulletin 604–57–007, dated October 2, 2013.
Model CL–600–2B16 (CL–604 Variant) airplanes having S/Ns 5701 through 5953 inclusive.	Outboard and inboard flaps	Before the accumulation of 7,800 total flight cycles or within 48 months after the effective date of this AD, whichever occurs first.	Bombardier Service Bulletin 605–57–005, dated November 15, 2013.

(i) Corrective Actions

(1) If, during the measurement required by paragraph (h) of this AD, the lug edge distance is equal to or greater than the limit specified in the applicable service bulletin specified in table 2 to paragraphs (h) and (i)(1) of this AD, no further action is required by this paragraph.

(2) If, during the measurement required by paragraph (h) of this AD, the lug edge distance is below the limit specified in the applicable service bulletin specified in table 3 to paragraphs (h) and (i)(1) of this AD, before further flight, repair 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.

(3) If, during the inspection required by paragraph (h) of this AD, any cracking or damage is found, before further flight, repair using a method approved by the Manager, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or TCCA; or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) No Alternative Actions or Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k) 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 ACO, ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as

appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or 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 Airworthiness Directive CF–2014–01, dated January 3, 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–2014–0491.

(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 July 23, 2014.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–18401 Filed 8–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 790

[FHWA Docket No. FHWA–2013–0018]

RIN 2125–AF63

Congestion Mitigation and Air Quality Improvement (CMAQ) Program

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The CMAQ program provides funding to State and local governments for transportation projects and programs to help meet the requirements of the Clean Air Act (CAA). Funding is available to reduce congestion and improve air quality for areas that do not meet the National Ambient Air Quality Standards (NAAQS) for ozone, carbon monoxide (CO), or particulate matter (nonattainment areas) and for areas that were out of compliance but have now met the standards (maintenance areas). The Moving Ahead for Progress in the 21st Century Act (MAP–21) requires priority use of CMAQ funds in areas that are designated nonattainment or maintenance for fine particulate matter ($PM_{2.5}$) NAAQS under the CAA. Specifically, an amount equal to 25 percent of the CMAQ funds apportioned to each State for a nonattainment or maintenance area that is based all or in part on the weighted population of the $PM_{2.5}$ nonattainment area shall be obligated to projects that reduce $PM_{2.5}$ emissions in such area. These projects include diesel retrofits for on-road and some off-road applications, as well as for diesel equipment operated on a highway construction project within $PM_{2.5}$ nonattainment and maintenance areas.

Although the MAP–21 language for the CMAQ funds that must be obligated for $PM_{2.5}$ projects (referred to in this NPRM as a "set-aside") instructs that the set-aside be calculated based on "weighted population" for $PM_{2.5}$, the statute does not specify the values to be applied to determine the weighted population. In this proposed rule, FHWA is requesting comments on a proposed weighting factor of 5, to be used in determining the weighted population of a $PM_{2.5}$ nonattainment area.

DATES: Comments must be received on or before October 3, 2014. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, 1200 New Jersey Avenue SE., Washington, DC 20590, or submit electronically at *www.regulations.gov* or fax comments to 202–493–2251. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78).

FOR FURTHER INFORMATION CONTACT: Ms. Cecilia Ho, Office of Natural Environment, HEPN, 202–366–9862, or Ms. Janet Myers, Office of the Chief Counsel, 202–366–2019, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System at: *http://www.regulations.gov.* Electronic submission and retrieval help and guidelines are available under the help section of the Web site. It is available 24 hours each day, 365 days each year. Please follow the instructions. An electronic copy of this document may also be downloaded by accessing the Federal Register's home page at: *http://www.federalregister.gov.*

Executive Summary

I. Purpose of the Regulatory Action

This regulation seeks to establish a proposed weighting factor of 5, to be used in determining the weighted population of a $PM_{2.5}$ nonattainment area. Although the MAP–21 language for the CMAQ funds that must be obligated for $PM_{2.5}$ projects instructs that the set-aside be calculated based on "weighted population" for $PM_{2.5}$, the statute does not specify the values to be applied to determine the weighted population.

Section 1113(b)(6) of MAP–21 amends 23 U.S.C. 149 by adding subsection (k)(1) that requires priority use of CMAQ funds in areas that are designated nonattainment or maintenance for the $PM_{2.5}$ NAAQS.[1] Specifically, 23 U.S.C. 149(k)(1) states that an amount equal to 25 percent of the funds attributed to $PM_{2.5}$ nonattainment in each of the affected States must be used for projects that reduced $PM_{2.5}$ emissions in those nonattainment and maintenance areas.

Although this MAP–21 language states that the $PM_{2.5}$ set-aside must be

[1] The EPA has set both an annual and a 24-hour NAAQS for $PM_{2.5}$ (40 CFR 50.7).

calculated based on "weighted population," it is not specific regarding what that weighting factor should be. Because the language does not specify values to be applied to determine the weighted population, that determination must be made by FHWA as the agency implementing the CMAQ Program.

II. Summary of the Major Provisions of the Regulatory Action in Question

Section 790.107(d). Weighting Factors for Determining Weighted Populations. Subsection (d) would incorporate the weighting factor chosen by FHWA for $PM_{2.5}$ as a result of this rulemaking. The MAP–21 makes clear that populations in $PM_{2.5}$ nonattainment areas must be weighted, but it does not establish a specific weighting factor for those populations. This subsection would establish an appropriate weighting factor for $PM_{2.5}$. The FHWA is seeking comments on establishing a weighting factor of 5 for $PM_{2.5}$ populations, as discussed below.

III. Costs and Benefits

This rulemaking proposes to set forth requirements for the CMAQ Program, which would not change overall levels of State apportionments. Regardless of the weighting factor for $PM_{2.5}$ that FHWA chooses to establish through this rulemaking, a State's total apportionment under the CMAQ program will not change; only the amount that the State would be required to set-aside for projects that reduce $PM_{2.5}$ would change. Regardless of the weighting factor selected, only modest differences would result in the portion set aside for $PM_{2.5}$. This rulemaking may result in minimal costs to grantees, and FHWA seeks comment on administrative or other costs that may be incurred as a result of the proposed weighting factor.

Background

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240, 105 Stat. 1914) established the CMAQ Program. The program provides funding to State and local governments for transportation projects and programs to help meet the requirements of the CAA (42 U.S.C. 7401 *et seq.*). Funding is available to reduce congestion and improve air quality for areas that do not meet the NAAQS for ozone, CO, or particulate matter (nonattainment areas) and for areas that were out of compliance but have now met the standards (maintenance areas). The program was reauthorized under the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107) in 1998, under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, 119 Stat. 1144) in 2005, and most recently under MAP–21 (Pub. L. 112–141, 126 Stat. 405) in 2012.

The CMAQ Program supports two important DOT goals: Improving air quality and relieving congestion. This program helps States and metropolitan areas meet their CAA obligations in nonattainment and maintenance areas. Additionally, MAP–21 puts an increased focus on addressing $PM_{2.5}$ emissions, also referred to as "fine particulate matter".

The $PM_{2.5}$ can create significant health risks at levels above the NAAQS, including premature death from heart and lung diseases. Newly available information [2] for fine particles provides a substantially stronger level of confidence compared to previous reviews about a causal relationship between long- and short-term exposures to $PM_{2.5}$ and mortality and cardiovascular and respiratory effects. The studies indicate that fine particles pose a serious public health problem. Exposure to fine particulate pollution at levels above the NAAQS can cause premature death and harmful effects on the cardiovascular system (the heart, blood, and blood vessels). Fine particle exposure also is linked to a variety of other public health problems, including respiratory diseases.[3] An extensive body of scientific evidence indicates that breathing in $PM_{2.5}$ over the course of hours to days (short-term exposure) and months to years (long-term exposure) can cause serious public health effects that include premature death and adverse cardiovascular and respiratory effects.

The health effects of $PM_{2.5}$ are also greater when compared to the effects of other pollutants. For example, results of one recent research study [4] found that exposure to modeled 2005 air quality concentrations relative to non-anthropogenic background air quality concentrations of $PM_{2.5}$ was estimated to result in approximately 130,000 (51,000–200,000) [5] premature deaths nationally for people greater than age 29, while ozone was predicted to result in approximately 19,000 (7,600–29,000) premature deaths nationally for people greater than age 29. The health benefits of reducing $PM_{2.5}$ are particularly large because the relationship between $PM_{2.5}$ and mortality is stronger than for ozone. Therefore, the avoided mortality due to reductions in $PM_{2.5}$ will be greater than proportional reductions in ozone.

I. Issue To Be Addressed by Rulemaking

Section 1113(b)(6) of MAP–21 amends 23 U.S.C. 149 by adding subsection (k)(1) that requires priority use of CMAQ funds in areas that are designated nonattainment or maintenance for the $PM_{2.5}$ NAAQS.[6] Specifically, 23 U.S.C. 149(k)(1) states:

> For any State that has a nonattainment or maintenance area for fine particulate matter, an amount equal to 25 percent of the funds apportioned to each State under section 104(b)(4) for a nonattainment or maintenance area that are based all or in part on the weighted population of such area in fine particulate matter nonattainment shall be obligated to projects that reduce such fine particular matter emissions in such area, including diesel retrofits.

Although this MAP–21 language states that the $PM_{2.5}$ set-aside must be calculated based on "weighted population", it is not specific regarding what that weighting factor should be. Because the language does not specify values to be applied to determine the weighted population, that determination must be made by FHWA as the agency implementing the CMAQ Program.

Giving a higher or lower weighting factor to $PM_{2.5}$ populations will not affect each State's overall CMAQ apportionment. It may affect only the portion of each State's overall CMAQ apportionment required to be obligated for projects that reduce $PM_{2.5}$ emissions. Generally, a higher weighting factor would mean States must spend more funds on $PM_{2.5}$ reduction strategies; a lower weighting factor would mean lower mandated spending on $PM_{2.5}$ projects.

II. Background of the Proposal

Under ISTEA, TEA–21, and SAFETEA–LU, funding apportionments

[2] U.S. EPA. Integrated Science Assessment for Particulate Matter (Final Report). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–08/139F, 2009 (available at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=216546*); EPA National Ambient Air Quality Standards for Particular Matter: Final rule, 78 FR 3086 (January 15, 2013) (available at *http://www.gpo.gov/fdsys/pkg/FR-2013-01-15/pdf/2012-30946.pdf*).

[3] EPA. Particle Pollution and Health, 2012 (available at *http://www.epa.gov/pm/2012/decfshealth.pdf*).

[4] Fann N, Lamson A, Wesson K, Risley D, Anenberg SC, Hubbell BJ. Estimating the National Public Health Burden Associated with Exposure to Ambient $PM_{2.5}$ and Ozone. Risk Analysis; 2011 (available at *http://onlinelibrary.wiley.com/doi/10.1111/j.1539-6924.2011.01630.x/full*).

[5] The ranges presented in parentheses for each health impact represents the 95 percent confidence interval calculated using a Monte Carlo method based on the standard error reported in each epidemiological study included in this analysis.

[6] The EPA has set both an annual and a 24-hour NAAQS for $PM_{2.5}$ (40 CFR 50.7).

for each State were calculated based on a formula for weighted populations in ozone and CO nonattainment and maintenance areas. All three prior transportation authorizations contained specific weighting factors to be used in the calculations. Unlike previous legislation, MAP–21 does not include a statutory distribution formula for CMAQ apportionment, although it indirectly references the former statutory formula. Beginning on October 1, 2012, a State's CMAQ apportionment is determined by multiplying a State's total amount for all apportioned programs under MAP–21 by the share of the State's total Fiscal Year (FY) 2009 apportionments for the CMAQ Program, based on the statutory formula at the time.[7]

For the $PM_{2.5}$ set-aside calculation, FHWA is following the prior statutory approach to weighted population formulas. To determine the 25 percent that States must set-aside for $PM_{2.5}$ nonattainment and maintenance areas, FHWA must determine weighted populations for ozone, CO, and $PM_{2.5}$ nonattainment and maintenance areas. The weighted population numbers provide a means to reflect the severity of the air quality problems among the populations of the areas in nonattainment and maintenance for ozone, CO, and in nonattainment for $PM_{2.5}$. The FHWA is using the weighting factors in the most recent statutory apportionment formula from SAFETEA–LU for ozone and CO. Because MAP–21 and prior legislation did not include a $PM_{2.5}$ weighting factor in CMAQ apportionment formulas, FHWA is proposing to assign a new weighting factor to $PM_{2.5}$. For informational purposes, the process of how weighted population is calculated is described below.

The FHWA will continue to use the weighted population formula, which was used in prior statutes, under MAP–21. To determine the amount of the $PM_{2.5}$ set-aside, based on the congressional description of the set-aside, requires several mathematical steps. The first step is to determine the part of the State's net CMAQ apportionment that is attributable to $PM_{2.5}$ nonattainment and maintenance. The State's weighted populations in nonattainment and maintenance areas are determined for all three criteria pollutants (ozone, CO, and $PM_{2.5}$) by multiplying the population in each county with a nonattainment or maintenance area, by the weighting factors for each pollutant for which the county is in nonattainment or maintenance status, to determine the State's weighted population by county for each criteria pollutant. The weighted populations of all counties for each pollutant (ozone, CO, and $PM_{2.5}$) are then added up to determine the State's total weighted population for all three of these criteria pollutants. The weighted populations for all counties in nonattainment or maintenance status for $PM_{2.5}$ are added up and divided by the State's total weighted population for all three criteria pollutants to determine the percentage of the State's total weighted population for all three criteria pollutants that are attributable to $PM_{2.5}$. The net CMAQ apportionment amount then is multiplied by the $PM_{2.5}$ percentage to determine the amount of the net CMAQ apportionment amount attributable to $PM_{2.5}$ pollutants. The resulting number is multiplied by 25 percent to arrive at the $PM_{2.5}$ set-aside under 23 U.S.C. 149(k)(1). States are to spend that set-aside only on $PM_{2.5}$ projects, as chosen by the States, in the nonattainment or maintenance areas for $PM_{2.5}$. This is not meant to imply that areas cannot spend additional CMAQ funds on $PM_{2.5}$ projects.

To calculate the weighted population of an area under 23 U.S.C. 149(k)(1), FHWA will use updated populations based on the most recent data available from the U.S. Census Bureau for each county, or part of a county, that is designated nonattainment or maintenance for ozone, CO, or $PM_{2.5}$. The U.S. Census Bureau provides annual estimates of county populations, and FHWA historically has used this jurisdictional level to determine CMAQ apportionments. Updated populations will then be given a relative value—a weighting—that corresponds to the nonattainment designation and severity of the criteria pollutant classification of the area, as established under the CAA. While MAP–21 does not include a weighted population, FHWA uses the weighting factors in the most recent statutory apportionment formula from SAFETEA–LU for ozone and CO, since retaining these weights would be consistent with MAP–21 provisions for using State's FY 2009 apportionments as the basis for calculating CMAQ apportionments funding under MAP–21. Because MAP–21 and prior legislation did not include a $PM_{2.5}$ weighting factor in CMAQ apportionment formulas, FHWA is proposing to assign a new weighting factor to $PM_{2.5}$

For FY 2013 and 2014, FHWA implemented the MAP–21 changes by an administrative determination to use a weighting factor of 1.2 for $PM_{2.5}$ areas. The outcome of this rulemaking will not affect the calculations made for FY 2013 and 2014, and FHWA will continue to use the interim weighting factor of 1.2 until a factor is established through this rulemaking. The administrative determination to use a weighting factor of 1.2 for the $PM_{2.5}$ areas was based on the following: first, FHWA noted that the earlier Senate version of MAP–21 (section 1113(j)(6) of S. 1813) included a 1.2 weighting factor for an apportionment formula for areas designated nonattainment or maintenance for $PM_{2.5}$. Second, historically, the weighting factors applied ranged from 1.0 for CO and the lowest ozone classification to 1.4 for the highest ozone classification. A weighting factor of 1.2 is the midpoint value of that range, which would put $PM_{2.5}$ at a comparable level with the two other criteria pollutants (CO and ozone) under prior legislation. Finally, FHWA considered that, while a weight of 1.2 would set the floor for the 25 percent set-aside, it would not preclude a State from investing more funding on $PM_{2.5}$ strategies if the State determined that it was the most appropriate use of its funds. However, due to the serious health impacts of $PM_{2.5}$ as discussed in Section I, FHWA has decided to seek the benefit of public comment to evaluate the appropriate $PM_{2.5}$ weighting factor through the rulemaking process. The FHWA will continue to use 1.2 as the weighting factor for determining $PM_{2.5}$ set-aside until the rulemaking is completed.

The weighting factor for $PM_{2.5}$ is the focus of this rulemaking. The FHWA also proposes to include the prior statutory weighting factors for ozone and CO in the rule text because those factors are used in the calculation of the $PM_{2.5}$ set-aside. However, since the ozone and CO weighting factors are already incorporated in the calculation of the CMAQ apportionments established under MAP–21, FHWA is not considering changes to these weighting factors.

III. Section-by-Section Discussion of the Proposal

Following is a discussion of each of the Sections in the proposed rule:

Section 790.101 Purpose. This section sets forth the purpose of the proposed regulation, explaining that it is intended to establish a weight for $PM_{2.5}$ populations that would be used in calculating the 25 percent set-aside that must be used for $PM_{2.5}$ reduction strategies in any State that has a $PM_{2.5}$ nonattainment or maintenance area. This section also identifies the legislative basis for the rulemaking in 23 U.S.C. 149(k)(1), as amended by MAP–21 section 1113(b)(6).

[7] 23 U.S.C. 104(b)(4).

Section 790.103 Applicability. This section clarifies that this proposed regulation would apply to all States that have a $PM_{2.5}$ nonattainment or maintenance area. It would not apply to States that do not have a $PM_{2.5}$ nonattainment or maintenance area.

Section 790.105 Definitions. This section establishes that definitions contained in 23 U.S.C. 101(a) are applicable to this part. It also defines some additional terms that would be used in the proposed regulation. It includes a definition for Criteria Pollutant, Maintenance Area, National Ambient Air Quality Standards, Nonattainment Area, and Weighted Populations.

Section 790.107. Weighting Factors for Determining Weighted Populations. Subsections (a), (b), and (c) of this section would present the weighting factors for ozone and CO that are incorporated into the calculation of State apportionments of CMAQ funding under MAP–21 and are used as part of the weighted population formula for the calculation of the $PM_{2.5}$ set-aside. While MAP–21 does not include a weighted population formula, it directed that the FY 2009 CMAQ and total State apportionments be used as the basis for calculating CMAQ apportionments under MAP–21. The FY 2009 CMAQ apportionments were calculated based on the weighted values in the most recent statutory apportionment formula from SAFETEA–LU for ozone and CO. Retaining these weights is necessary in order to be consistent with the approach under MAP–21 of using FY 2009 apportionments as the basis for CMAQ funding. These weights are included in the rulemaking to clarify the ozone and CO weighting factors to be used in the $PM_{2.5}$ set-aside formula. However, since they are based in prior statute, FHWA is not proposing changes to these weighting factors.

Subsection (d) would incorporate the weighting factor chosen by FHWA for $PM_{2.5}$ as a result of this rulemaking. As discussed above, MAP–21 makes clear that populations in $PM_{2.5}$ nonattainment areas must also be weighted, but it does not establish a specific weighting factor for those populations. This subsection would establish an appropriate weighting factor for $PM_{2.5}$. The FHWA is seeking comments on establishing a weighting factor of 5 for $PM_{2.5}$ populations, as discussed in more detail in the next section.

IV. Determine $PM_{2.5}$ Weighting Factor

The FHWA is proposing to set a weighting factor of 5 for $PM_{2.5}$ areas. The FHWA requests comments on this weighting factor. The FHWA requests that commenters provide comments on whether setting the weighting factor at 5 may present any implementation concerns for States or local transportation agencies, and if so, how FHWA could address those concerns.

Based upon FHWA's review of the serious health impacts of $PM_{2.5}$ as described above, and Congress' direction to reduce $PM_{2.5}$ emissions, as evidenced by its action to set-aside a portion of CMAQ funds to address $PM_{2.5}$ emissions, FHWA believes it is reasonable to establish a weighting factor of 5. Given the severity of $PM_{2.5}$ health impacts, a weight substantially higher than the weights for ozone and carbon monoxide is appropriate. Setting a higher weight for $PM_{2.5}$ relative to the other two criteria pollutants is consistent with the emphasis by Congress on $PM_{2.5}$ reduction strategies by singling them out for the set-aside. Using the combined weight for the two other criteria pollutants, ozone and carbon monoxide, as a point of reference, FHWA believes that a weight for $PM_{2.5}$ of approximately twice the weight for both of these criteria pollutants combined is reasonable. The highest combined weight for ozone and carbon monoxide populations is 2.4.[8] Given the severe health impacts of $PM_{2.5}$ as discussed above, FHWA, therefore, believes that a weight for $PM_{2.5}$ populations of 5 is appropriate. FHWA requests comments on this weighting factor.

V. Illustrations of Effects of Weighting on Funding Levels for $PM_{2.5}$ Set-aside

The FHWA's analyses indicate that setting the weighting factor at 5, as compared to the 1.2 used for FY 2013 and 2014, only produces a modest difference in the amount of funding required to be set aside for $PM_{2.5}$ reduction strategies in States with $PM_{2.5}$ nonattainment or maintenance areas. The 25 percent priority established by Congress still functions as a maximum or a ceiling for this dedicated portion of CMAQ funding. For illustrative purposes, a hypothetical example of a CMAQ apportionment at $100 million is presented below to demonstrate the order of magnitude of the change in the resulting values for the $PM_{2.5}$ set-aside, using 1.2, 2.5, and 5 as factors for weighted populations in $PM_{2.5}$ nonatttainment areas.[9]

Illustrative CMAQ apportionment at $100 million	Illustrative $PM_{2.5}$ set-aside at 1.2	Illustrative $PM_{2.5}$ set-aside at 2.5	Illustrative $PM_{2.5}$ set-aside at 5
$100,000,000	$19,667,367	$21,449,921	$22,693,414

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered by FHWA and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that this action would be a significant rulemaking action within the meaning of Executive Order 12866 and would be significant within the meaning of the DOT's regulatory policies and procedures. This action is considered significant based upon FHWA's review of the serious health impacts of $PM_{2.5}$ as described above, and Congress' direction to reduce $PM_{2.5}$ emissions, as evidenced by its action to set aside a portion of CMAQ funds to address $PM_{2.5}$ emissions.

However, this rulemaking is not considered economically significant within the meaning of Executive Order 12866 because this action would only have a limited impact on funding levels and affect a small measure of change in the existing CMAQ program. This rulemaking proposes to set forth requirements for the CMAQ Program, which would not change overall levels of State apportionments. Regardless of

[8] Based on the previous CMAQ apportionment formula, the weighting factor for an extreme ozone nonattainment area is 1.4 and the weighting factor for a CO area is 1.0. The combined weights for ozone and CO is calculated as follows: 1.4 +1.0 = 2.4.

[9] Population in ozone and CO nonattainment and maintenance areas were weighted using factors as described in section 790.107.

the weighting factor for $PM_{2.5}$ that FHWA chooses to establish through this rulemaking, a State's total apportionment under the CMAQ program will not change; only the amount that the State would be required to set-aside for projects that reduce $PM_{2.5}$ would change. As illustrated in the table above, regardless of whether FHWA selects a weighting factor of 1.2, 2.5, or 5, only modest differences would result in the portion set aside for $PM_{2.5}$. This rulemaking may result in minimal costs to grantees, and FHWA seeks comment on administrative or other costs that may be incurred as a result of the proposed weighting factor. The proposed change is not anticipated to materially and adversely affect any sector of the economy. In addition, FHWA does not anticipate that these proposed changes would create a serious inconsistency with any other agency's action or materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 60l-612), FHWA has evaluated the effects of this proposed action on small entities and has determined that the proposed action would not have a significant economic impact on a substantial number of small entities.

The proposed rule addresses requirements for the use of CMAQ funds in certain States for implementing the CMAQ Program. As such, it affects only States, and States are not included in the definition of a small entity set forth in 5 U.S.C. 601. Therefore, the Regulatory Flexibility Act does not apply, and I hereby certify that this action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This proposed rule would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $143.1 million or more in any one year (2 U.S.C. 1532). Further, in compliance with the Unfunded Mandates Reform Act of 1995, FHWA will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the effects on State, local, and tribal governments and the private sector. Additionally, the definition of "Federal Mandate" in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has preliminarily determined that this proposed action would not warrant the preparation of a federalism assessment. The FHWA has also determined that this proposed action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

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.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposal does not contain collection of information requirements for the purposes of the PRA.

National Environmental Policy Act

The agency has analyzed this action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and has determined that it will not have any significant effect on the quality of the environment and meets the criteria for a categorical exclusion under 23 CFR 771.117(c)(20).

Executive Order 12630 (Taking of Private Property)

The FHWA has analyzed this proposed rule under Executive Order 12630, *Governmental Actions and Interface with Constitutionally Protected Property Rights.* The FHWA does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under Executive Order 12630.

Executive Order 12898 (Environmental Justice)

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,* and DOT Order 5610.2(a), 91 FR 27534 (May 10, 2012) (available online at *www.fhwa.dot.gov/enviornment/environmental_justice/ej_at_dot/order_56102a/index.cfm*), require DOT agencies to achieve environmental justice (EJ) as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of their programs, policies, and activities on minority and low income populations in the United States. The DOT Order requires DOT agencies to address compliance with the Executive Order and the DOT Order in all rulemaking activities. In addition, on June 14, 2012, the FHWA issued an update to its EJ order, FHWA Order 6640.23A, *FHWA Actions to Address Environmental Justice in Minority Populations and Low Income Populations* (available online at *www.fhwa.dot.gov/legsregs/directives/orders/664023a.htm*).

The FHWA has evaluated this proposed rule under the Executive Order, the DOT Order, and the FHWA Order. The agency has determined that the proposed rule, if finalized, would not cause disproportionately high and adverse human health and environmental effects on minority or low income populations. This action proposes to establish the weight applied in calculating the $PM_{2.5}$ set-aside under the CMAQ Program. The selected weight would be used only to determine the amount of apportioned CMAQ funds that each State must obligate to projects that reduce $PM_{2.5}$ emissions. The same weight would be applied nationwide. The States, as grantees, would decide which projects they would like to fund with the set-aside, including which $PM_{2.5}$ nonattainment or maintenance areas should host the projects and thereby benefit from reduced $PM_{2.5}$ emissions. As part of the environmental review process required before FHWA approves funding for a State-selected project, the FHWA will evaluate the potential EJ impacts of the project pursuant to the Executive Order, DOT Order, and FHWA Order described above.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

We have analyzed this rule under Executive Order 13045, *Protection of Children from Environmental Health Risks and Safety Risks.* The FHWA certifies that this proposed action would not cause any environmental risk to health or safety that might disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175 and believes that the proposed action would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal laws. The proposed rulemaking addresses the weighting factor for the $PM_{2.5}$ areas for use in determining the weighted population to be included in the calculations of the $PM_{2.5}$ set-asides under 23 U.S.C. 149(k), and would not impose any direct compliance requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this action under Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.* We have determined that it is not a significant energy action under that order since it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Issued on: July 21, 2014

Gregory G. Nadeau,

Deputy Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA proposes to add part 790 to title 23, subchapter H, Code of Federal Regulations, to read as follows:

PART 790—CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT

Sec.

Authority: 23 U.S.C. 149; 49 CFR 1.85.

§ 790.101 Purpose.

The purpose of this part is to establish the weighting factors, as directed by 23 U.S.C. 149(k)(1), for the calculation of weighted population to determine the 25 percent of the funds apportioned under section 23 U.S.C. 104(b)(4) for any State that has a $PM_{2.5}$ nonattainment or maintenance area that must be obligated to fund projects that reduce $PM_{2.5}$ emissions in such area.

§ 790.103 Applicability.

This part applies to all States that have a $PM_{2.5}$ nonattainment or maintenance area.

§ 790.105 Definitions.

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. As used in this part:

Criteria pollutant means any pollutant for which there is established a NAAQS at 40 CFR part 50. The transportation related criteria pollutants per 40 CFR 93.102(b) are carbon monoxide, nitrogen dioxide, ozone and particulate matter (PM_{10} and $PM_{2.5}$).

Maintenance area means any geographic region of the United States that the Environmental Protection Agency (EPA) previously designated as a nonattainment area for one or more pollutants pursuant to the Clean Air Act Amendments of 1990 and subsequently redesignated as attainment subject to the requirement to develop a maintenance plan under section 175A of the Clean Air Act, as amended.

National Ambient Air Quality Standards (NAAQS) means those standards established by the EPA pursuant to section 109 of the Clean Air Act.

Nonattainment area means any geographic region of the United States that EPA has designated as nonattainment under section 107 of the Clean Air Act for any pollutant for which a national ambient air quality standard exists.

Weighted population means the population of each county within a designated ozone, carbon monoxide (CO), and $PM_{2.5}$ nonattainment and maintenance area that would be given a relative value, or weighting to reflect the severity of the pollutant classification or designation.

§ 790.107 Weighting factors for determining weighted population.

(a) For purposes of 23 U.S.C. 149(k)(1), for an ozone nonattainment and maintenance area, the weighting factors determined are as follows:

(1) Marginal nonattainment area, the weighting factor is 1.0.

(2) Moderate nonattainment area, the weighting factor is 1.1.

(3) Serious nonattainment area, the weighting factor is 1.2.

(4) Severe nonattainment area, the weighting factor is 1.3.

(5) Extreme nonattainment area, the weighting factor is 1.4.

(6) Maintenance area, the weighting factor is 1.0.

(b) For purposes of 23 U.S.C. 149(k)(1), for a carbon monoxide nonattainment and maintenance area, the weighting factor is 1.0.

(c) For purposes of 23 U.S.C. 149(k)(1), for areas that are designated nonattainment or maintenance for ozone and carbon monoxide, the weighting factor is 1.2 multiplied by the applicable ozone factor as defined in paragraph (a) of this section.

(d) For purposes of 23 U.S.C. 149(k)(1), for a $PM_{2.5}$ nonattainment area, the weighting factor is 5.0. For a $PM_{2.5}$ maintenance area, the weighting factor is 1.0.

(e) For purposes of 23 U.S.C. 149(k)(1), for areas that are designated nonattainment or maintenance for ozone and nonattainment for $PM_{2.5}$, the weighting factor is 5.0 multiplied by the applicable ozone factor as defined in paragraph (a) of this section.

[FR Doc. 2014–17786 Filed 8–1–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Parts 1010, 1020, 1023, 1024, and 1026

RIN 1506–AB25

Customer Due Diligence Requirements for Financial Institutions

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Financial Crimes Enforcement Network (FinCEN), after consulting with staff from various federal supervisory authorities, is proposing rules under the Bank Secrecy Act to clarify and strengthen customer due diligence requirements for: Banks; brokers or dealers in securities; mutual funds; and futures commission merchants and introducing brokers in commodities. The proposed rules would contain explicit customer due diligence requirements and would include a new regulatory requirement to identify beneficial owners of legal entity customers, subject to certain exemptions.

DATES: Written comments on the Notice of Proposed Rulemaking (NPRM) must be received on or before October 3, 2014.

ADDRESSES: Comments may be submitted, identified by Regulatory Identification Number (RIN) 1506–AB25, by any of the following methods:

- *Federal E-rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Include RIN 1506–AB25 in the submission. Refer to Docket Number FINCEN–2014–0001.
- *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Include 1506–AB25 in the body of the text. Please submit comments by one method only. All comments submitted in response to this NPRM will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

Inspection of comments: Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (not a toll free call). In general, FinCEN will make all comments publicly available by posting them on *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: FinCEN Resource Center at 1–800–767–2825 or 1–703–905–3591 (not a toll free number) and select option 3 for regulatory questions. Email inquiries can be sent to *FRC@fincen.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FinCEN exercises regulatory functions primarily under the Currency and Foreign Transactions Reporting Act of 1970, as amended by the USA PATRIOT Act of 2001 (PATRIOT Act) and other legislation, which legislative framework is commonly referred to as the "Bank Secrecy Act" (BSA).[1] The BSA authorizes the Secretary of the Treasury (Secretary) to require financial institutions to keep records and file reports that "have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism."[2]

The Secretary has delegated to the Director of FinCEN the authority to implement, administer and enforce compliance with the BSA and associated regulations.[3] FinCEN is authorized to impose anti-money laundering (AML) program requirements on financial institutions,[4] as well as to require financial institutions to maintain procedures to ensure compliance with the BSA and the regulations promulgated thereunder or to guard against money laundering.[5]

FinCEN, in consultation with the staffs of the federal functional regulators and the Department of Justice, has determined that more explicit rules for covered financial institutions[6] with respect to customer due diligence (CDD) are necessary to clarify and strengthen CDD within the BSA regime. As demonstrated further below, such changes will enhance financial transparency and safeguard the financial system against illicit use. Requiring financial institutions to perform effective CDD so that they know their customers—both who they are and what transactions they conduct—is a critical aspect of combating all forms of illicit financial activity, from terrorist financing and sanctions evasion to more traditional financial crimes, including money laundering, fraud, and tax evasion. For FinCEN, the key elements of CDD include: (i) Identifying and verifying the identity of customers; (ii) identifying and verifying the identity of beneficial owners of legal entity customers (i.e., the natural persons who own or control legal entities); (iii) understanding the nature and purpose of customer relationships; and (iv) conducting ongoing monitoring to maintain and update customer information and to identify and report suspicious transactions. Collectively, these elements comprise the minimum standard of CDD, which FinCEN believes is fundamental to an effective AML program.

Accordingly, this Notice of Proposed Rulemaking (NPRM) proposes to amend FinCEN's existing rules so that each of these pillars is explicitly referenced in a corresponding requirement within FinCEN's program rules. The first element, identifying and verifying the identity of customers, is already included in the existing regulatory requirement to have a customer identification program (CIP). Given this fact, FinCEN is addressing the need to have explicit requirements with respect to the three remaining elements via two rule changes. First, FinCEN is addressing the need to collect beneficial owner information on the natural persons behind legal entities by proposing a new separate requirement to identify and verify the beneficial owners of legal entity customers, subject to certain exemptions. Second, FinCEN is proposing to add explicit CDD requirements with respect to understanding the nature and purpose of customer relationships and conducting ongoing monitoring as components in each covered financial institution's core AML program requirements. Within this context, FinCEN is also updating its regulations to include explicit reference to all four of the pre-existing core requirements of an AML program, sometimes referred to as "pillars," so that all of these requirements are visible within FinCEN's rules. As discussed in more detail below, these existing core requirements are already laid out in the BSA as minimum requirements and are substantively the same as those already included within regulations or rules issued by federal functional regulatory agencies and self-regulatory organizations (SROs), and therefore we believe they do not add to or otherwise change the covered financial institutions' existing obligations under these regulations or rules.

FinCEN wishes to emphasize at the outset that nothing in this proposal is intended to lower, reduce, or limit the due diligence expectations of the federal functional regulators or in any way limit their existing regulatory discretion. To clarify this point, this proposal incorporates the CDD elements on nature and purpose and ongoing monitoring into FinCEN's existing AML program requirements, which generally provide that an AML program is

[1] The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 18 U.S.C. 1956, 1957, and 1960, and 31 U.S.C. 5311–5314 and 5316–5332 and notes thereto, with implementing regulations at 31 CFR chapter X. *See* 31 CFR 1010.100(e).

[2] 31 U.S.C. 5311.

[3] Treasury Order 180–01 (March 24, 2003).

[4] 31 U.S.C. 5318(h)(2).

[5] 31 U.S.C. 5318(a)(2).

[6] For purposes of this preamble, a "covered financial institution" refers to: (i) Banks; (ii) brokers or dealers in securities; (iii) mutual funds; and (iv) futures commission merchants and introducing brokers in commodities.

adequate if, among other things, the program complies with the regulation of its federal functional regulator (or, where applicable, self-regulatory organization) governing such programs.[7] In addition, the Treasury Department intends for the requirements contained in this customer due diligence and beneficial ownership proposal to be consistent with, and not to supersede, any regulations, guidance or authority of any federal banking agency, the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), or of any self-regulatory organization (SRO) relating to customer identification, including with respect to the verification of the identities of legal entity customers.

The remainder of this background section provides: (a) An overview of the importance of CDD; (b) a description of the Advance Notice of Proposed Rulemaking (ANPRM),[8] which initiated this rulemaking process and Treasury's subsequent outreach to the private sector; and (c) an overview of Treasury's efforts to enhance financial transparency more broadly.

A. Importance of Customer Due Diligence

Clarifying and strengthening CDD requirements for U.S. financial institutions, including an obligation to identify beneficial owners, advances the purposes of the BSA by:

- Enhancing the availability to law enforcement, as well as to the federal functional regulators and SROs, of beneficial ownership information of legal entity customers obtained by U.S. financial institutions, which assists law enforcement financial investigations and regulatory examinations and investigations;
- Increasing the ability of financial institutions, law enforcement, and the intelligence community to identify the assets and accounts of terrorist organizations, money launderers, drug kingpins, weapons of mass destruction proliferators, and other national security threats, which strengthens compliance with sanctions programs designed to undercut financing and support for such persons;
- Helping financial institutions assess and mitigate risk, and comply with all existing legal requirements, including the BSA and related authorities;
- Facilitating reporting and investigations in support of tax compliance, and advancing national commitments made to foreign counterparts in connection with the provisions commonly known as the Foreign Account Tax Compliance Act (FATCA);[9] and
- Promoting consistency in implementing and enforcing CDD regulatory expectations across and within financial sectors.

i. Assisting Financial Investigations by Law Enforcement

The abuse of legal entities to disguise involvement in illicit financial activity remains a longstanding vulnerability that facilitates crime, threatens national security, and jeopardizes the integrity of the financial system. Criminals have exploited the anonymity that can be provided by legal entities to engage in a variety of financial crimes, including money laundering, corruption, fraud, terrorist financing, and sanctions evasion.

There are numerous examples. Law enforcement officials have found that major drug trafficking organizations use shell companies to launder drug proceeds.[10] In 2011, a World Bank report highlighted how corrupt actors consistently abuse legal entities to conceal the proceeds of corruption, which the report estimates to aggregate to at least $40 billion per year in illicit activity.[11] Other criminals also make aggressive use of front companies, which may also conduct legitimate business activity, to disguise the deposit, withdrawal, or transfer of illicit proceeds that are intermingled with legitimate funds.

Strong CDD practices that include identifying the natural persons behind a legal entity—i.e., the beneficial owners—help defend against these abuses in a variety of ways. Armed with beneficial ownership information, financial institutions can provide law enforcement with key details about the legal structures used by suspected criminals to conceal their illicit activity and assets. Moreover, requiring legal entities seeking access to financial institutions to disclose identifying information, such as the name, date of birth, and social security number of a natural person, will make such entities more transparent, and thus less attractive to criminals and those who assist them. Even if an illicit actor tries to thwart such transparency by providing false beneficial ownership information to a financial institution, law enforcement has advised FinCEN that such information can still be useful in demonstrating unlawful intent and in generating leads to identify additional evidence or co-conspirators.

ii. Advancing Counterterrorism and Broader National Security Interests

As noted, criminals often abuse legal entities to evade sanctions or other targeted financial measures designed to combat terrorism and other national security threats. The success of such targeted financial measures depends, in part, on the ability of financial institutions, law enforcement, and intelligence agencies to identify a target's assets and accounts. These measures are thwarted when legal entities are abused to obfuscate ownership interests. Effective CDD helps prevent such abuses by requiring the collection of critical information, including beneficial ownership information, which may be helpful in implementing sanctions or other similar measures.

iii. Improving a Financial Institution's Ability To Assess and Mitigate Risk

Express CDD requirements would also enable financial institutions to more effectively assess and mitigate risk. It is through CDD that financial institutions are able to develop risk profiles of their customers. Comprehensive risk profiles enable a financial institution to monitor accounts more effectively, and evaluate activity to determine whether it is unusual or suspicious, as required under suspicious activity reporting obligations.[12] Further, in the event that a financial institution files a suspicious activity report (SAR), information gathered through CDD enhances SARs, which in turn helps law enforcement, intelligence, national security and tax authorities investigate and pursue illicit financing activity.

iv. Facilitating Tax Compliance

Customer due diligence also facilitates tax reporting, investigations and compliance. For example,

[7] *See, e.g.*, 31 CFR 1020.210, which currently provides that a financial institution regulated by a Federal functional regulator that is not subject to the regulations of a self-regulatory organization shall be deemed to satisfy the requirements of 31 U.S.C. 5318(h)(1) if it implements and maintains an anti-money laundering program that complies with *the regulation of its Federal functional regulator governing such programs.* (emphasis added).

[8] See 77 FR 13046, March 5, 2012.

[9] Hiring Incentives to Restore Employment Act of 2010, Public Law 111–147, Section 501(a).

[10] *Combating Transnational Organized Crime: International Money Laundering as a Threat to Our Financial System, Before the Subcomm. on Crime, Terrorism, and Homeland Security, H. Comm. on the Judiciary, 112th Cong.* (February 8, 2012) (statement of Jennifer Shasky Calvery as Chief, Asset Forfeiture and Money Laundering Section, Criminal Division of the U.S. Department of Justice).

[11] *The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It*, The International Bank for Reconstruction and Development/The World Bank (2011).

[12] *See, e.g.*, 31 CFR 1020.320.

information held by banks and other financial institutions about the ownership of companies can be used to assist law enforcement in identifying the true owners of assets and their true tax liabilities. The United States has long been a global leader in establishing and promoting the adoption of international standards for transparency and information exchange to combat cross-border tax evasion and other financial crimes. Strengthening CDD is an important part of that effort, and it will dovetail with other efforts to create greater transparency, such as the new tax reporting provisions under the Foreign Account Tax Compliance Act (FATCA).[13] FATCA requires foreign financial institutions to identify U.S. account holders, including legal entities with substantial U.S. ownership, and to report certain information about those accounts to the Internal Revenue Service (IRS).[14] The United States has collaborated with foreign governments to enter into intergovernmental agreements that facilitate the effective and efficient implementation of these requirements. These agreements and, to a lesser extent, the applicable FATCA regulations, allow foreign financial institutions to rely on existing AML practices in a number of circumstances, including, in the case of the agreements, for purposes of determining whether certain legal entity customers have substantial owners. Pursuant to many of these agreements, the United States has committed to pursuing reciprocity with respect to collecting and reporting to the authorities of the FATCA partner information on the U.S. accounts of residents of the FATCA partner. A general requirement for U.S. financial institutions to obtain beneficial ownership information for AML purposes advances this commitment, and puts the United States in a better position to work with foreign governments to combat offshore tax evasion and other financial crimes.

v. Promoting Clear and Consistent Expectations and Practices

Customer due diligence is universally recognized as fundamental to mitigating illicit finance risk, even though not all covered financial institutions use the specific term "customer due diligence" to describe their practices. While Treasury understands from its outreach to the private sector that financial institutions broadly accept this principle and implement CDD practices in some form under a risk-based approach, covered financial institutions have expressed disparate views about what precise activity CDD entails. At public hearings held after the comment period to the ANPRM, discussed below, financial institutions described widely divergent CDD practices, especially with respect to identifying beneficial owners outside of limited circumstances prescribed by statute.[15]

FinCEN believes that this disparity adversely affects efforts to mitigate risk and can promote an uneven playing field across and within financial sectors. Covered financial institutions have noted that unclear CDD expectations can result in inconsistent regulatory examinations, potentially causing them to devote their limited resources to managing derivative legal risk rather than fundamental illicit finance risk. Private sector representatives have also noted that inconsistent expectations can effectively discourage best practices, because covered financial institutions with robust compliance procedures may believe that they risk losing customers to other, more lax institutions. Greater consistency across the financial system could also facilitate reliance on the CDD efforts of other financial institutions.

Providing a consolidated and clear CDD framework would help address these issues. As part of this framework, expressly stating CDD requirements in rule or regulation with respect to (i) understanding the nature and purpose of customer relationships and (ii) conducting ongoing monitoring to maintain and update customer information and to identify and report suspicious transactions, will facilitate more consistent implementation, supervision and enforcement of these expectations. With respect to the beneficial ownership proposal, requiring all covered financial institutions to identify beneficial owners in the same manner and pursuant to the same definition also promotes consistency across the industry. Requiring covered financial institutions to operate under one clear CDD framework will promote a more level playing field across and within financial sectors.

B. Issuance of the Advance Notice of Proposed Rulemaking and Subsequent Outreach

FinCEN formally commenced this rulemaking process in March 2012 by issuing an ANPRM that described FinCEN's potential proposal for codifying explicit CDD requirements, including customer identification, understanding the nature and purpose of accounts, ongoing monitoring, and obtaining beneficial ownership information.[16]

FinCEN received approximately 90 comments, mostly from banks, credit unions, securities and derivatives firms, mutual funds, casinos, and money services businesses. In general, and as described in greater detail below, these commenters primarily raised concerns about the potential costs and practical challenges associated with a categorical requirement to obtain beneficial ownership information. They also reflected some confusion with respect to FinCEN's articulation of the other components of CDD, suggesting that FinCEN was imposing new requirements rather than explicitly codifying pre-existing obligations.

To better understand and address these concerns, Treasury held five public hearings in Washington, DC, Chicago, New York, Los Angeles and Miami.[17] At these meetings, participants expressed their views on the ANPRM and offered specific recommendations about how best to minimize the burden associated with obtaining beneficial ownership information. These

[13] Hiring Incentives to Restore Employment Act of 2010, Public Law 111–147, Section 501(a).

[14] *See generally,* Internal Revenue Service, "Regulations Relating to Information Reporting by Foreign Financial Institutions and Withholding on Certain Payments to Foreign Financial Institutions and Other Foreign Entities," RIN 1545–BK68 (January 28, 2013), *ovoiloble ot http://www.irs.gov/PUP/businesses/corporations/TD9610.pdf* . For further updates on FATCA regulations, see *http://www.irs.gov/Businesses/Corporotions/Foreign-Account-Tox-Complionce-Act-(FATCA).*

[15] *See, e.g., Summory of Public Hcoring: Advonce Notice of Proposed Rulemoking on Customer Due Diligence* (October 5, 2012), *ovoiloble ot http://www.fincen.gov/whotsnew/html/20121130NYC.html* ("Participants expressed varied views as to whether, how and in what circumstances, financial institutions obtain beneficial ownership information.").

[16] Two years prior to that, in March 2010, FinCEN, along with several other agencies, published *Joint Guidonce on Obtoining ond Retoining Beneficiol Ownership Informotion,* FIN–2010–G001 (March 5, 2010). Industry reaction to this guidance has been one reason for pursuit of the clarity entailed in making requirements with respect to CDD and beneficial ownership explicit within FinCEN's regulations.

[17] *Summory of Public Hcoring: Advonce Notice of Proposed Rulemoking on Customer Due Diligence* (July 31, 2012), *ovoiloble ot http://www.regulotions.gov/#!documentDetoil;D=FINCEN-2012-0001-0094*; *Summory of Public Hcoring: Advonce Notice of Proposed Rulemoking on Customer Due Diligence* (September 28, 2012, *ovoiloble ot http://www.fincen.gov/whotsnew/html/20121130CHI.html*; *Summory of Public Hcoring: Advonce Notice of Proposed Rulemoking on Customer Due Diligence* (October 5, 2012), *ovoiloble ot http://www.fincen.gov/whotsnew/html/20121130NYC.html; Summory of Public Hcoring: Advoncc Notice of Proposed Rulemoking on Customer Due Diligencc* (October 29, 2012), *ovoiloble ot http://www.fincen.gov/whotsnew/html/20121130LA.html*; *Summory of Public Hcoring: Advonce Notice of Proposed Rulemoking on Customer Due Diligence* (December 3, 2012), *ovoiloble ot http://www.finccn.gov/whotsnew/pdf/SummoryofHcoring-MiomiDec3.pdf.*

discussions were critical in the development of this proposal.

C. Treasury's Broad Strategy To Enhance Financial Transparency

Clarifying and strengthening CDD is an important component of Treasury's broader three-part strategy to enhance financial transparency. Other key elements of this strategy include: (i) Increasing the transparency of U.S. legal entities through the collection of beneficial ownership information at the time of the legal entity's formation and (ii) facilitating global implementation of international standards regarding CDD and beneficial ownership of legal entities and trusts.

This proposal thus complements the Administration's ongoing work with Congress to facilitate adoption of legislation that would require the collection of beneficial ownership information at the time that legal entities are formed in the United States. This proposal also advances Treasury's ongoing work with the Group of Twenty Finance Ministers and Central Bank Governors (G–20), the Financial Action Task Force (FATF), and other global partners, who have emphasized the importance of improving CDD practices and requiring the disclosure of beneficial ownership information at the time of company formation or transfer. Moreover, this proposal furthers the United Staẗes' Group of Eight (G–8) commitment as set forth in the United States G–8 Action Plan for Transparency of Company Ownership and Control, published on June 18, 2013.[18] This Action Plan is in line with principles agreed to by the G–8, which the White House noted "are crucial to preventing the misuse of companies by illicit actors." [19] While these elements are all proceeding independently, together they establish a comprehensive approach to promoting financial transparency.

II. Scope of and Rationale for the Proposed Rule

This section describes: (i) The range of financial institutions covered by this proposal; (ii) FinCEN's continued interest in potentially extending the proposed rule to additional financial institutions in the future, and (iii) the basis for proposing explicit requirements that, in conjunction with the existing customer identification program (CIP) requirement, will create a clearer CDD framework.

As an initial matter, this proposal covers only those financial institutions subject to a CIP requirement under FinCEN regulations. At this time, such financial institutions are: (i) Banks; (ii) brokers or dealers in securities; (iii) mutual funds; and (iv) futures commission merchants and introducing brokers in commodities.[20] FinCEN believes that initially covering only these sectors is an appropriate exercise of its discretion to engage in incremental rulemaking. These sectors represent a primary means by which individuals and businesses maintain accounts with access to the financial system. In addition, because these covered financial institutions have been subject to CIP rules, FinCEN believes that it is logical to commence implementation with those financial institutions already equipped to leverage CIP practices to the extent possible, as the proposal contemplates.

In addition to input from covered financial institutions, FinCEN sought and received comments on the ANPRM from financial institutions not subject to CIP requirements, such as money services businesses, casinos, insurance companies, and other entities subject to FinCEN regulations. Based on these comments and discussions with the private sector, FinCEN believes that extending CDD requirements in the future to these, and potentially other types of financial institutions, may ultimately promote a more consistent, reliable, and effective AML regulatory structure across the financial system.

Several comments questioned the need for proposing a CDD rule that contained all four elements, when three of the four elements are already consistent with existing requirements or supervisory expectations. FinCEN believes that proposing clear CDD requirements is the most effective way of clarifying, consolidating, and harmonizing expectations and practices across all covered financial institutions. Expressly stating the requirements facilitates the goal that financial institutions, regulators, and law enforcement all operate under the same set of clearly articulated principles. The proposed CDD requirements are intended to set forth a clear framework of minimum expectations that can be broadly applied to varying risk scenarios across multiple financial sectors and can be tailored by financial institutions to account for the risks unique to them. For this reason, and as part of a broader global agenda supported by Treasury, many other jurisdictions have already imposed requirements similar to those proposed herein.[21] These global developments promote a level playing field internationally and mitigate the threat of illicit finance presented by an increasingly interconnected financial system.

Furthermore, additional discussions with the private sector reaffirmed FinCEN's view that a beneficial ownership requirement is best understood in the context of broader due diligence conducted on customers. Beneficial ownership information is only one component of a broader profile that is necessary for financial institutions to develop when assessing a particular customer's risk. Beneficial ownership information is a means of building a more comprehensive risk profile; it is not an end in and of itself. Thus, in addition to proposing a specific requirement for the collection of the beneficial ownership information, FinCEN is also proposing amendments to its AML program rules to specifically reference the two components of CDD that were not elsewhere explicitly included in its regulations, i.e., understanding the nature and purpose of an account and conducting ongoing monitoring.

III. Elements of the Proposed Rule

A. Overview

As described briefly above, it is FinCEN's position that CDD consists, at a minimum, of four elements:

- Identifying and Verifying the Identity of Customers;
- Identifying and Verifying the Identity of Beneficial Owners of Legal Entity Customers;
- Understanding the Nature and Purpose of Customer Relationships; and
- Conducting Ongoing Monitoring to Maintain and Update Customer Information and to Identify and Report Suspicious Transactions.

Because the first element of CDD is already satisfied by existing CIP

[18] United States G–8 Action Plan for Transparency of Company Ownership and Control, *available at http://www.whitehause.gov/the-press-affice/2013/06/18/united-states-g-8-action-plan-transparency-company-ownership-and-cantral.*

[19] White House Fact Sheet: U.S. National Action Plan on Preventing the Misuse of Companies and Legal Arrangements (June 18, 2013), *available at http://www.whitehouse.gav/the-press-office/2013/06/18/fact-sheet-us-natianal-actian-plan-preventing-misuse-campanies-and-legal.*

[20] 31 CFR 1020.220 (Banks); 31 CFR 1023.220 (Broker-Dealers); 31 CFR 1024.220 (Mutual Funds); 31 CFR 1026.220 (Futures Commission Merchants and Introducing Brokers in Commodities).

[21] For example, all European Union member states, as well as Switzerland, Singapore, Hong Kong, and other financial centers generally require financial institutions to conduct due diligence as proposed in this rulemaking, including obtaining beneficial ownership information as part of their CDD requirements. *See, e.g.*, Third European Union Money Laundering Directive, 2005/60/EC, Article 3(6) (Oct. 26, 2005).

requirements,[22] this NPRM proposes to address the remaining three elements of CDD.

Beneficial Ownership

The second element of CDD requires financial institutions to identify and verify the beneficial owners of legal entity customers. In this NPRM, FinCEN proposes a new requirement that financial institutions identify the natural persons who are beneficial owners of legal entity customers, subject to certain exemptions. The definition of "beneficial owner" proposed herein requires that the person identified as a beneficial owner be a natural person (as opposed to another legal entity). A financial institution must satisfy this requirement by obtaining at the time a new account is opened a standard certification form (attached hereto as Appendix A) directly from the individual opening the new account on behalf of the legal entity customer.

The term "beneficial owner" has been defined differently in different contexts. In the AML context, the Financial Action Task Force (FATF), the global standard setter for combating money laundering and the financing of terrorism and proliferation, defines the beneficial owner as "the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement." That definition, initially adopted in 2003, has been retained in the revised FATF standards adopted in 2012.[23] FinCEN has endeavored to capture both the concept of ownership and of effective control in its proposed definition.

Financial institutions would be required to verify the identity of beneficial owners consistent with their existing CIP practices. However, FinCEN is not proposing to require that financial institutions verify that the natural persons identified on the form are in fact the beneficial owners. In other words, the requirement focuses on verifying the identity of the beneficial owners, but does not require the verification of their status as beneficial owners. This proposed requirement states *minimum* standards. As will be described in greater detail below, FinCEN believes that the beneficial ownership requirement is the only new requirement imposed by this rulemaking. As such, although beneficial ownership identification is but one of four requirements for a comprehensive CDD scheme, the proposed beneficial ownership rule is being proposed as a separate provision in FinCEN's regulations; other components of this rulemaking will be addressed via amendments to existing provisions, as described below.

Understanding the Nature and Purpose of Customer Relationships/Monitoring for Suspicious Activity

The NPRM also addresses the third and fourth elements of CDD by proposing amendments to the AML program rule that harmonize these elements of CDD with existing AML obligations. The third element of CDD requires financial institutions to understand the nature and purpose of customer relationships in order to develop a customer risk profile. This is a necessary and critical step in complying with the existing requirement to identify and report suspicious transactions as required under the BSA. The fourth element of CDD requires financial institutions to conduct ongoing monitoring. As with the third element, ongoing monitoring is a necessary part of maintaining and updating customer information and identifying and reporting suspicious transactions as required under the BSA.

The third and fourth elements are consistent with, and in fact necessary in order to comply with, the existing requirement to report suspicious activity, as this obligation inherently requires a financial institution to understand expected customer activity in order to develop a customer risk profile and to monitor customer activity so that it can identify transactions that appear unusual or suspicious. As such, the third and fourth elements are intended to explicitly state already existing expectations for the purpose of codifying the baseline standard of due diligence that is fundamental to an effective AML program.

Because these two elements are consistent with (and necessary in order to comply with) existing BSA requirements as adopted in regulations or rules issued by federal functional regulators and SROs, nothing in this proposed rule should be interpreted in a manner inconsistent with previous guidance issued by FinCEN or guidance, regulations, or supervisory expectations of the appropriate federal functional regulator or SRO with respect to these elements.[24] For example, the Federal Financial Institutions Examination Council (FFIEC)[25] provided supervisory expectations for examinations related to CDD in the FFIEC BSA/AML Examination Manual.[26] FinCEN believes that, aside from the new beneficial ownership requirement, the other proposed CDD elements are consistent with the regulatory expectations of the federal functional regulators and should be interpreted accordingly.[27] Of course, as the CDD requirements proposed herein state *minimum* standards, existing or future guidance, regulations or supervisory expectations may provide for additional requirements or steps that should be taken to mitigate risk.

The sections below further describe each of the three CDD elements addressed in this rulemaking in detail by providing a general overview of these elements as discussed in the ANPRM, a summary of the comments received, and FinCEN's specific proposal.

B. Identifying and Verifying the Identity of Beneficial Owners of Legal Entity Customers

With respect to this element of CDD,[28] the ANPRM explored a categorical requirement for financial institutions to identify the beneficial owners of legal entity customers. Unlike the other elements of CDD, this element would impose a new regulatory obligation on financial institutions. Currently, certain financial institutions are explicitly

[22] *See, e.g.*, 31 CFR 1010.220.

[23] "International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation—The FATF Recommendations," February 2012, General Glossary, at 109, *available at http://www.fatf-gafi.org/topics/fatfrecommendations/documents/internationalstandardsoncombatingmoneylonderingandthefinancingofterrorismproliferation-thefatfrecommendations.html.*

[24] While FinCEN reserves overall compliance and enforcement authority with respect to all regulations it issues under the under the BSA, FinCEN has, by regulation, delegated authority to the federal functional regulators to examine institutions under their jurisdiction for compliance with BSA regulations, including the AML program requirements. *See* 31 CFR 1010.810.

[25] The FFIEC is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Consumer Financial Protection Bureau, and to make recommendations to promote uniformity in the supervision of financial institutions.

[26] The Bank Secrecy Act Anti-Money Laundering Examination Manual, issued by the Federal Financial Institutions Examination Council (as amended, the "BSA/AML Manual").

[27] The future status of previous guidance related to identifying beneficial owners of legal entity customers, such as the *Joint Guidonce on Obtoining ond Retoining Beneficiol Ownership Information*, FIN–2010–G001 (March 5, 2010), will be addressed at the time of the issuance of a final rule.

[28] For purposes of clarity, this NPRM references the elements of CDD in a different order than was used in the ANPRM; Identifying and Verifying the Identity of the Beneficial Owners of Legal Entity Customers is now listed before Understanding the Nature and Purpose of Customer Relationships.

required to take reasonable steps to identify beneficial owners in only two limited situations.[29]

i. Summary of Comments

1. Private Sector Comments

While a number of private sector comments offered general support for a reasonable expansion of the beneficial ownership requirement and noted that many financial institutions already identify beneficial owners in certain circumstances beyond those explicitly required under the regulations implementing Section 312 of the PATRIOT Act, most expressed the following primary criticisms and concerns:

- The burden and costs associated with a categorical (versus a risk-based) obligation to collect beneficial ownership information may outweigh the benefits;
- An express beneficial ownership requirement should be (at least in part) risk-based to account for the wide variety of financial institutions, account types, products, and customers that comprise the financial system, and to avoid requiring financial institutions to misallocate scarce compliance resources away from high-risk customers;
- A categorical requirement should include exemptions, including for those customers currently exempt from customer identification requirements;
- Any definition of "beneficial owner" should be practical and easily understood by financial institution employees and customers;
- Financial institutions may be unable to verify the status of a beneficial owner absent an independent source of beneficial ownership information, such as a state registry; and
- FinCEN should consider the compliance challenges associated with specific account and relationship types, such as intermediated relationships and trusts.

2. Law Enforcement Comments

Most of the comment letters submitted by law enforcement agencies and non-governmental organizations also focused on the beneficial ownership element of the CDD rule. In general, these letters highlighted the following benefits that such an obligation would provide:

- A beneficial ownership rule would require financial institutions to retain more useful customer information, which would significantly improve law enforcement's ability to pursue new leads with respect to legal entities under investigation;
- Beneficial ownership information would improve financial institutions' monitoring capabilities, and put them in a position to file higher quality SARs; and
- Obtaining beneficial ownership information for U.S. legal entities would enhance the United States' ability to respond to a foreign jurisdiction's request for investigative assistance. This would assist in efforts to join with foreign counterparts in global efforts to disrupt organized crime and terrorism.

ii. Key Issues and FinCEN Proposals

As described above, Treasury has engaged in extensive outreach with the private sector and law enforcement agencies to better understand and address these issues. Such discussions were essential in further developing the initial proposals set forth in the ANPRM to better conform with existing practices and more comprehensively account for regulatory burden and sector-specific complexities. Key issues raised during the comment period included: The definition of "beneficial owner" and "legal entity customer"; exemptions and exclusions from the definition; application of the requirement to trusts, intermediated account relationships and pooled investment vehicles; verification of beneficial owners through a standard certification; updating beneficial ownership information; and reliance on other financial institutions to satisfy the requirement. Each of these issues is described in further detail below.

1. Definition of "Beneficial Owner"

The ANPRM explored a definition of "beneficial owner" with two independent components, referred to as "prongs."[30] The first prong was an *ownership prong*, the purpose of which is to identify individuals with substantial equity ownership interests. The second prong was a *control prong*, the purpose of which was to identify individuals with actual managerial control.

Many private sector commenters stated that the definition discussed in the ANPRM was conceptually confusing and unworkable in practice. For example, some commenters questioned the feasibility of engaging in a comparative analysis of every owner for purposes of determining who "has at least as great an equity interest in the entity as any other individual." A similar type of comparative analysis existed with respect to the control prong. Other commenters were uncertain as to whether an individual must satisfy both the ownership prong and the control prong to be considered a beneficial owner, or whether each prong was intended to be independently applied to identify separate individuals. Other challenges identified in the comments included, among other things: (i) Shifting ownership percentages; (ii) managerial changes; and (iii) the ability of financial institution personnel and customers to understand and respond to the definition.

FinCEN agrees that the definition of "beneficial owner" must be clear to employees and customers of financial institutions. To that end, and in light of the comments received, FinCEN proposes the following definition of "beneficial owner" of a legal entity customer, which, again, includes an ownership prong and a control prong:

Ownership Prong:

1. Each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of a legal entity customer; and

Control Prong:

2. An individual with significant responsibility to control, manage, or direct a legal entity customer, including

(A) An executive officer or senior manager (e.g., a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer); or

(B) Any other individual who regularly performs similar functions.

Each prong is intended to be an independent test. Under the ownership

[29] Under FinCEN regulations implementing Section 312 of the USA PATRIOT Act (Section 312), covered financial institutions that offer private banking accounts are required to take reasonable steps to identify the nominal and beneficial owners of such accounts, 31 CFR 1010.620(b)(1), and covered financial institutions that offer correspondent accounts for certain foreign financial institutions are required to take reasonable steps to obtain information from the foreign financial institution about the identity of any person with authority to direct transactions through any correspondent account that is a payable-through account, and the sources and beneficial owner of funds or other assets in the payable-through account, 31 CFR 1010.610(b)(1)(iii)(A).

[30] The ANPRM suggested the following definition of "beneficial owner": (1) Either: (a) Each of the individual(s) who, directly or indirectly, through any contract, arrangement, understanding, relationship, intermediary, tiered entity, or otherwise, owns more than 25 percent of the equity interests in the entity; or (b) if there is no individual who satisfies (a), then the individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, intermediary, tiered entity, or otherwise, has at least as great an equity interest in the entity as any other individual, and (2) the individual with greater responsibility than any other individual for managing or directing the regular affairs of the entity.

prong (i.e., clause (1)), a financial institution must identify *each* individual who owns 25 percent or more of the equity interests. Accordingly, a financial institution would be required to identify no more than four individuals under this prong, and, if no one individual owns 25 percent or more of the equity interests, then the financial institution may identify no individuals under the ownership prong. Under the control prong (clause (2)), a financial institution must identify *one* individual. In cases where an individual is both a 25 percent owner and meets the definition for control, that same individual could be identified as a beneficial owner under both prongs.

FinCEN believes this definition provides clarity and effectiveness. In contrast to the definition suggested in the ANPRM, this definition provides greater flexibility to financial institutions and customers in responding to the control prong of the definition by permitting the identification in clause (ii) of *any* individual with significant managerial control, which could include a President, Chief Executive Officer or other senior executive, or any other individual acting in a similar capacity. Moreover, this definition does not require a financial institution to comparatively assess individuals to determine who has the greatest equity stake in the legal entity. The 25 percent equity ownership threshold set forth in the ownership prong of the definition sets a clear standard that can be broadly applied. At the same time, the 25 percent threshold retains the benefits of identifying key individuals with a substantial ownership interest in the legal entity.

Commenters expressed concern that identifying beneficial owners under the ownership prong would be difficult for legal entity customers that have complex legal ownership structures. FinCEN acknowledges that identifying the individuals who own, directly or indirectly, 25 percent or more of the equity interests of a legal entity may not be straightforward in every circumstance. For instances where legal entities are held by other legal entities, determining ownership may require several intermediate analytical steps. FinCEN's expectation is that a financial institution will identify the natural person or persons who exercise control of a legal entity customer through a 25% or greater ownership interest, regardless of how many corporate parents or holding companies removed the natural person is from the legal entity customer. Consequently, the term "equity interests" should be interpreted broadly to apply to a variety of different legal structures and ownership situations. In short, "equity interests" refers to an ownership interest in a business entity. Examples of "equity interests" include shares or stock in a corporation, membership interests in a limited liability company, and other similar ownership interests in a legal entity. FinCEN has deliberately avoided use of more specific terms of art associated with the exercise of control through ownership, based on the preferences expressed by many members of industry, who have urged FinCEN to avoid creating a definition with complex legal terms that front-line employees at financial institutions, and the individuals opening accounts on behalf of legal entity customers, might have difficulty understanding and applying.

Moreover, the phrase "directly or indirectly" in the ownership prong of the definition is intended to make clear that where a legal entity customer is owned by (or controlled through) one or more other legal entities, the proposed rule requires customers to look through those other legal entities to determine which natural persons own 25 percent or more of the equity interests of the legal entity customer. FinCEN recognizes that identifying such individuals may be challenging where the legal entity customer has a complex legal structure with multiple levels of ownership, but FinCEN does not expect financial institutions—or customers—to undergo complex and exhaustive analysis to determine with legal certainty whether an individual is a beneficial owner under the definition. Instead, FinCEN expects financial institutions to be able to rely generally on the representations of the customer when answering the financial institution's questions about the individual persons behind the legal entity, including whether someone identified as a beneficial owner is in fact a beneficial owner under this definition. FinCEN believes that this approach provides greater flexibility to financial institutions and customers in complying with the proposed beneficial ownership requirement. In addition, by using the term "directly or indirectly," FinCEN does not intend for financial institutions to assess under this prong whether individuals are acting in concert with one another to collectively own 25 percent of more of the legal entity where each of them has an independent contributing stake; FinCEN is concerned, however, with the use of *de facto* or *de jure* nominees to give a single individual an effective ownership stake of 25 percent or more. In this instance as well, however, FinCEN expects financial institutions to be able to rely generally on the representations of the customer when answering the financial institution's questions about the individual persons behind the legal entity.

FinCEN has learned through its outreach that some financial institutions may already identify beneficial owners using a lower ownership threshold, such as 10 percent. FinCEN reiterates that the proposed CDD requirements, including the beneficial ownership requirement, are intended to set forth *minimum* due diligence expectations. Accordingly, a financial institution may determine, based on its own assessment of risk, that a lower percentage threshold, such as 10 percent, is warranted. A financial institution may also identify other individuals that technically fall outside the proposed definition of "beneficial owner," but may be relevant to mitigate risk. For example, as noted above, a financial institution may be aware of a situation in which multiple individuals with independent holdings may act in concert with each other to structure their ownership interest to avoid the 25 percent threshold. A financial institution may also be aware of an individual who effectively controls a legal entity customer through a substantial debt position. While these individuals do not fall within the proposed definition of "beneficial owner," the proposed rule is not intended to preclude a financial institution from identifying them, and verifying their identity, when it deems it appropriate to do so.

Commenters also sought clarity as to how this beneficial ownership requirement would affect the application of FinCEN regulations implementing Section 312 of the USA PATRIOT Act. The proposed requirement would apply to all legal entity customers, including legal entities that open a foreign private banking account that meets the definition in § 1010.605(m). However, the new requirements would not apply to the beneficial owner of funds or assets in a payable-through account of the type described in § 1010.610(b)(1)(iii), since the owner of such funds or assets does not have an account relationship with the covered financial institution. In such instances, compliance with the information requirements included in § 1010.610(b)(1)(iii) will suffice, and the particulars of this new requirement,

such as use of a certification form with respect to the beneficial owner of funds or assets in a payable-through account, would not apply.

2. Definition of Legal Entity Customer

While the ANPRM sought comment on whether certain legal entity customers should be exempt from the beneficial ownership requirement, it did not include a discussion of the scope of the definition of legal entity customer, which is also relevant to the notion of the exemptions. FinCEN proposes to define legal entity customers to include corporations, limited liability companies, partnerships or other similar business entities (whether formed under the laws of a state or of the United States or a foreign jurisdiction), that open a new account after the implementing date of the regulation. FinCEN would interpret this to include all entities that are formed by a filing with the Secretary of State (or similar office), as well as general partnerships and unincorporated nonprofit associations. It does not include trusts other than those that might be created through a filing with a state (e.g., statutory business trusts).

3. Exemptions and Exclusion From the Beneficial Ownership Requirement

Many commenters strongly recommended that, at a minimum, any customer exempt from identification under the CIP rules should also be exempt from the beneficial ownership requirement. The commenters noted that a contrary approach would effectively nullify the CIP exemption since a financial institution would be unable to identify a beneficial owner without first identifying the customer. Many commenters recommended that other customers should also be exempt if they are well-regulated or otherwise present a low money laundering risk. The proposed rule incorporates a number of these suggestions by exempting all types of entities that are exempt from CIP, as well as allowing for other specific exemptions.

a. Customers Exempt From CIP

FinCEN proposes to exempt from the beneficial ownership requirement those types of entities that are exempt from the customer identification requirements under the CIP rules.[31] Those types of entities include, but are not limited to, financial institutions regulated by a federal functional regulator (i.e., federally regulated banks, brokers or dealers in securities, mutual funds, futures commission merchants and introducing brokers in commodities), publicly held companies traded on certain U.S. stock exchanges, domestic government agencies and instrumentalities and certain legal entities that exercise governmental authority.[32] These exemptions are incorporated into the proposed beneficial ownership requirement by excluding these entities from the definition of "legal entity customer," which corresponds to how these entities are exempted from CIP (i.e., by excluding them from the definition of "customer").[33] Consequently, the definition of "legal entity customer" for purposes of the beneficial ownership requirement excludes all the same types of entities as the definition of "customer" for purposes of the CIP rules, including exclusions based on guidance issued by FinCEN and the federal functional regulators with regard to the applicability of the CIP rules. For example, where previous guidance has clarified who a "customer" is in a particular relationship, that same analysis would generally apply in determining whether an entity is a "legal entity customer" for purposes of the proposed beneficial ownership requirement.[34]

b. Additional Exemptions for Certain Legal Entity Customers

In addition to incorporating exemptions applicable to the CIP rules, and consistent with various suggestions provided in the comment letters, FinCEN proposes that the following entities also be exempt from the beneficial ownership requirement when opening a new account because their beneficial ownership information is generally available from other credible sources:

- An issuer of a class of securities registered under Section 12 of the Securities Exchange Act of 1934 or that is required to file reports under Section 15(d) of that Act;
- Any majority-owned domestic subsidiary of any entity whose securities are listed on a U.S. stock exchange;
- An investment company, as defined in Section 3 of the Investment Company Act of 1940, that is registered with the SEC under that Act;
- An investment adviser, as defined in Section 202(a)(11) of the Investment Advisers Act of 1940, that is registered with the SEC under that Act;
- An exchange or clearing agency, as defined in Section 3 of the Securities Exchange Act of 1934, that is registered under Section 6 or 17A of that Act;
- Any other entity registered with the Securities and Exchange Commission under the Securities and Exchange Act of 1934.
- A registered entity, commodity pool operator, commodity trading advisor, retail foreign exchange dealer, swap dealer, or major swap participant, each as defined in section 1a of the Commodity Exchange Act, that is registered with the CFTC;
- A public accounting firm registered under section 102 of the Sarbanes-Oxley Act; and
- A charity or nonprofit entity that is described in Sections 501(c), 527, or 4947(a)(1) of the Internal Revenue Code of 1986, that has not been denied tax exempt status, and that is required to and has filed the most recently required annual information return with the Internal Revenue Service.

FinCEN notes that exempting these entities from the beneficial ownership

[31] Although we propose to include the *types* of entities exempted from the CIP requirements, the exemption proposed for this rule would not cover all the entities included in the exemption from the CIP requirements. This is because FinCEN does not propose to include an exemption for legal entities with existing accounts that open new accounts after the implementation date of the rule. The inclusion of such an exemption would parallel the exemption in the CIP requirements per the definition of "customer." *See, e.g.* 31 CFR 1020.100(c)(2)(iii) and 1023.100(d)(2)(iii). However, FinCEN believes that such an approach would not serve the purposes of the present rule. In situations where a legal entity is opening an account in addition to a previously existing account, the new requirement will apply. If the pre-existing account pre-dates the implementation date of the rule, the financial institution will need to obtain the certification form. If the pre-existing account was established after the implementation date, it may be reasonable for a financial institution to rely on the certification obtained when opening the first account in some circumstances. In other circumstances, collection of an additional certificate may be necessary. The likelihood of change in beneficial ownership since the time of the previous account opening would be a key factor in a financial institution's approach to the requirement.

[32] *See, e.g.*, 31 CFR 1020.100(c)(2)(i).

[33] *See, e.g.*, 31 CFR 1020.100(c)(2)(ii).

[34] *See, e.g.*, FinCEN Guidance, FIN–2007–G001, Application of the Customer Identification Program Rule to Futures Commission Merchants Operating as Executing and Clearing Brokers in Give-Up Arrangements (April 20, 2007), *ovoiloble ot http://www.fincen.gov/stotutes_regs/guidance/html/cftc_fincen_guidonce.html;* FinCEN Guidance, FIN–2006–G004, Frequently Asked Question Regarding Customer Identification Programs for Futures Commission Merchants and Introducing Brokers (31 CFR 103.123 (February 14, 2006)), *ovoiloble ot http://www.fincen.gov/statutes_regs/guidance/html/futures_omnibus_account_qa_finol.html;* Interagency Interpretive Guidance on Customer Identification Program Requirements under Section 326 of the USA PATRIOT Act at Question 9 (April 28, 2005), *ovoiloble ot http://www.fincen.gov/stotutes_regs/guidonce/html/foqsfinalciprule.html;* Guidance from the Staffs of the Department of the Treasury and the U.S. Securities and Exchange Commission, Question and Answer Regarding the Broker-Dealer Customer Identification Program Rule (31 CFR 103.122) (October 1, 2003), *available at http://www.fincen.gov/statutes_regs/guidance/html/20031001.html.*

requirement does not necessarily imply that they all present a low risk of money laundering or terrorist financing. For example, a charity may present a high risk of terrorist financing and therefore require additional due diligence. However, charities are exempt because the legal structure of a charity as a tax exempt organization does not create a beneficial ownership interest in the sense discussed above. Rather the primary interests created by a charitable structure include donors, board oversight and management, employees, and beneficiaries. Under such a structure, board oversight is akin to ownership, and management is akin to control. In order to obtain and maintain such a legal structure under the tax code the charity must report and annually update its donors, board and management to the Internal Revenue Service. Such reports must be publicly available.[35]

c. Existing and New Customers

FinCEN also sought comment on whether and how a beneficial ownership requirement should apply to customers of financial institutions where such relationships have been established prior to the implementation date of this rule. Financial institutions noted that a requirement to "look back" to obtain beneficial ownership information from existing customers would be a substantial burden. FinCEN proposes that the beneficial ownership requirement will apply only with respect to legal entity customers that open new accounts going forward from the date of implementation. Thus, the definition of "legal entity customer" is limited to legal entities that open a new account after the implementation date. Although FinCEN is not proposing a prescriptive rule requiring financial institutions to look back and obtain beneficial ownership information for pre-existing accounts, we are aware that, as a matter of practice, financial institutions may also consider identifying beneficial owners of existing customers when updating customer information on a risk basis, as discussed more fully below.[36]

4. Trusts

Several comments described potential challenges in applying a beneficial ownership requirement to a customer that is a trust. There are many types of trusts. While a small proportion may fall within the scope of the proposed definition of legal entity customer (e.g., statutory trusts), most will not. Unlike the legal entity customers that are subject to the proposed beneficial ownership requirement (corporations, limited liability companies, etc.), a trust is generally a contractual arrangement between the person who provides the funds and specifies the trust terms (i.e., the settlor or grantor) and the person with control over the funds (i.e., the trustee) for the benefit of those who benefit from the trust (i.e., the beneficiaries). This arrangement does not generally require the approval by or other action of a state to become effective. FinCEN notes that in order to engage in the business of acting as a fiduciary it is necessary for a trust company to be federally- or state-chartered. As the comments noted, identifying a "beneficial owner" among the parties to such an arrangement for AML purposes, based on the proposed definition of beneficial owner, would not be practical. At this point, FinCEN is choosing not to impose this requirement. In this context we note that, although the trust is defined in the CIP rules as the financial institution's customer, the signatory on the account will necessarily be the trustee, who is required by law to control the trust assets (including financial institution accounts) and to know the beneficiaries (by name or class) and act in their best interest. Therefore, in the context of an investigation, law enforcement would be able to obtain from the financial institution a point of contact required by law to have information about relevant individuals associated with the trust.

The decision not to propose specific requirements in the context of trusts does not mean, however, that FinCEN necessarily considers trusts to pose a reduced money laundering or terrorist financing risk relative to the business entities included within the definition of "legal entity customer." Through its outreach, FinCEN learned that, in addition to identifying and verifying the identity of the trust for purposes of CIP, financial institutions generally also identify and verify the identity of the trustee, who would necessarily have to open the account for the trust. In addition, guidance for banks provides that "in certain circumstances involving revocable trusts, the bank may need to gather information about the settlor, grantor, trustee, or other persons with the authority to direct the trustee, and who thus have authority or control over the account, in order to establish the true identity of the customer." [37] In other words, given the variety of possible trust arrangements and the number of persons who may have roles in them, financial institutions are already taking a risk-based approach to collecting information with respect to various persons for the purpose of knowing their customer. FinCEN expects financial institutions to continue these practices as part of their overall efforts to safeguard against money laundering and terrorist financing, and will consider additional rulemaking or guidance to strengthen or clarify this expectation.

5. Intermediated Account Relationships and Pooled Investment Vehicles

The ANPRM sought comment on whether and how a beneficial ownership requirement should be applied to accounts held by intermediaries on behalf of third parties. An intermediary generally refers to a customer that maintains an account for the primary benefit of others, such as the intermediary's own underlying clients. For example, certain correspondent banking relationships may involve intermediation whereby the respondent bank of a correspondent bank acts on behalf of its own clients. Intermediation is also very common in the securities and derivatives industries. For example, a broker-dealer may establish omnibus accounts for a financial intermediary (such as an investment adviser) that, in turn, establishes sub-accounts for the intermediary's clients, whose information may or may not be disclosed to the broker-dealer. An issue raised in the comments, especially those from the securities and derivatives industries, is whether a financial institution would be required to identify the intermediary's own underlying clients or their beneficial owners. This issue is distinct from whether a financial institution must identify the beneficial owners of the intermediary (i.e., the direct customer), which would be the case unless the intermediary is exempt under one of the specific exemptions described above.

Commenters cautioned that a requirement to identify an intermediary's underlying clients or their beneficial owners could have significant detrimental consequences to the efficiency of the U.S. financial markets, because it would require financial institutions to modify longstanding practices. They suggested that, consistent with existing CIP

[35] *See Public Disclosure and Availability of Exempt Organizations Returns and Applications: Documents Subject to Public Disclosure, available at http://www.irs.gov/Charities-&-Non-Profits/Public-Disclosure-and-Availability-of-Exempt-Organizations-Returns-and-Applications:-Documents-Subject-to-Public-Disclosure.*

[36] See the discussion in Section III.d of this notice, entitled "Ongoing Monitoring."

[37] FFIEC BSA Exam/AML Manual at 286–87.

guidance related to certain intermediated relationships, a beneficial ownership requirement should apply only with respect to a financial institution's immediate customer, the intermediary, and not the intermediary's underlying clients.

FinCEN is concerned about the illicit finance risks posed by underlying clients of intermediary customers because of the lack of insight a financial institution has into those clients and their activities. However, FinCEN recognizes that this risk may be more effectively managed through other means. These would include proper customer due diligence conducted by financial institutions on their direct customers who serve as intermediaries, and appropriate regulation of the intermediaries themselves.[38] Therefore, for purposes of the beneficial ownership requirement, if an intermediary is the customer, and the financial institution has no CIP obligation with respect to the intermediary's underlying clients pursuant to existing guidance, a financial institution should treat the intermediary, and not the intermediary's underlying clients, as its legal entity customer.

Existing FinCEN guidance related to CIP practices is applicable in determining a financial institution's beneficial ownership obligations in these circumstances. For example, a broker-dealer that appropriately maintains an omnibus account for an intermediary, under the conditions set forth in the 2003 Omnibus Guidance for Broker-Dealers,[39] may treat the intermediary, and not the underlying clients, as its legal entity customer for purposes of the beneficial ownership requirement.[40] Pursuant to a clearing agreement that allocates functions in the manner described in the 2008 No-Action Position Respecting Broker-Dealers Operating Under Fully Disclosed Clearing Agreements According to Certain Functional Allocations,[41] only the introducing firm would be obligated to obtain beneficial ownership information of the customers introduced to the clearing firm. Similarly, based on guidance issued to the futures industry in the context of give-up arrangements, because the clearing broker, and not the executing broker, has a formal relationship with its customer, only the clearing broker would be responsible for obtaining beneficial ownership information regarding the underlying customer.[42]

Notwithstanding the foregoing, consistent with other elements of CDD, a financial institution's AML program should contain risk-based policies, procedures, and controls for assessing the money laundering risk posed by underlying clients of a financial intermediary, for monitoring and mitigating that risk, and for detecting and reporting suspicious activity. While a financial intermediary's underlying clients may not be subject to the beneficial ownership requirement, a financial institution would nonetheless be obligated to monitor for and report suspicious activity associated with intermediated accounts, including activity related to underlying clients. FinCEN understands that this is consistent with current industry practice. As multiple comments noted, securities and derivatives firms generally monitor activity in intermediated accounts and follow up on an event-driven basis, with such follow-up potentially including asking questions about the underlying owners of assets after detection of possible suspicious activity.[43] Such practice is also consistent with the third and fourth elements of the CDD requirements described below. FinCEN thus expects financial institutions to continue engaging in this practice.

Several comments, particularly from the securities and futures industries, also highlighted the potential challenges associated with identifying beneficial owners of non-exempt pooled investment vehicles, such as hedge funds, whose ownership structure may continuously fluctuate.[44] The comments noted that identifying beneficial owners of these entities based on a percentage ownership threshold may create unreasonable operational challenges for the purpose of obtaining information that may only be accurate for a limited period of time.

FinCEN is considering whether nonexempt pooled investment vehicles that are operated or advised by financial institutions that are proposed to be exempt, should also be exempt from this requirement. Additionally, in the event that such institutions are not exempt, FinCEN is considering whether covered financial institutions should only be required to identify beneficial owners of such non-exempt pooled investment vehicles[45] under the control prong of the "beneficial owner" definition, as opposed to both the ownership prong and control prong, in order to alleviate the operational and logistical difficulties that would be associated with complying with the ownership prong. FinCEN is also considering whether such an approach, if adopted, may best be addressed through inclusion of such vehicles within the scope of the rule with subsequent guidance or a specific exemption or exception from the application of the ownership prong of the requirement. FinCEN believes this

[38] FinCEN recognizes that some such intermediary entities are already subject to BSA requirements, while others or not. FinCEN continues to consider which additional entities may need to be brought within the scope of the FinCEN's regulations.

[39] Guidance from the Staffs of the Department of the Treasury and the U.S. Securities and Exchange Commission, *Question and Answer Regarding the Broker-Dealer Customer Identificotion Progrom Rule (31 CFR 103.122)* (October 1, 2003), *available at http://www.fincen.gov/statutes_regs/guidance/html/20031001.html.*

[40] *See olso* Guidance from the Staffs of the Department of the Treasury and the U.S. Commodity Futures Trading Commission, *Frequently Asked Questian regarding Customer Identificatian Programs for Futures Commission Merchants and Intraducing Brokers (31 CFR 103.123), ovoilable at http://www.fincen.gov/stotutes_regs/guidance/html/futures_omnibus_account_qa_final.html;* FinCEN Guidance, FIN–2006–G009, *Applicotion of the Regulotions Requiring Special Due Diligence Programs for Certoin Foreign Accounts to the Securities and Futures Industries* (May 10, 2006), *ovoilable at http://www.fincen.gov/stotutes_regs/guidance/html/312securities_futures_guidance.html.* FinCEN also notes that in such circumstances, the intermediary itself may be exempt from the beneficial ownership requirement if it satisfies one of the specific exemptions.

[41] FinCEN Guidance, FIN–2008–G002, *Customer Identificatian Pragram Rule No-Actian Positian Respecting Broker-Dealers Operoting Under Fully Disclosed Clearing Agreements According to Certoin Functionol Allocotions* (March 4, 2008), *available at http://www.fincen.gov/stotutes_regs/guidance/html/fin-2008-g002.html.*

[42] FinCEN Guidance, FIN–2007–G001, *Applicatian of the Customer Identificotion Program Rule to Future Commission Merchants Operating as Executing ond Cleoring Brokers in Give-Up Arrongements* (April 20, 2007), *available at http://www.fincen.gov/statutes_regs/guidance/html/cftc_fincen_guidonce.html.*

[43] *See, e.g.,* letter from SIFMA dated June 8, 2012 at 7, *ovoilable at http://www.sifma.org/issues/item.ospx?id=8589938990.*

[44] For purposes of this discussion, a "non-exempt pooled investment vehicle" means (i) any company that would be an investment company as defined in Section 3(a) of the Investment Company Act of 1940, but for the exclusion provided by either Section 3(c)(1) or Section 3(c)(7) of that Act; or (ii) any commodity pool under section 1a(10) of the Commodity Exchange Act (CEA) that is operated by a commodity pool operator registered with the CFTC under Section 4m of the CEA.

[45] *See, e.g.,* Securities Industry and Financial Markets Association (SIFMA) Anti-Money Laundering and Financial Crimes Committee, *Anti-Money Laundering Suggested Due Diligence Practices for Hedge Funds* (2009), *ovoilable ot http://www.sifmo.org/uploadedfiles/issues/legal,_compliance_ond_odministrotion/onti-maney_laundering_compliance/issues_anti-maney%20laundering_suggested%20due%20diligence%20practices%20for%20hedge%20funds.pdf;* Securities Industry Association Anti-Money Laundering Committee, *Suggested Practices for Customer Identification Programs,* § 3.9, *ovoiloble ot http://www.sifmo.org/uplaadedfiles/issues/legal,_complionce_ond_odministrotion/onti-maney_laundering_compliance/issues_anti-maney%20laundering_suggested%20practices%20for%20customer%20identificatian%20pragroms.pdf.*

approach may sufficiently balance benefit with burden given the unique ownership structure of pooled investment vehicles.

6. Verification of Beneficial Owners

a. Standard Certification Form

At the public hearings, participants discussed the efficacy of having a certification form that would standardize collection of beneficial ownership information and permit reliance on the information provided. FinCEN believes that providing such a form would promote consistent practices and regulatory expectations, significantly reduce compliance burden, and preserve the benefits of obtaining the information. A standard form would also promote a uniform customer experience across U.S. financial sectors. This was of particular concern to representatives from financial institutions with practices that exceed existing regulatory requirements, which noted that they often lose customers to institutions with less rigorous standards.

Accordingly, FinCEN proposes that a financial institution must satisfy the requirement to identify beneficial owners by obtaining, at the time a new account is opened, the standard certification form attached hereto as Appendix A. To promote consistent customer expectations and understanding, the form in Appendix A plainly describes the beneficial ownership requirement and the information sought from the individual opening the account on behalf of the legal entity customer. To facilitate reliance by financial institutions, the form also requires the individual opening the account on behalf of the legal entity customer to certify that the information provided on the form is true and accurate to the best of his or her knowledge. This certification is also helpful for law enforcement purposes in demonstrating unlawful intent in the event the individual completing the form knowingly provides false information.

b. Verification of Beneficial Owners

The ANPRM sought comment on whether and how financial institutions could verify beneficial ownership information provided by customers. As described in the ANPRM, verification could have two meanings. One meaning would require verifying the *identity* of an individual identified as a beneficial owner (i.e., to verify the existence of the identified beneficial owner by collecting, for example, a driver's license or other similar identification document). The second possible meaning would require financial institutions to verify that an individual identified as a beneficial owner is in fact a beneficial owner (i.e., to verify the *status* of an individual as a beneficial owner).

Many comments cautioned that a requirement to verify the *status* of a beneficial owner would be prohibitively costly and impracticable in many circumstances. They recommended that financial institutions be permitted to rely on information provided by the customer. With respect to verifying the *identity* of a beneficial owner, participants at the public hearings generally acknowledged that this would be a manageable task so long as the verification procedures are comparable to current CIP requirements. Many participants further agreed that verification of identity would substantially improve the credibility of the beneficial ownership information collected. In addition, law enforcement has indicated that verification of identity would also facilitate investigations, even if the verified individual is not the true beneficial owner because of the ability to locate and investigate that person.

In light of these considerations, FinCEN is not proposing to require that financial institutions verify the *status* of a beneficial owner. Financial institutions may rely on the beneficial ownership information provided by the customer on the standard certification form. FinCEN believes this addresses a key concern raised by the private sector about the burden and costs associated with a beneficial ownership requirement.

For verifying the identity of a beneficial owner, FinCEN proposes that financial institutions verify the identity using existing risk-based CIP practices. As such, the proposed rule provides that a financial institution must implement risk-based procedures to verify the identity of each beneficial owner according to procedures that comply with the CIP requirements to verify the identity of customers that are natural persons. Therefore, a financial institution may verify the identity of a beneficial owner using documentary or non-documentary methods, as it deems appropriate under its procedures for verifying the identity of customers that are natural persons. These procedures should enable the financial institution to form a reasonable belief that it knows the true identity of the beneficial owner of each legal entity customer. A financial institution must also include procedures for responding to circumstances in which it cannot form a reasonable belief that it knows the true identity of the beneficial owner, as described under the CIP rules. Because these practices are already well-established and understood at covered financial institutions, FinCEN expects that these institutions will leverage existing compliance procedures.

7. Updating Beneficial Ownership Information

Many financial institutions sought clarity as to whether they would be required to update or refresh periodically the beneficial ownership information obtained under this rule. FinCEN is not proposing such a requirement but notes that, as a general matter, a financial institution should keep CDD information, including beneficial ownership information, as current as possible and update as appropriate on a risk-basis. For example, a financial institution may determine that updating beneficial ownership information is appropriate after a customer has been identified as engaging in suspicious activity or exhibits other red flags, which FinCEN believes is generally consistent with existing practice for updating other customer information.

Factors that may be relevant in considering whether and when to update beneficial ownership information could include the type of business engaged in by the legal entity customer, changes in business operations or management of which the financial institution becomes aware, indications of possible misuse of a shell company in the account history, or changes in address or signatories on the account. As some financial institutions currently update CIP information at periodic intervals based on risk or when updating other customer information as part of routine account maintenance, financial institutions may consider updating beneficial ownership information on a similar basis. Each financial institution's policies and procedures should be based on its assessment of risk and tailored to, among other things, its customer base and products and services offered. In addition, financial institutions should update beneficial ownership information in connection with ongoing monitoring, as described below in the Section III.d "Ongoing Monitoring."

8. Reliance

Some comments requested that FinCEN extend the reliance provisions in the CIP rules to the beneficial ownership requirement. In general, a financial institution may rely upon another financial institution to conduct

CIP with respect to shared customers, provided that: (i) Such reliance is reasonable; (ii) the other financial institution is subject to an AML program rule and is regulated by a federal functional regulator, and (iii) the other financial institution enters into a contract and provides annual certifications regarding its AML program and CIP requirements.[46] Similarly, FinCEN proposes to permit such reliance for purposes of complying with the beneficial ownership requirement, including obtaining the certification form required under the proposed rule. Existing guidance with respect to whether a financial institution can rely on another financial institution to conduct CIP with respect to shared customers also would apply for the purposes of complying with the beneficial ownership requirement.[47] As was the case with the CIP rules, a covered financial institution will not be held responsible for the failure of the relied-upon financial institution to adequately fulfill the covered financial institution's beneficial ownership responsibilities, provided it can establish that its reliance was reasonable and that it has obtained the requisite contracts and certifications.

C. Understanding the Nature and Purpose of Customer Relationships

The third element of CDD requires financial institutions to understand the nature and purpose of customer relationships in order to develop a customer risk profile.[48] Many comments questioned whether such information is helpful for detecting suspicious activity, and expressed concern that financial institutions would be required to demonstrate compliance by formalizing this element in their policies and procedures. They suggest that it should not become a required question that must be asked of each customer during the account opening process, so long as it is understood by the financial institution.

FinCEN understands that it is industry practice to gain an understanding of a customer in order to assess the risk associated with that customer to help inform when the customer's activity might be considered "suspicious." FinCEN does not intend for this element to necessarily require modifications to existing practice or customer onboarding procedures, and does not expect financial institutions to ask each customer for a statement as to the nature and purpose of the relationship or to collect information not already collected pursuant to existing requirements. Rather, the amendment to the AML program rule that incorporates this element is intended to clarify existing expectations for financial institutions to understand the relationship for purposes of identifying transactions in which the customer would not normally be expected to engage. Identifying such transactions is a critical and necessary aspect of complying with the existing requirement to report suspicious activity and maintain an effective AML program.

FinCEN intends for this amendment to be consistent with existing rules and related guidance. For example, the requirement for financial institutions to report suspicious activity requires that they file a report on a transaction that, among other things, has "no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage."[49] In the context of depository institutions, it is well understood that "a bank should obtain information at account opening sufficient to develop an understanding of normal and expected activity for the customer's occupation or business operations."[50] This is also true in other contexts.[51] FinCEN intends for this proposed CDD element to be consistent with these types of expectations.

FinCEN believes that in some circumstances an understanding of the nature and purpose of a customer relationship can also be developed by inherent or self-evident information about the product or customer type, or basic information about the customer. FinCEN recognizes that inherent information about a customer relationship, such as the type of customer, the type of account opened, or the service or product offered, may be sufficient to understand the nature and purpose of the relationship. Obtaining basic information about the customer, such as annual income, net worth, domicile, or principal occupation or business, may similarly be relevant depending on the facts and circumstances.[52] In addition, longstanding customers of a financial institution may have a robust history of activity that could also be highly relevant in understanding future expected activity for purposes of detecting aberrations. At the same time, FinCEN recognizes that certain financial institutions, such as securities and futures firms, often maintain accounts in which expected activity can vary significantly over time based on numerous factors, and that prior transaction history or information obtained from the client upon account opening may not be a reliable indicator of future conduct. Each case depends on the facts and circumstances unique to the financial institution and its customers.

Accordingly, FinCEN believes that financial institutions should already be satisfying this element by complying with the requirement to report suspicious activity, as this element is an essential step in the process of identifying such activity. In addition, because this is a necessary step to identifying and reporting suspicious activities, which obligation applies to all "transactions . . . conducted or attempted by, at or through" the covered financial institution, its scope should not be limited to "customers" for purposes of the CIP rules, but rather should extend more broadly to encompass all accounts established by the institution.[53]

D. Ongoing Monitoring

The fourth element of CDD requires financial institutions to conduct ongoing monitoring for the purpose of maintaining and updating customer information and identifying and reporting suspicious activity.[54] As with

[46] *See, e.g.*, 31 CFR 1020.220(a)(6).

[47] *See, e.g.*, CFTC letter No. 05–05 (March 14, 2005) (FCMs and IBs are permitted to rely on CTAs to conduct CIP in certain circumstances).

[48] The ANPRM characterized this third element as "understand[ing] the nature and purpose of the account and expected activity associated with the account for the purpose of assessing the risk and identifying and reporting suspicious activity." 77 FR 13050.

[49] 31 CFR 1020.320(a)(2)(iii); see also §§ 1023.320(a)(2)(iii), 1024.320(a)(2)(iii), and 1026.320(a)(2)(iii).

[50] BSA/AML Manual at *64.

[51] *See, e.g.*, CFTC Regulation 1.37(a)(1) and NFA Compliance Rule 2–30 which require futures commission merchants and introducing brokers to obtain certain information from individuals and other unsophisticated customers during the onboarding process and to verify annually whether the information continues to be materially accurate. Although these requirements are intended to address the inherent risks of trading futures and the need for adequate risk disclosure, this information could be relevant for understanding the nature and purpose of such customer relationships.

[52] The BSA/AML Manual also notes that an understanding of normal and expected activity for the customer's occupation or business operations may be "based on account type or customer classification." BSA/AML Manual at 64.

[53] *See, e.g.*, 31 CFR 1020.100(a) and (c), which note that the definitions, and exemptions, for account and customer apply in the context of CIP. Within the context of CDD, "customer relationship" is a broader term, not subject to the exemptions referenced in definitions used for CIP.

[54] By comparison, the ANPRM suggested that "consistent with its suspicious activity reporting requirements, covered financial institutions shall establish and maintain appropriate policies, procedures, and processes for conducting on-going monitoring of all customer relationships, and

Continued

the third element, FinCEN intends for this element to be consistent with a financial institution's current suspicious activity reporting [55] and AML program requirements. A financial institution required to have an AML program must, among other things, develop internal policies, procedures and controls to assure compliance with the BSA,[56] including the SAR requirements. As a practical matter, compliance with these obligations implicitly requires financial institutions to conduct ongoing monitoring. The BSA/AML Manual notes that the internal controls of a bank's AML Program should "provide sufficient controls and monitoring systems for timely detection and reporting of suspicious activity." [57] Similarly, under rules promulgated by the Financial Industry Regulatory Authority (FINRA), a broker-dealer's AML program shall include policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder.[58] Codifying these supervisory and regulatory expectations as explicit requirements within FinCEN's AML program requirements is necessary to make clear that the minimum standards of CDD include ongoing monitoring of all transactions by, at, or through the financial institution.

Some commenters expressed confusion as to whether this fourth element would impose a categorical requirement to periodically update, or "refresh," customer information that was obtained during the account opening process, including beneficial ownership information. This element does not impose such a categorical requirement. Rather, the requirement that the financial institution "conduct ongoing monitoring to maintain and update customer information" means that, when in the course of monitoring the financial institution becomes aware of information relevant to assessing the risk posed by a customer, it is expected to update the customer's relevant information accordingly.[59] FinCEN understands that industry practice generally involves using activity data to inform what types of transactions might be considered "normal" or "suspicious." Furthermore, FinCEN understands that information that might result from monitoring could be relevant to the assessment of risk posed by a particular customer. The proposed requirement to update a customer's profile as a result of ongoing monitoring (including obtaining beneficial ownership information for existing customers on a risk basis), is different and distinct from a categorical requirement to update or refresh the information received from the customer at the outset of the account relationship at prescribed periods, as was noted in the discussion of existing customers set forth in Section III.b of this proposal.

Because financial institutions are already implicitly required to engage in ongoing monitoring, FinCEN expects that financial institutions would satisfy the fourth element of CDD by continuing their current monitoring practices, consistent with existing guidance and regulatory expectations.[60] FinCEN reiterates that all elements of CDD discussed in this proposal are minimum standards and should not be interpreted or construed as lowering, reducing or limiting the expectations established by the appropriate federal functional regulator. Finally, as noted above with respect to the obligation to understand the nature and purpose of customer relationships, monitoring is also a necessary element of detecting and reporting suspicious activities, and as such must apply not only to "customers" for purposes of the CIP rules, but more broadly to all account relationships maintained by the covered financial institution.

E. Rule Timing and Effective Date

Financial institutions have requested sufficient time to implement any new CDD requirements. Specifically, to manage costs, financial institutions requested sufficient time to incorporate these requirements into cyclical updates of their systems and processes. FinCEN believes that the two CDD requirements set forth in this proposal will not in fact require covered financial institutions to perform any additional activities or operations, although it may necessitate revisions to written policies and procedures. FinCEN also recognizes that financial institutions will be required to modify existing customer onboarding processes to incorporate the beneficial ownership requirement, and therefore proposes an effective date of one year from the date the final rule is issued.

IV. Section-by-Section Analysis

A. Beneficial Ownership Information Collection

Section 1010.230 Beneficial Ownership Requirements for Legal Entity Customers

Section 1010.230(a) General. This section sets forth the general requirement for covered financial institutions to identify the beneficial owners of each legal entity customer (as defined).

Section 1010.230(b) Identification and Verification. In order to identify the beneficial owner, a covered financial institution must obtain a certification from the individual opening the account on behalf of the legal entity customer (at the time of account opening) in the form of Appendix A. The form requires the individual opening the account on behalf of the legal entity customer to identify the beneficial owner(s) of the legal entity customer by providing the beneficial owner's name, date of birth, address and social security number (for U.S. persons).[61] This information is consistent with the information required under the CIP rules for identifying customers that are natural persons. The form also requires the individual opening the account on behalf of the legal entity customer to certify, to the best of his or her knowledge, that the information provided on the form is complete and correct. Obtaining a signed and completed form from the individual opening the account on behalf of the legal entity customer shall satisfy the requirement to identify the

additional CDD as appropriate based on such monitoring for the purpose of the identification and reporting of suspicious activity." 77 FR 13053.

[55] Under the suspicious activity reporting rules, a financial institution must report, among other things, a transaction that: (i) Involves funds derived from illegal activity or is conducted to hide or disguise funds or assets derived from illegal activity as part of a plan to violate or evade any federal law or regulation or to avoid any federal transaction reporting requirement; (ii) is designed to evade any requirements of the BSA or its implementing regulations; or (iii) has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction. 31 CFR 1020.320(a)(2)(i)–(iii); 31 CFR 1023.320(a)(2)(i)–(iii); 31 CFR 1024.320(a)(2)(i)–(iii); 31 CFR 1026.320(a)(2)(i)–(iii).

[56] *See, e.g.*, 31 U.S.C. 5318(h)(1); 12 U.S.C. 1818(s)(1); 31 CFR 1020.210.

[57] BSA/AML Manual at 33–34.

[58] FINRA Rule 3310.

[59] *See, e.g.*, BSA/AML Manual at 64 ("CDD processes should include periodic risk-based monitoring of the customer relationship to determine whether there are substantive changes to the original CDD information (e.g., change in employment or business operations).").

[60] *See, e.g.*, BSA/AML Manual at 67–85 ("Suspicious Activity Reporting—Overview"); NFA's Interpretive Notice accompanying NFA Compliance Rule 2–9 (FCMs and IBs must train appropriate staff to monitor cash activity and trading activity in order to detect unusual transactions).

[61] For foreign persons, the form requires a passport number and country of issuance, or other similar identification number.

beneficial owners under Section 1010.230(a).

This section also requires financial institutions to verify the identity of the individuals identified as beneficial owners on the certification form. The procedures for verification are to be identical to the procedures applicable to an individual opening an account under the existing CIP rules. Accordingly, the financial institution must verify a beneficial owner's identity using the information provided on the certification form (name, date of birth, address, and social security number (for U.S. persons), etc.), according to the same documentary and non-documentary methods the financial institution may use in connection with its customer identification program (to the extent applicable to customers that are individuals), within a reasonable time after the account is opened. A financial institution must also include procedures for responding to circumstances in which it cannot form a reasonable belief that it knows the true identity of the beneficial owner, as described under the CIP rules.[62]

Section 1010.230(c) Beneficial Owner. As more fully described above, the proposed definition of "beneficial owner" includes two independent prongs: An ownership prong (clause (1)) and a control prong (clause (2)). A covered financial institution must identify each individual under the ownership prong (i.e., each individual who owns 25 percent or more of the equity interests), in addition to one individual for the control prong (i.e., any individual with significant managerial control). If no individual owns 25 percent or more of the equity interests, then the financial institution may identify a beneficial owner under the control prong only. If appropriate, the same individual(s) may be identified under both criteria.

Section 1010.230(d) Legal Entity Customer. For purposes of the beneficial ownership requirement described under this Section, the proposed rule defines "legal entity customer" to mean a corporation, limited liability company, partnership or similar business entity (whether formed under the laws of a state or of the United States or a foreign jurisdiction), that opens a new account. The reference to "new account" makes clear that the obligation to identify beneficial owners under Section 1010.230 applies to legal entity customers opening new accounts after the date of rule's implementation, and not retrospectively. Previously issued guidance that clarifies who a customer is under certain circumstances shall be instructive to the extent applicable to the proposed beneficial ownership requirement.[63]

Section 1010.230(e) Covered financial Institution. This term has the meaning set forth in 31 CFR 1010.605(e)(1), which defines the term for purposes of the regulations implementing Sect 312 of the PATRIOT Act.

Section 1010.230(f) Retention of Records. A financial institution must have procedures for maintaining a record of all information obtained in connection with identifying and verifying the beneficial owners under 1010.230(b). These procedures must include retaining the beneficial ownership certification form, and any other related identifying information collected, for a period of five years after the date the account is closed. It must also retain in its records, for a period of five years after such record is made, a description of (i) every document relied on for verification, (ii) any non-documentary methods and results of measures undertaken for verification, and (iii) the resolution of any substantive discrepancies discovered in verifying the identification information. The proposed rule leverages off of industry familiarity with the recordkeeping requirements relative to identifying and verifying the identity of individual customers under the CIP rules, and proposes an identical recordkeeping standard here. This is with the understanding that identical standards will help relieve implementation burden with respect to the new requirement.

Section 1010.230(g) Reliance on Another Financial Institution. The proposed rule permits reliance on another financial institution under the same conditions set forth in the applicable CIP rules.[64]

B. Amendments to AML Program Requirements

Overview

FinCEN's existing AML program requirements applicable to each type of covered financial institution are being amended to ensure alignment between existing AML requirements and CDD minimum standards. As described in Section III above, CDD consists of four fundamental components. The first component, customer identification, is already sufficiently included in the existing Customer Identification Program requirements issued jointly by FinCEN and its regulatory colleagues. The second component, identification of the beneficial ownership of legal entity customers, is proposed as a separate rule in 31 CFR 1010.230, as outlined above. The third and fourth components of CDD—understanding the nature and purpose of an account and ongoing monitoring—which have been understood as necessary facets of other regulatory requirements, are now being explicitly included in applicable AML program rules, as described in more detail below. Covered financial institutions are expected to apply these procedures on a risk-based approach with respect to the breadth of their account relationships, consistent with their obligation to identify and report suspicious activities.

FinCEN is incorporating these CDD procedures into the AML program requirements to make clear that CDD is a core element of a financial institution's policies and procedures to guard against money laundering. Furthermore, incorporating these CDD requirements into the AML program requirements, which require the AML program to also comply with the regulation of its federal functional regulator governing such programs, makes clear that a financial institution's procedures with respect to these requirements are subject to examination and enforcement by the appropriate federal functional regulator or self-regulatory organization in a manner consistent with current supervisory authorities and expectations. As such, this proposed rule is not intended to limit the federal functional regulators' supervisory role or, where applicable, its ability to oversee an SRO's effective examination and enforcement of BSA compliance.

Nothing in this proposal is intended to lower, reduce, or limit the due diligence expectations of the federal functional regulators or in any way limit their existing regulatory discretion. To clarify this point, this proposal incorporates the CDD elements on

[62] *See, e.g.,* 31 CFR 1020.220(a)(2)(iii). Such procedures must address (a) when it should not open an account; (b) the terms under which the customer may use the account while the institution attempts to verify the identity of the beneficial owner; (c) when the institution should close the account, after attempts to verify the beneficial owner's identity have failed; and (d) when it should file a SAR.

[63] *See, e.g.,* Interagency Interpretive Guidance on Customer Identification Program Requirements under Section 326 of the USA PATRIOT Act at Question 9 (April 28, 2005), *available at http://www.fincen.gov/statutes_regs/guidance/html/faqsfinolciprule.html;* Guidance from the Staffs of the Department of the Treasury and the U.S. Securities and Exchange Commission, *Question and Answer Regarding the Broker-Dealer Customer Identification Program Rule (31 CFR 103.122)* (October 1, 2003), *available at http://www.fincen.gov/statutes_regs/guidonce/html/20031001.html.*

[64] *See, e.g.,* 31 CFR 1020.220(a)(6).

nature and purpose and ongoing monitoring into FinCEN's existing AML program requirements, which generally provide that an AML program is adequate if, among other things, the program complies with the regulation of its federal functional regulator (or, where applicable, self-regulatory organization) governing such programs.[65] In addition, the Treasury Department intends for the requirements contained in this customer due diligence and beneficial ownership proposal to be consistent with, and not to supersede, any regulations, guidance or authority of any federal banking agency, the SEC, the CFTC, or of any SRO relating to customer identification, including with respect to the verification of the identities of legal entity customers.

The FinCEN AML Program rules (for banks, securities broker-dealers, mutual funds, and futures commission merchants and introducing brokers in commodities) are also being amended to ensure that FinCEN's regulations explicitly include the existing core requirements that are currently included within the AML program rules issued by the federal functional regulators or their appointed self-regulatory organizations (SROs). These existing core pillars, referenced in 31 U.S.C. 5318(h) as "minimum" requirements, include: (i) The development of internal policies, procedures and controls; (ii) the designation of a compliance officer; (iii) an ongoing employee training program; and (iv) an independent audit program to test functions. While there are slight differences in the wording of the regulatory requirements across the rules applicable to each industry, FinCEN considers them to all be the same in practice at their core. FinCEN sees utility for industry in having these rules clearly spelled out in FinCEN's own regulations and believes that there is further utility in making these rules more uniform, particularly given the number of industry actors that have constituent components subject to multiple rules. FinCEN also acknowledges, however, that the core requirements set forth by SROs, as approved by the federal functional regulator supervising them, sometimes include details deemed warranted with respect to the SROs' oversight of those industries. While such detail may not be included in FinCEN's rules, FinCEN and the supervising regulator have coordinated in the past to ensure that such rules are consistent with the purposes of the BSA. There is no intent in this rulemaking to undermine the nuances that currently exist with respect to those rules, and they can be followed in tandem with rules set forth here.

Section 1020.210 Anti-Money Laundering Program Requirements for Financial Institutions Regulated by a Federal Functional Regulator, Including Banks, Savings Associations and Credit Unions

FinCEN is rewriting its existing AML program rule to include the existing core provisions already included in regulations issued by the relevant banking agencies and adding to these core provisions a fifth pillar that includes the components of CDD pertaining to understanding the nature and purpose of customer relationships and ongoing monitoring, as discussed above.

Section 1023.210 Anti-Money Laundering Program Requirements for Brokers or Dealers in Securities

FinCEN is rewriting its AML program rule for brokers or dealers in securities to the include the existing core requirements already applicable to the industry and adding to these core provisions a new pillar that includes the components of CDD pertaining to understanding the nature and purpose of customer relationships and ongoing monitoring, as discussed above.

FinCEN notes that its proposed AML program rule for brokers or dealers differs from the current program rule issued by FINRA. This is chiefly because FINRA has included as a pillar within its AML program rule a requirement with respect to suspicious activity reporting. This is different from the rules issued with respect to other sectors where the SAR requirement has been treated separately. FinCEN is not proposing to incorporate, as FINRA has done, a SAR reporting requirement as a separate pillar, as the existing stand-alone SAR rule within FinCEN's regulations is sufficient. However, the decision to not include this within the pillars of the FinCEN rule is not meant to affect its treatment within the FINRA rule. FinCEN sees no practical difference in effect as a result of this difference and is proposing its amendments to the FinCEN AML program rule for brokers or dealers in securities in a manner that is consistent with its other AML program rules. FinCEN will continue to engage with the SEC and FINRA to determine whether there is a need for, and how, the FinCEN and FINRA provisions might be made more consistent with respect to this particular structural difference in the regulations.

Section 1024.210 Anti-Money Laundering Program Requirements for Mutual Funds

FinCEN is maintaining its existing AML program rule for mutual funds with the addition to the core requirements of a fifth pillar that includes the components of CDD pertaining to understanding the nature and purpose of customer relationships and ongoing monitoring, as discussed above.

Section 1026.210 Anti-Money Laundering Program Requirements for Futures Commission Merchants and Introducing Brokers in Commodities

FinCEN is rewriting its AML program rule for futures commission merchants and introducing brokers to include the existing core requirements already applicable to the industry and adding to these core provisions a fifth pillar that includes the components of CDD pertaining to understanding the nature and purpose of customer relationships and ongoing monitoring, as discussed above.

V. Request for Comments

FinCEN invites comments on all aspects of the NPRM, and specifically seeks comments on the following issues:

Definition of Beneficial Owner

FinCEN seeks general comments on the proposed definition of beneficial owner, including the inclusion of two prongs, and whether each prong is sufficiently clear.

FinCEN seeks comment specifically on whether the term "equity interests" in the ownership prong of the proposed beneficial ownership definition will be sufficiently understood and clear to financial institutions and customers.

Definition of Legal Entity Customer

FinCEN seeks comment on the proposed definition of legal entity customer, and in particular whether it provides adequate clarity.

Existing Accounts

FinCEN seeks comment as to whether FinCEN should extend the proposed requirement on covered financial insitutions to collect beneficial ownership information so that it would apply retroactively with respect to legal

[65] *See, e.g.*, 31 CFR 1020.210, which currently provides: "A financial institution regulated by a Federal functional regulator that is not subject to the regulations of a self-regulatory organization shall be deemed to satisfy the requirements of 31 U.S.C. 5318(h)(1) if it implements and maintains an anti-money laundering program that complies with . . . *the regulation of its Federal functional regulator governing such programs.*" (emphasis added).

entity accounts established before the implementation date of a final rule as well as comment on the potential costs of such an expansion of the rule.

Proposed Exemptions From the Beneficial Ownership Rule

FinCEN seeks comment on the proposed exemptions from the definition of "legal entity customer," including whether the exemptions are appropriate, whether other exemptions should be included, and if so, what exemptions.

Intermediated Accounts

FinCEN seeks comment on whether the proposed treatment of intermediated accounts in general is sufficiently clear to address any issues that may be expected to arise.

Pooled Investment Vehicles

FinCEN seeks comment specifically on whether pooled investment vehicles that are not proposed to be exempt from the beneficial ownership requirement but are operated or advised by financial institutions that are proposed to be exempt, should also be exempt from the beneficial ownership requirement, and if not, whether covered financial institutions should be required to identify beneficial owners of such non-exempt pooled investment vehicles under only the control prong of the "beneficial owner" definition, as opposed to both the ownership prong and control prong.

Trusts

FinCEN seeks comment on procedures used by financial institutions to collect and record information on trusts during their CDD process and whether that information is readily searchable and retrievable and accessible to law enforcement. FinCEN seeks comment from law enforcement regarding the accessibility of information regarding trusts when sought from financial institutions and the value of such information.

Certification Form

FinCEN seeks comment on the proposed certification form and the practical ability of financial institutions to incorporate the form into their account opening processes. Further, while FinCEN believes that requiring all legal entity customers to complete the same form is useful in promoting clarity and consistency across the financial industry, FinCEN seeks comment on whether financial institutions should be permitted to obtain the same information that the form requires (including the certification from the individual opening the account on behalf of the legal entity customer) through other means, such as an automated electronic account opening process.

Verification of Beneficial Owners

FinCEN seeks comment on whether requiring financial institutions to utilize existing CIP procedures for verification of the identity of beneficial owners is sufficiently clear and is an appropriate and efficient means for achieving this objective.

Updating of Beneficial Ownership Information

FinCEN seeks comment as to whether setting a mandated timeframe for the updating of beneficial ownership information would result in better information being available on beneficial ownership than relying on financial institutions to update the information in due course, consistent with the risk-based approach.

Recordkeeping Requirements

FinCEN seeks comment as to whether requiring recordkeeping procedures identical to those required with respect to CIP recordkeeping requirements is a sufficiently clear and efficient standard in the context of beneficial ownership verification information collection.

Understanding the Nature and Purpose of Customer Relationships and Ongoing Monitoring

FinCEN seeks comment on whether the proposed requirements regarding understanding the nature and purpose of customer relationships and ongoing monitoring are sufficiently clear. In this regard, should FinCEN define any of the terms used in those proposed requirements to clarify that such requirements apply broadly to all account relationships maintained by covered financial institutions? Should FinCEN define the term "customer risk profile," or is this term sufficiently understood by covered financial institutions? FinCEN also seeks comment from industry as to whether there are any covered financial institutions that have been able to meet the existing AML program requirements and SAR requirements without understanding the nature and purpose of customer relationships and conducting ongoing monitoring.

Proposed Amendments to the AML Program Rules

FinCEN seeks industry comment as to whether industry feels that it is necessary for the language of each AML program pillar requirement to be identical across FinCEN's rules; and, whether there is a need for FinCEN's rules and those of its sister organizations to be identical, notwithstanding FinCEN's belief that the core pillars are essentially the same across various industries despite any differences in legacy regulatory text. Based on industry feedback, FinCEN will weigh the benefits of possibly finalizing the program rules so that currently existing wording differences with respect to each pillar may be reduced.

Effective Date of the Rule

FinCEN seeks comment on whether the proposed effective date of one year from the date of the issuance of the final rule is sufficient to enable financial institutions to work any necessary changes into their systems or procedures in tandem with other cyclical updates, and thereby enable financial institutions to reduce implementation costs.

VI. Regulatory Analysis

A. Executive Orders 13563 and 12866

Executive Orders 13563 and 12866 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a "significant regulatory action" although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

FinCEN has determined that the primary cost for covered financial institutions associated with the proposed rule results from the requirement that they obtain from their non-exempt legal entity customers a certification identifying their beneficial owners. FinCEN has not been able to obtain from any source an estimate of the total number of accounts opened annually for legal entities by covered financial institutions. Based on outreach and discussions with major financial service companies, FinCEN believes that there are approximately eight million such accounts opened annually by covered financial institutions. Based on the total number of covered financial

institutions,[66] this would result in each covered financial institution opening approximately 368 such accounts per year, or 1.5 per day.[67] Estimating an average time for a covered financial institution to receive the certification and verify the information of 20 minutes and an average cost of $20 per hour, this results in a cost of approximately $54 million.[68]

Estimating the amount of illicit funds flow facilitated through legal entities used to mask beneficial ownership would be difficult.[69] However, the benefit of the rule will be greater clarity with respect to a regulatory definition of beneficial ownership and a greater percentage of situations in which this information will be collected, as appropriate, by the covered financial institutions, and, therefore, available to law enforcement. Based on a survey conducted in 2008, FinCEN determined that perhaps as little as one third of its private sector constituents felt that they had a clear understanding of the term beneficial ownership and that significant percentages varying across industries did not collect information on beneficial ownership consistently. Since the issuance of that survey, further engagement with industry via the issuance of interagency guidance [70] and FinCEN's ANPRM provided opportunities for greater common understanding of the issues, but questions remain.

FinCEN believes that with the clarity of a regulatory definition and a clear requirement to collect beneficial ownership in specific situations, industry understanding of beneficial ownership and the collection of beneficial ownership information will increase, and that the increased availability of such information to law enforcement will enhance government efforts to identify and address illicit actors operating in the financial system through legal entities. FinCEN requests comment on the benefits, and any estimates of costs savings, associated with a requirement to collect beneficial ownership information, including any economic or statistical data or third-party/independent research.

Regulatory Flexibility Act

When an agency issues a rule proposal, the Regulatory Flexibility Act (RFA) requires the agency to either provide an Initial Regulatory Flexibility Analysis or, in lieu of preparing an analysis, to certify that the proposed rule is not expected to have a significant economic impact on a substantial number of small entities.[71]

Estimate of the number of small entities to which the proposed rule will apply:

This proposed rulemaking will apply to all federally regulated depository institutions and trust companies, and all brokers or dealers in securities, mutual funds, and futures commission merchants and introducing brokers, as each is defined in the BSA. Based upon current data, for the purposes of the RFA, there are approximately 5470 small federally regulated banks (comprising 80% of the total number of banks); [72] 47 small federally regulated trust companies (comprising 72% of the total); [73] 4,325 small federally regulated credit unions (comprising 66% of the total),[74] 871 small brokers or dealers in securities (comprising 17% of the total); [75] 116 small mutual funds (comprising 7% of the total); [76] no small futures commission merchants; [77] and 1,186 small introducing brokers (comprising 95% of the total). Because the proposed rule would apply to all of these financial institutions, FinCEN concludes that the proposed rule will apply to a substantial number of small entities.

Description of the projected reporting, recordkeeping, and other requirements of the proposed rule: This proposed rulemaking imposes on all covered financial institutions (including those that are small entities) a new requirement to identify and to verify the identity of the beneficial owners of their legal entity customers. The proposed rule would require that this be accomplished by obtaining and maintaining a certification from each legal entity customer that opens a new account. The certification will contain identifying information regarding each listed beneficial owner. The financial institution will also be required to verify such identity by documentary or non-documentary methods and to maintain in its records for five years a description of (i) any document relied on for verification, (ii) any non-documentary methods and results of measures undertaken, and (iii) the resolution of any substantive discrepancies discovered in verifying the identification information.

Although FinCEN has only limited available information to assess the average number of beneficial owners of legal entity customers for which accounts may be established after the effective date of the rule, FinCEN notes that the maximum number is five, and believes that it is reasonable to assume that the great majority of such customers who establish accounts at small institutions are more likely to have simpler ownership structures that will result in one or two beneficial owners. In addition, since all covered financial institutions have been subject to CIP rules for more than ten years, and the proposal utilizes CIP rule procedures, small institutions will be able to leverage these procedures in complying with this requirement. As a result, FinCEN believes that it is reasonable to estimate that it will require, on average, 20 minutes to perform the beneficial ownership identification, verification and recordkeeping requirements in the proposal. Furthermore, FinCEN has anecdotal evidence that in general, the customers of small institutions are primarily individuals and that they do not frequently establish accounts for

[66] See "Paperwork Reduction Act (PRA)," "Estimated Number of Respondents," infra note 81.

[67] FinCEN also believes that the largest covered financial institutions likely open far more such accounts per day than the smaller institutions.

[68] See PRA, "Estimated Reporting Burden," infra. This includes the cost of one hour per covered financial institution to develop new beneficial ownership procedures.

[69] For one general discussion of the difficulty of deriving estimates of money laundering activity in narcotrafficking and other transactional criminal activity, see "Estimating Illicit Financial Flows Resulting from Drug Trafficking and Other Transnational Organized Crimes," United Nations Office on Drugs and Crime (October 2011).

[70] See footnote 15.

[71] 5 U.S.C. 601–612.

[72] The Small Business Administration ("SBA") defines a depository institution other than a credit union as a small business if it has assets of $500 million or less. Based on publicly available information as of December 31, 2013 there are 6,821 federally regulated depository institutions (other than credit unions) of which approximately 5,470, or 80% are categorized as small businesses.

[73] The SBA defines a trust company as a small business if it has assets of $35.5 million or less. Based on publicly available information as of September 30, 2013, there are 65 federally regulated trust companies, of which 47, or 72%, are categorized as small businesses.

[74] The NCUA defines small credit unions as those having under $50 million in assets. As of December 31, 2013, there were 6,554 federally regulated credit unions.

[75] With regard to the definition of small entity as it applies to broker dealers in securities and mutual funds, FinCEN is using the SEC's definitions found at 17 CFR 240.0–10(c), and 17 CFR 270.0–10, respectively. Of the 5,100 brokers or dealers in securities, 871 or 17% are categorized as a small business.

[76] Of the 1,660 open-end mutual funds, 116 or 7% are categorized as a small business.

[77] The CFTC has determined that futures commission merchants are not small entities for purposes of the RFA, and, thus, the requirements of the RFA do not apply to them. The CFTC's determination was based, in part, upon the obligation of futures commission merchants to meet the minimum financial requirements established by the CFTC to enhance the protection of customers' segregated funds and protect the financial condition of futures commission merchants generally. Small introducing brokers in commodities are defined by the SBA as those having less than $7 million in gross receipts annually. Of the 1,249 introducing brokers in commodities, 1,186 or 95% are categorized as a small business.

legal entities, which would also reduce the impact of the proposed requirement on small entities.[78] However, because statistical data does not exist regarding either the average number of beneficial owners of legal entity customers of small institutions or how many such accounts they establish in any time period, FinCEN is seeking comment on these questions.

The proposed rule would also require that covered financial institutions include in their AML programs, customer due diligence procedures, including understanding the nature and purpose of customer relationships and conducting ongoing monitoring of these relationships. Because these requirements are already a part of existing AML and SAR practices, they will not impose any new obligations, and therefore will have no economic impact, on any small entities.

Finally, the proposed rule would require each covered financial institution to amend its AML program to include the new requirement contained in the proposal, to train its employees regarding the new requirement, and to update its data systems to include the beneficial ownership information. FinCEN understands from its outreach that in general, most covered financial institutions, including those that are small entities, periodically update their AML programs, conduct AML training, and upgrade their IT systems. FinCEN also understands that most small institutions outsource their IT requirements and so would acquire the required updated program from a vendor. FinCEN intends to extend the implementation date for the proposed rule for one year from issuance for the purpose of enabling financial institutions to integrate these new program, training and data collection requirements into their cyclical updates with minimal additional cost.

Consideration of Significant Alternatives: The proposed rule would apply to all covered financial institutions. FinCEN has determined that identifying the beneficial owner of a financial institution's legal entity customers and verifying that identity is a necessary part of an effective AML program. FinCEN has not identified any alternative means for obtaining this information, other than imposing this as a requirement for opening new legal entity accounts for all covered financial institutions. Were FinCEN to exempt small entities from this requirement, those entities would be potentially more subject to abuse by money launderers and other financial criminals.

Certification: The additional burden proposed by the rule would be a requirement to maintain an AML program that includes collection and verification of beneficial owner information. It would also require financial institutions, large and small, to update their AML programs, train relevant employees, and modify data collection systems. As discussed above, FinCEN estimates that the impact from this requirement would not be significant. Accordingly, FinCEN certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Questions for comment: Please provide comment on any or all of the provisions of the proposed rule with regard to their economic impact on small entities (including costs and benefits), and what less burdensome alternatives, if any, FinCEN should consider. In particular, FinCEN is seeking comment on the economic burden associated with the proposed beneficial ownership requirement, including the number of new accounts opened for legal entities by small covered financial institutions and the estimated time that would be required to comply with the proposed requirements for the identification and verification of the beneficial owners of such new legal entity customers, as well as the costs associated with the program updates and necessary training and IT system modifications.

B. Paperwork Reduction Act

The new recordkeeping requirement contained in this proposed rule (31 CFR 1010.230) is being submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, which imposes certain requirements on Federal agencies in connection with their conducting or sponsoring any collection of information as defined by the PRA. Under the PRA, an agency may not conduct or sponsor, and an individual is not required to respond to, a collection of information unless it displays a valid OMB control number. Comments concerning the estimated burden and other questions should be sent to the Desk Officer for the Department of Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506), Washington, DC 20503 with a copy to FinCEN by mail. Comments may also be submitted by email to *oira_submission@omb.eop.gov*. Please submit comments by one method only. Comments are welcome and must be received by October 3, 2014.

In summary, the proposed rule would require covered financial institutions to maintain records of the information used to identify and verify the identity of the names of the beneficial owners of legal entity customers.[79]

Type of Review: Initial review of the proposed information collection elements of the "Certification of Beneficial Owner(s)" in support of the beneficial ownership requirements for financial institutions.[80]

Affected Public: Businesses or other for-profit and not-for-profit entities, and certain financial institutions.

OMB Control Number: 1506–00XX.

Frequency: As required.

Estimated Reporting Burden:

a. Develop and maintain beneficial ownership identification procedures: 1 hour.[81]

b. Customer identification, verification, and review and recordkeeping of the "Certification of Beneficial Owner(s)": 20 minutes per financial institution.

Estimated Number of Respondents: 21,550.[82]

Estimated Total Annual Responses: 8,081,250.[83]

Estimated Recordkeeping and Reporting Burden: 2,715,300 hours.[84]

The numbers presented assume that the number of account openings in 2013 is representative for an average yearly

[78] FinCEN notes that, while its estimate of the aggregate burden on industry resulting from the beneficial ownership requirement is based on an average of 1.5 legal entity accounts per day for each institution (see "Executive Orders 13563 and 12866" supra), it understands from its outreach that large institutions likely open hundreds or even thousands such accounts per day, while small institutions likely open, on average, far fewer than 1.5 such accounts per day.

[79] This requirement applies to accounts established for legal entities. A legal entity generally includes a corporation, limited liability company, partnership, or any other similar business entity formed in the United States or a foreign country.

[80] A copy of the proposed certification, which would be required by 31 CFR 1010.230, appears at the end of this notice.

[81] A burden of one hour to develop the initial procedures is recognized. Once developed, an annual burden of twenty minutes is recognized for maintenance.

[82] This includes depository institutions (13,375), trust companies (65), broker-dealers in securities (5,100), future commission merchants (101), introducing brokers in commodities (1,249), and open-end mutual funds (1,660), each as defined under the BSA. These figures represent the total number of entities that would be subject to the proposed requirements in this notice.

[83] Based on initial research, each covered financial institution will open, on average, 1.5 new legal entity accounts per business day. There are 250 business days per year.

[84] 8,081,250 × 20 minutes per account established ÷ 60 minutes per hour = 2,693,750 hours plus development time of 21,550 hours for a total of 2,715,300 hours the first year.

establishment of accounts for new legal entities. Records are required to be retained pursuant to the beneficial ownership requirement for five years.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (i) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (ii) the accuracy of the agency's estimate of the burden of the collection of information; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; (iv) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; (v) the reasonableness of the estimated number of new annual account openings for legal entities; and (vi) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

C. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that this proposed rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more. Accordingly, FinCEN has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects in 31 CFR Parts 1010, 1020, 1023, 1024, and 1026

Administrative practice and procedure, Banks, Banking, Brokers, Currency, Federal home loan banks, Foreign banking, Foreign currencies, Gambling, Investigations, Mortgages, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

Authority and Issuance

For the reasons set forth in the preamble, Chapter X of Title 31 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1010—GENERAL PROVISIONS

■ 1. The authority citation for part 1010 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314 Pub. L. 107–56, 115 Stat. 307.

■ 2. Add § 1010.230 in subpart B to read as follows:

§ 1010.230 Beneficial ownership requirements for legal entity customers.

(a) *In general.* Covered financial institutions are required to establish and maintain written procedures that are reasonably designed to identify and verify beneficial owners of legal entity customers.

(b) *Identification and verification.* With respect to legal entity customers, the covered financial institution's customer due diligence procedures should enable the institution to:

(1) Identify the beneficial owner(s) of each legal entity customer, unless otherwise exempt pursuant to paragraph (d) of this section. To identify the beneficial owner(s), a covered financial institution must obtain at the time a new account is opened a certification in the form of Appendix A of this section from the individual opening the account on behalf of the legal entity customer; and

(2) Verify the identity of each beneficial owner identified to the covered financial institution, according to risk-based procedures to the extent reasonable and practicable. At a minimum, these procedures must be identical to the covered financial institution's Customer Identification Program procedures required for verifying the identity of customers that are individuals under § 1020.220(a)(2) of this chapter (for banks); § 1023.220(a)(2) of this chapter (for brokers or dealers in securities); § 1024.220(a)(2) of this chapter (for mutual funds); or § 1026.220(a)(2) of this chapter (for futures commission merchants or introducing brokers in commodities).

(c) *Beneficial owner.* For purposes of this section, Beneficial Owner means each of the following:

(1) Each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25% or more of the equity interests of a legal entity customer;

(2) A single individual with significant responsibility to control, manage, or direct a legal entity customer, including

(i) An executive officer or senior manager (e.g., a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer); or

(ii) Any other individual who regularly performs similar functions.

Note to paragraph (c): The number of individuals that satisfy the definition of "beneficial owner," and therefore must be identified and verified pursuant to this section, may vary. Under paragraph (c)(1) of this section, depending on the factual circumstances, up to four individuals may need to be identified. Under paragraph (c)(2) of this section, only one individual must be identified. It is possible that in some circumstances the same person or persons might be identified pursuant to paragraphs (c)(1) and (2) of this section. A covered financial institution may also identify additional individuals as part of its customer due diligence if it deems appropriate on the basis of risk.

(d) *Legal entity customer.* For the purposes of this section,

(1) *Legal entity customer* means: A corporation, limited liability company, partnership or other similar business entity (whether formed under the laws of a state or of the United States or a foreign jurisdiction) that opens a new account.

(2) *Legal entity customer* does not include:

(i) A financial institution regulated by a Federal functional regulator or a bank regulated by a State bank regulator;

(ii) A person described in § 1020.315(b)(2) through (5) of this chapter;

(iii) An issuer of a class of securities registered under section 12 of the Securities Exchange Act of 1934 or that is required to file reports under section 15(d) of that Act;

(iv) An investment company, as defined in section 3 of the Investment Company Act of 1940, that is registered with the Securities and Exchange Commission under that Act;

(v) An investment adviser, as defined in section 202(a)(11) of the Investment Advisers Act of 1940, that is registered with the Securities and Exchange Commission under that Act;

(vi) An exchange or clearing agency, as defined in section 3 of the Securities Exchange Act of 1934, that is registered under section 6 or 17A of the Securities Exchange Act of that Act;

(vii) Any other entity registered with the Securities and Exchange

Commission under the Securities Exchange Act of 1934;

(viii) A registered entity, commodity pool operator, commodity trading advisor, retail foreign exchange dealer, swap dealer, or major swap participant, each as defined in section 1a of the Commodity Exchange Act, that is registered with the Commodity Futures Trading Commission;

(ix) A public accounting firm registered under section 102 of the Sarbanes-Oxley Act; and

(x) A charity or nonprofit entity that is described in sections 501(c), 527, or 4947(a)(1) of the Internal Revenue Code of 1986, has not been denied tax exempt status, and is required to and has filed the most recently due annual information return with the Internal Revenue Service.

(e) *Covered financial institution.* For the purposes of this section, covered financial institution has the meaning set forth in § 1010.605(e)(1).

(f) *Recordkeeping.* A covered financial institution must establish procedures for making and maintaining a record of all information obtained under the procedures implementing paragraph (b) of this section.

(1) *Required records.* At a minimum the record must include:

(i) For identification, the certification form described in paragraph (b) of this section, and any other identifying information obtained by the covered financial institution; and

(ii) For verification, a description of any document relied on (noting the type, any identification number, place of issuance and; if any, date of issuance and expiration), of any non-documentary methods and the results of any measures undertaken, and of the resolution of each substantive discrepancy.

(2) *Retention of records.* A covered financial institution must retain the records made under paragraph (f)(1)(i) of this section for five years after the date the account is closed, and the records made under paragraph (f)(1)(ii) of this section for five years after the record is made.

(g) *Reliance on another financial institution.* A covered financial institution may rely on the performance by another financial institution (including an affiliate) of the requirements of this section with respect to any legal entity customer of the covered financial institution that is opening, or has opened, an account or has established a similar business relationship with the other financial institution to provide or engage in services, dealings, or other financial transactions, provided that:

(1) Such reliance is reasonable under the circumstances;

(2) The other financial institution is subject to a rule implementing 31 U.S.C. 5318(h) and is regulated by a Federal functional regulator; and

(3) The other financial institution enters into a contract requiring it to certify annually to the covered financial institution that it has implemented its anti-money laundering program, and that it will perform (or its agent will perform) the specified requirements of the covered financial institution's procedures to comply with the requirements of this section.

APPENDIX A—CERTIFICATION REGARDING BENEFICIAL OWNERS OF LEGAL ENTITY CUSTOMERS

I. GENERAL INSTRUCTIONS

What is this form?

To help the government fight financial crime, federal regulation requires certain financial institutions to obtain, verify, and record information about the beneficial owners of legal entity customers. Legal entities can be abused to disguise involvement in terrorist financing, money laundering, tax evasion, corruption, fraud, and other financial crimes. Requiring the disclosure of key individuals who ultimately own or control a legal entity (i.e., the beneficial owners) helps law enforcement investigate and prosecute these crimes.

Who has to complete this form?

This form must be completed by the person opening a new account on behalf of a legal entity with any of the following U.S. financial institutions: (i) A bank or credit union; (ii) a broker or dealer in securities; (iii) a mutual fund; (iv) a futures commission merchant; or (v) an introducing broker in commodities.

For the purposes of this form, a legal entity includes a corporation, limited liability company, partnership, and any other similar business entity formed in the United States or a foreign country.

What information do I have to provide?

This form requires you to provide the name, address, date of birth and social security number (or passport number or other similar information, in the case of foreign persons) for the following individuals (i.e., the beneficial owners):

(i) Each individual, if any, who owns, directly or indirectly, 25 percent or more of the equity interests of the legal entity customer (e.g., each natural person that owns 25 percent or more of the shares of a corporation); *and*

(ii) An individual with significant responsibility for managing the legal entity customer (e.g., a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President or Treasurer).

The financial institution may also ask to see a copy of a driver's license or other identifying document for each beneficial owner listed on this form.

BILLING CODE 4810-02-P

II. CERTIFICATION OF BENEFICIAL OWNER(S)

Persons opening an account on behalf of a legal entity must provide the following information:

a. Name of Person Opening Account:

_____

b. Name of Legal Entity for Which the Account is Being Opened:

_____

c. The following information for <u>each</u> individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of the legal entity listed above:

(If no individual meets this definition, please write "Not Applicable.")

Name	Date of Birth	Address	*For U.S. Persons:* Social Security Number	*For Foreign Persons:* Passport Number and Country of Issuance, or other similar identification number[1]

d. The following information for <u>one</u> individual with significant responsibility for managing the legal entity listed above, such as:

- *An executive officer or senior manager (e.g., Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, Treasurer); or*
- *Any other individual who regularly performs similar functions.*

(If appropriate, an individual listed under section (c) above may also be listed in this section (d)).

Name	Date of Birth	Address	*For U.S. Persons:* Social Security Number	*For Foreign Persons:* Passport Number and Country of Issuance, or other similar identification number[1]

I, _____ (*name of person opening account*), hereby certify, to the best of my knowledge, that the information provided above is complete and correct.

Signature: _____ Date: _____

[1] In lieu of a passport number, foreign persons may also provide an alien identification card number, or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

BILLING CODE 4810–02–C

PART 1020—RULES FOR BANKS

■ 3. The authority citation for part 1020 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314 Pub. L. 107–56, 115 Stat. 307.

■ 4. Revise § 1020.210 in subpart B to read as follows:

§ 1020.210 Anti-money laundering program requirements for financial institutions regulated only by a Federal functional regulator, including banks, savings associations, and credit unions.

A financial institution regulated by a Federal functional regulator that is not subject to the regulations of a self-regulatory organization shall be deemed to satisfy the requirements of 31 U.S.C. 5318(h)(1) if the financial institution implements and maintains an anti-money laundering program that:

(a) Complies with the requirements of §§ 1010.610 and 1010.620 of this chapter;

(b) Includes, at a minimum:

(1) A system of internal controls to assure ongoing compliance;

(2) Independent testing for compliance to be conducted by bank personnel or by an outside party;

(3) Designation of an individual or individuals responsible for coordinating and monitoring day-to-day compliance;

(4) Training for appropriate personnel; and

(5) Appropriate risk-based procedures for conducting ongoing customer due diligence, to include, but not be limited to:

(i) Understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

(ii) Conducting ongoing monitoring to maintain and update customer information and to identify and report suspicious transactions; and

(c) Complies with the regulation of its Federal functional regulator governing such programs.

PART 1023—RULES FOR BROKERS OR DEALERS IN SECURITIES

■ 5. The authority citation for part 1023 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314 Pub. L. 107–56, 115 Stat. 307.

■ 6. Revise § 1023.210 in subpart B to read as follows:

§ 1023.210 Anti-money laundering program requirements for brokers or dealers in securities.

A broker or dealer in securities shall be deemed to satisfy the requirements of 31 U.S.C. 5318(h)(1) if the broker-dealer implements and maintains a written anti-money laundering program approved by senior management that:

(a) Complies with the requirements of §§ 1010.610 and 1010.620 of this chapter and any applicable regulation of its Federal functional regulator governing the establishment and implementation of anti-money laundering programs;

(b) Includes, at a minimum:

(1) The establishment and implementation of policies, procedures, and internal controls reasonably designed to achieve compliance with the applicable provisions of the Bank Secrecy Act and the implementing regulations thereunder;

(2) Independent testing for compliance to be conducted by the broker-dealer's personnel or by a qualified outside party;

(3) Designation of an individual or individuals responsible for implementing and monitoring the operations and internal controls of the program;

(4) Ongoing training for appropriate persons; and

(5) Appropriate risk-based procedures for conducting ongoing customer due diligence, to include, but not be limited to:

(i) Understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

(ii) Conducting ongoing monitoring to maintain and update customer information and to identify and report suspicious transactions; and

(c) Complies with the rules, regulations, or requirements of its self-regulatory organization governing such programs; provided that the rules, regulations, or requirements of the self-regulatory organization governing such programs have been made effective under the Securities Exchange Act of 1934 by the appropriate Federal functional regulator in consultation with FinCEN.

PART 1024—RULES FOR MUTUAL FUNDS

■ 7. The authority citation for part 1024 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314 Pub. L. 107–56, 115 Stat. 307.

■ 8. Revise § 1024.210 in subpart B to read as follows:

§ 1024.210 Anti-money laundering program requirements for mutual funds.

(a) Effective July 24, 2002, each mutual fund shall develop and implement a written anti-money laundering program reasonably designed to prevent the mutual fund from being used for money laundering or the financing of terrorist activities and to achieve and monitor compliance with the applicable requirements of the Bank Secrecy Act (31 U.S.C. 5311, *et seq.*), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each mutual fund's anti-money laundering program must be approved in writing by its board of directors or trustees. A mutual fund shall make its anti-money laundering program available for inspection by the U.S. Securities and Exchange Commission.

(b) The anti-money laundering program shall at a minimum:

(1) Establish and implement policies, procedures, and internal controls reasonably designed to prevent the mutual fund from being used for money laundering or the financing of terrorist activities and to achieve compliance with the applicable provisions of the Bank Secrecy Act and implementing regulations thereunder;

(2) Provide for independent testing for compliance to be conducted by the mutual fund's personnel or by a qualified outside party;

(3) Designate a person or persons responsible for implementing and monitoring the operations and internal controls of the program;

(4) Provide ongoing training for appropriate personnel; and

(5) Implement appropriate risk-based procedures for conducting ongoing customer due diligence, to include, but not be limited to:

(i) Understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

(ii) conducting ongoing monitoring to maintain and update customer information and to identify and report suspicious transactions.

PART 1026—RULES FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS IN COMMODITIES

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

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314 Pub. L. 107–56, 115 Stat. 307.

■ 10. Revise § 1026.210 in subpart B to read as follows:

§ 1026.210 Anti-money laundering program requirements for futures commission merchants and introducing brokers in commodities.

A futures commission merchant and an introducing broker in commodities shall be deemed to satisfy the requirements of 31 U.S.C. 5318(h)(1) if the futures commission merchant or introducing broker in commodities implements and maintains a written anti-money laundering program approved by senior management that:

(a) Complies with the requirements of §§ 1010.610 and 1010.620 of this chapter and any applicable regulation of its Federal functional regulator governing the establishment and implementation of anti-money laundering programs;

(b) Includes, at a minimum:

(1) The establishment and implementation of policies, procedures, and internal controls reasonably designed to prevent the financial institution from being used for money laundering or the financing of terrorist activities and to achieve compliance with the applicable provisions of the Bank Secrecy Act and the implementing regulations thereunder;

(2) Independent testing for compliance to be conducted by the futures commission merchant or introducing broker in commodities' personnel or by a qualified outside party;

(3) Designation of an individual or individuals responsible for implementing and monitoring the operations and internal controls of the program;

(4) Ongoing training for appropriate persons;

(5) Appropriate risk-based procedures for conducting ongoing customer due diligence, to include, but not be limited to:

(i) Understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

(ii) Conducting ongoing monitoring to maintain and update customer information and to identify and report suspicious transactions; and

(c) Complies with the rules, regulations, or requirements of its self-regulatory organization governing such programs; provided that the rules, regulations, or requirements of the self-regulatory organization governing such programs have been made effective under the Commodity Exchange Act by the appropriate Federal functional regulator in consultation with FinCEN.

Dated: July 23, 2014.

Jennifer Shasky Calvery,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2014–18036 Filed 7–31–14; 11:15 am]

BILLING CODE 4810–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R07–OAR–2014–0468; FRL–9914–51–Region 7]

Approval and Promulgation of Implementation Plans; State of Nebraska; Fine Particulate Matter New Source Review Requirements.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Nebraska. This proposed action will amend the SIP to include revisions to Nebraska's Air Quality Regulations "Definitions", "Construction Permits—When Required", and "Prevention of Significant Deterioration of Air Quality" to make the state regulations consistent with the Federal regulations for the fine Particulate Matter ($PM_{2.5}$) Prevention of Significant Deterioration (PSD) program. This proposed revision will amend the state minor source construction permitting program including the addition of a minor source permitting threshold for $PM_{2.5}$. These revisions are necessary to properly manage the increment requirements (maximum allowable deterioration to the air quality) of the PSD program and assure continued attainment with the $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). This proposed action also recognizes the state's request to not include, into the SIP, provisions relating to Significant Impact Levels (SILs) and Significant Monitoring Concentrations (SMCs). These provisions were vacated and remanded by the U.S. Court of Appeals for the District of Columbia on January 22, 2013.

DATES: Comments on this proposed action must be received in writing by September 3, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0468, by mail to Greg Crable, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Greg Crable, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7391, or by email at *crable.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register.**

Dated: July 21, 2014.

Mike Brincks,

Acting Regional Administrator, Region 7.

[FR Doc. 2014–18249 Filed 8–1–14; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 79, No. 149
Monday, August 4, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Request for Information: Supplemental Nutrition Assistance Program (SNAP); Retailer Transaction Data

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In light of a recent court decision regarding the availability of Supplemental Nutrition Assistance Program (SNAP) retailer transaction data to the public, the USDA Food and Nutrition Service (FNS) is issuing this Request for Information to help inform FNS' response to the recent court decision and any future policy changes regarding the release of SNAP retailer transaction data. In moving forward, USDA is interested in providing greater transparency. However, the Department also recognizes that any movement in this arena needs to be done carefully, after considering potential consequences and the views of the variety of stakeholders. As a result, this notice requests information from any and all interested parties, with a particular focus on current and former SNAP authorized retailers, as to whether the disclosure of aggregated SNAP redemption data at the individual store level would improve the administration and enforcement of the Food and Nutrition Act of 2008 (the Act) and whether such data is confidential business information.

Background: Section 9(c) of the Act, 7 U.S.C. 2018(c), limits the use or disclosure of information received from applicant and participating SNAP retailers. Use and disclosure of such information is limited to purposes directly connected with the administration and enforcement of the Act, or the regulations issued pursuant to the Act, with limited exceptions for law enforcement and use by the Special Supplemental Nutrition Program for Women, Infants, and Children. Section 9(c) imposes criminal penalties for disclosure of such information in a manner not authorized by Federal law or regulation.

Throughout the history of the Program, Section 9(c) of the Act has been interpreted as a withholding statute that includes SNAP retailer redemption information. On September 22, 1978, FNS published a final rule codifying the interpretation that Section 9(c) prohibited the use or disclosure of "information furnished by firms, including . . . their redemptions of coupons, . . . except for purposes directly connected with the administration and enforcement of Food Stamp Act and these regulations." 43 FR. 43,272, 43,275 (Sept. 22, 1978) (currently codified at 7 CFR 278.1(q)). FNS has operated in accordance with its interpretation of the Act and FNS regulations that the Secretary did not have authority to release this information.

However, South Dakota's Argus Leader newspaper challenged this interpretation of the Act. In February of 2011, through the Freedom of Information Act (FOIA), the Argus Leader requested annual SNAP retailer redemption data for all SNAP authorized retailers for the six-year period spanning from 2005 through 2010. Though the initial FNS decision to withhold this data was upheld by the U.S. District Court for the District of South Dakota, on January 28, 2014, the U.S. Court of Appeals for the Eighth Circuit issued an opinion in favor of Argus Leader. The appeals court opinion contended that SNAP retailer redemption information did not fall within the withholding contemplated by Section 9(c) of the Act and therefore such information was not exempt from disclosure under Exemption 3 of FOIA.

The Eighth Circuit decision did not address Exemption 4 of FOIA, 5 U.S.C. 552(b)(4), which exempts "trade secrets and commercial or financial information obtained from a person and privileged or confidential" from release under FOIA. FNS recognizes that, despite the decision on Section 9(c) of the Act, the Agency must also consider whether this redemption data constitutes confidential business information. To make a determination in this regard, FNS is required to solicit feedback from the submitters of the retailer transaction data.

Request for Information: FNS' objective is twofold: (1) To meet FNS' obligations to solicit feedback from the submitters of retailer transaction data which is the subject of the litigation described above; and (2) to determine how to provide greater transparency, while remaining consistent with our legal obligations and reflecting input from the public. FNS will use this public input to inform FNS' response to the court decision and consideration of what, if any, adjustments should be made to SNAP regulations in the future. It is FNS' intent that any regulatory changes would govern the availability of data after the effective date of those regulations, and not be retroactive. FNS is seeking public input on the following questions:

1. Are aggregated annual SNAP redemption data at the individual store level confidential business information? If yes, please explain why the disclosure is likely to cause substantial competitive harm and fully explain all other grounds upon which you oppose the disclosure of such information. Also, please indicate whether the size of the retailer affects any identified competitive harm.

2. Are aggregated monthly SNAP redemption data at the individual store level confidential business information? If yes, please explain why the disclosure is likely to cause substantial competitive harm and fully explain all other grounds upon which you oppose the disclosure of such information. Also, please indicate whether the size of the retailer affects any identified competitive harm.

3. Should aggregated annual SNAP redemption data at the individual store level be released for transparency purposes?

- If yes, describe in detail why this data should be released for the purposes of transparency and public accountability, and specifically how this data would assist in the administration of the Food and Nutrition Act.
- If no, please provide details as to how release of this data would be counter to the administration and enforcement provisions of the Act.
- When considering the impact of the release of this data on the administration and enforcement provisions of the Act, please consider the effect, if any, on SNAP recipients.

4. Should aggregated monthly SNAP redemption data at the individual store

level be released for transparency purposes?

• If yes, describe in detail why this data should be released for the purposes of transparency and public accountability, and specifically how this data would assist in the administration of the Food and Nutrition Act.

• If no, please provide details as to how release of this data would be counter to the administration and enforcement provisions of the Act.

• When considering the impact of the release of this data on the administration and enforcement provisions of the Act, please consider the effect, if any, on SNAP recipients.

5. For each of the above questions, how would answers differ if the monthly or annual aggregated data were for a retailer's aggregated sales at all stores within a state or nationally, as opposed to per-store data? Should any other aggregations be considered?

Commenters who were SNAP-authorized retailers from 2005 through 2010 should make that fact clear in their comments.

DATES: To be assured of consideration, written comments must be submitted on or before September 8, 2014.

ADDRESSES: Comments must be submitted through the Federal eRulemaking Portal at *www.regulations.gov*. Follow the online instructions for submitting comments electronically.

All comments submitted in response to this notice will be included in the record and will be made available to the public at *www.regulations.gov*. Please be advised that the substance of the comments, including any personal or confidential business information, and the identity of the individuals or entities commenting will be subject to public disclosure.

FOR FURTHER INFORMATION CONTACT: Vicky T. Robinson, Acting Chief, Retailer Management and Issuance Branch, Food and Nutrition Service, (703) 305–2476.

SUPPLEMENTARY INFORMATION: At the end of fiscal year (FY) 2013, over 250,000 retailers were authorized to redeem SNAP benefits. According to the FY 2013 data, 82 percent of all benefits redeemed were redeemed at supermarkets, large grocers and superstores. Approximately 18 percent of benefits were redeemed at smaller stores, including convenience stores, small grocers and farmers' markets. Less than one percent were redeemed by authorized treatment programs, group homes, homeless meal providers, communal dining facilities and shelters as provided for in statute. A 2009 FNS study on benefit use indicates that 96.3 percent of all SNAP beneficiaries shopped at supermarkets or superstores at least once each month.

Dated: July 28, 2014.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2014–18288 Filed 8–1–14; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Request for Public Comments on Proposed Collection of Information

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Request for Public Comments on Proposed Collection of Information.

SUMMARY: In accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35, as amended) and Office of Management and Budget (OMB) implementing regulations (5 CFR part 1320), this notice announces the National Institute of Food and Agriculture's (NIFA) proposed collection of information for the application for Non-Land Grant College of Agriculture designation. NIFA intends to submit the following information collection request to OMB for review and approval under the Paperwork Reduction Act.

DATES: Written comments should be submitted by October 3, 2014, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: You may submit comments, identified by the docket number by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov*, docket number NIFA–2014–0002. Follow the instructions for submitting comments.

• *Email: rmartin@nifa.usda.gov.* Include the docket number in the subject line of the message.

• *Fax:* 202–720–0857.

• *Mail:* Robert Martin, Records Officer, Office of Information Technology (OIT), NIFA, USDA, STOP 2216, 1400 Independence Avenue SW., Washington, DC 20250–2216.

• *Hand Delivery/Courier:* Office of Information Technology (OIT), National Institute of Food and Agriculture, USDA, 800 9th Street SW., STOP 2201 Washington, DC 20250–2201.

FOR FURTHER INFORMATION CONTACT: Robert Martin, Records Officer; Email: *rmartin@nifa.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Non-Land Grant College of Agriculture certification.

OMB Number: 0524—New.

Type of Request: Notice; Request for Public Comments on Proposed Collection of Information.

Abstract: NIFA is responsible for designating Non-Land Grant Colleges of Agriculture (NLGCAs). Section 7101 of the Agricultural Act of 2014 (Pub. L. 113–79) required NIFA to establish an ongoing process allowing public colleges and universities that offer 4-year or higher degrees in the food and agricultural sciences to apply for designation as NLGCA Institutions. For additional information see "Process for Non-Land Grant College of Agriculture (NLGCA) Designation" 79 FR 29398 (May 22, 2014).

Type of Information Collection: NIFA will collect this information through web-based data collection. Institutions seeking designation as a NLGCA will submit requested information about their institution through a web-based form. The information collected from each institution will allow NIFA to verify that the institution is a public college or university, offers a baccalaureate or higher degree in food and agricultural sciences, as defined in 7 U.S.C. 3103(9), and is not otherwise ineligible to be designated as an NLGCA.

Frequency: Institutions seeking designation as an NLGCA must apply one time. Their designation will be valid until September 30, 2018. Upon expiration of their designation, reapplication may be required.

Affected Public: Institutions that meet the criteria for NLGCA designation; public colleges and universities that offer 4-year or higher degrees in the food and agricultural sciences.

Estimate of Burden: NIFA estimates that the time required to complete the web-based application form will be approximately 15 minutes. The information that is required includes minimal information about the institution. The total annual burden for the application to request designation as a NLGCA is 18.75 hours for a projected 75 applicants.

Comment Request: Comments are invited on 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; the accuracy of the Agency's estimate of the burden of the proposed collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the

burden of the collection of information on respondents, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request to OMB for approval. All comments will become a matter of public record.

Obtaining a Copy of the Information Collection: A copy of the information collection and related instructions may be obtained free of charge by contacting Robert Martin as directed above.

Done at Washington, DC, this 21st day of July, 2014.

Ann M. Bartuska,

Deputy Under Secretary, Research, Education, and Economics.

[FR Doc. 2014–18320 Filed 8–1–14; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Progress Report on Cooperative Halibut Prohibited Species Catch Minimization

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before October 3, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, (907) 586–7008 or *Patsy.Bearden@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for revision of an existing information collection.

During its February 2014 meeting, the North Pacific Fisheries Management Council (Council) requested that Bering Sea and Aleutian Islands Management Area (BSAI) groundfish sectors (American Fisheries Act (AFA) Catcher/processor, AFA Catcher Vessel, Amendment 80, Freezer Longline Cooperative, and Community Development Quota) report (at the June Council meeting) on the progress of voluntary, non-regulatory actions implemented and recorded in their cooperative and/or inter-cooperative agreements to minimize halibut Prohibited Species Catch (PSC) through halibut avoidance, individual accountability, and use of incentives.

During its June 2014 meeting, the Council requested additional voluntary, non-regulatory information regarding the use of halibut PSC and halibut discards in the directed halibut fishery from these same five groundfish fishing sectors on actions taken to reduce halibut mortality and to report the effectiveness of those actions in absolute reductions in halibut mortality. These reports are to be provided to the Council at the February 2015 Council meeting.

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include email of electronic forms, and mail and facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0697.

Form Number: None.

Type of Review: Regular submission (revision of an existing information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 5.

Estimated Time per Response: 8 hours.

Estimated Total Annual Burden Hours: 40.

Estimated Total Annual Cost to Public: $7 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 30, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–18301 Filed 8–1–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–52–2014]

Foreign-Trade Zone 63—Prince George's County, Maryland: Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by Prince George's County, Maryland, grantee of FTZ 63, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or "usage-driven" FTZ sites for operators/users located within a grantee's "service area" in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on July 29, 2014.

FTZ 63 was approved by the FTZ Board on October 20, 1980 (Board Order 167, 45 FR 71639, 10/29/80). The current zone includes the following site: *Site 1* (77.48 acres)—Collington Center Industrial Park, Trade Zone Avenue, Upper Marlboro, Maryland.

The grantee's proposed service area under the ASF would be Prince George's County, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is adjacent to the Washington-Dulles Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone to include

the existing site as a "magnet" site. The ASF allows for the possible exemption of one magnet site from the "sunset" time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. No subzones/usage-driven sites are being requested at this time.

In accordance with the FTZ Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

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 October 3, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 20, 2014.

A copy of the application 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 Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: July 29, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–18346 Filed 8–1–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–44–2014]

Approval of Subzone Status HVPH Motor Corporation Guaynabo, Puerto Rico

On April 22, 2014, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by CODEZOL, C.D., grantee of FTZ 163, requesting subzone status subject to the existing activation limit of FTZ 163, on behalf of HVPH Motor Corporation in Guaynabo, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (79 FR 23322, 4/28/2014). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 163B is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 163's 923.36-acre activation limit.

Dated: July 24, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–18344 Filed 8–1–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–45–2014]

Approval of Subzone Status Betteroads Asphalt Corporation Guayanilla, Puerto Rico

On April 22, 2014, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by CODEZOL, C.D., grantee of FTZ 163, requesting subzone status subject to the existing activation limit of FTZ 163, on behalf of Betteroads Asphalt Corporation in Guayanilla, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (79 FR 23322, 4/28/2014). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 163C is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 163's 923.36-acre activation limit.

Dated: July 24, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–18341 Filed 8–1–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–971]

Multilayered Wood Flooring From the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2011

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) conducted an administrative review of the countervailing duty order on multilayered wood flooring (wood flooring) from the People's Republic of China (PRC).[1] On January 27, 2014, the Department published the *Preliminary Results* for this administrative review.[2] The period of review (POR) is April 6, 2011, through December 31, 2011. This review covered multiple exporters/producers, two of which were individually reviewed as mandatory respondents, with another being individually reviewed as a voluntary respondent. The Department finds that the mandatory respondents, Armstrong Wood Products (Kunshan) Co., Ltd. (also known as, "Armstrong Wood Products Kunshan Co., Ltd.") (Armstrong) and The Lizhong Wood Industry Limited Company of Shanghai (also known as, "Shanghai Lizhong Wood Products Co., Ltd.") (Lizhong), as well as voluntary respondent, Fine Furniture (Shanghai) Limited (Fine Furniture), received countervailable subsidies during the POR. We are applying rates to the other firms subject to this review based on the countervailing duty rates calculated for the respondents individually examined. The Department also rescinds the review of one company, Changzhou Hawd Flooring Co., Ltd., that timely certified that it had no shipments of subject merchandise to the United States during the POR.

DATES: *Effective Date:* August 4, 2014.

FOR FURTHER INFORMATION CONTACT: Joshua Morris or Austin Redington, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade

[1] *See Multilayered Wood Flooring From the People's Republic of China: Countervailing Duty Order*, 76 FR 76693 (December 8, 2011); *see also Multilayered Wood Flooring From the People's Republic of China: Amended Antidumping and Countervailing Duty Orders*, 77 FR 5484 (February 3, 2012) (*Amended Order*).

[2] *See Multilayered Wood Flooring From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2011*, 79 FR 4330 (January 27, 2014) (*Preliminary Results*).

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1779 or (202) 482–1664, respectively.

Scope of the Order

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s) [3] in combination with a core. Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; and 4418.72.9500.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description remains dispositive.

A full description of the scope of the *Amended Order* is contained in the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for Final Results of Countervailing Duty Administrative Review: Multilayered Wood Flooring from the People's Republic of China," dated concurrently with this notice (Issues and Decision Memorandum), which is hereby adopted by this notice.

The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, Room 7046 of the main Department building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://trade.gov/enforcement/*. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Partial Rescission of Administrative Review

On March 28, 2013, we received a timely filed no shipment certification from Changzhou Hawd Flooring Co., Ltd. Because there is no evidence on the record to indicate that this company had sales of subject merchandise during the POR, and no party objected to our intent to rescind as stated in the *Preliminary Results*, pursuant to 19 CFR 351.213(d)(3), we are rescinding the review with respect to Changzhou Hawd Flooring Co., Ltd.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). A full description of the methodology underlying our conclusions is presented in the Issues and Decision Memorandum.

Final Results of the Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated individual subsidy rates for the mandatory respondents, Armstrong and Lizhong, as well as for the voluntary respondent, Fine Furniture.

For the respondents not selected for individual review, we applied a subsidy rate based on an average of the subsidy rates calculated for those companies selected for individual review (*i.e.*, the mandatory respondents), excluding *de minimis* rates or rates based entirely on adverse facts available.[4] Therefore, we assigned to these companies the simple average of the rates calculated for Armstrong and Lizhong. We used a simple average and not a weighted average because weight averaging the rates of the two mandatory respondents risks the disclosure of proprietary information of each company to the other.

We find the net subsidy rate for the producers/exporters under review to be as follows:

Producer/exporter	Net subsidy rate
Armstrong Wood Products (Kunshan) Co., Ltd (also known as, "Armstrong Wood Products Kunshan Co., Ltd")	0.98
The Lizhong Wood Industry Limited Company of Shanghai (also known as, "Shanghai Lizhong Wood Products Co., Ltd"); Linyi Youyou Wood Co., Ltd	0.67
Fine Furniture (Shanghai) Limited; Great Wood (Tonghua) Limited; FF Plantation (Shishou) Limited	1.21
A&W (Shanghai) Woods Co., Ltd	0.83
Baishan Huafeng Wood Product Co., Ltd	0.83
Baiying Furniture Manufacturer Co., Ltd	0.83
Baroque Timber Industries (Zhongshan) Co., Ltd	0.83
Changbai Mountain Development and Protection Zone Hongtu Wood Industry Co., Ltd	0.83
Chinafloors Timber (China) Co., Ltd	0.83
Dalian Dajen Wood Co., Ltd	0.83

[3] A "veneer" is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.

[4] *See, e.g., Certain Pasta From Italy: Preliminary Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 18806, 18811 (April 13, 2010), unchanged in *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386 (June 29, 2010).

Producer/exporter	Net subsidy rate
Dalian Huilong Wooden Products Co., Ltd	0.83
Dalian Jiuyuan Wood Industry Co., Ltd	0.83
Dalian Kemian Wood Industry Co., Ltd	0.83
Dalian Penghong Floor Products Co., Ltd	0.83
Dazhuang Floor Co. (dba Dasso Industrial Group Co., Ltd)	0.83
Dongtai Fuan Universal Dynamics LLC	0.83
Dunhua City Hongyuan Wood Industry Co., Ltd	0.83
Dunhua City Wanrong Wood Industry Co., Ltd	0.83
Dunhua Dexin Wood Industry Co., Ltd	0.83
Dunhua Jisheng Wood Industry Co., Ltd	0.83
Dun Hua City Jisen Wood Industry Co., Ltd	0.83
Dun Hua Sen Tai Wood Co., Ltd,	0.83
Fu Lik Timber (HK) Co., Ltd	0.83
Fusong Jinlong Wooden Group Co., Ltd	0.83
Fusong Qianqiu Wooden Group Co., Ltd	0.83
Fusong Qianqiu Wooden Product Co., Ltd	0.83
GTP International	0.83
Guangdong Fu Lin Timber Technology Limited	0.83
Guangdong Yihua Timber Industry Co., Ltd	0.83
Guangzhou Jiasheng Timber Industry Co., Ltd	0.83
Guangzhou Panyu Kangda Board Co., Ltd	0.83
Guangzhou Panyu Southern Star Co., Ltd	0.83
Guanghzhou Panyu Shatou Trading Co. Ltd	0.83
HaiLin LinJing Wooden Products, Ltd	0.83
Hunchun Forest Wolf Wooden Industry Co., Ltd	0.83
Huzhou Chenghang Wood Co., Ltd	0.83
Huzhou Fuma Wood Bus. Co., Ltd	0.83
Huzhou Fulinmen Imp. & Exp. Co., Ltd	0.83
Huzhou Jesonwood Co., Ltd	0.83
Huzhou Sunergy World Trade Co., Ltd	0.83
Jianfeng Wood (Suzhou) Co., Ltd	0.83
Jiangsu Senmao Bamboo, Wood Industry Co., Ltd	0.83
Jiangsu Simba Flooring Co., Ltd	0.83
Jiazing Brilliant Import & Export Co., Ltd	0.83
Jilin Forest Industry Jinqiao Flooring Group Co., Ltd	0.83
Jilin Xinyuan Wooden Industry Co., Ltd	0.83
Karly Wood Product Limited	0.83
Kemian Wood Industry (Kunshan) Co., Ltd	0.83
Kunming Alston (AST) Wood Products Co., Ltd	0.83
Kushan Yingyi-Nature Wood Industry Co., Ltd	0.83
Metropolitan Hardwood Floors, Inc.	0.83
MuDanJiang Bosen Wood Industry Co., Ltd	0.83
Nakahiro Jyou Sei Furniture (Dalian) Co., Ltd	0.83
Nanjing Minglin Wooden Industry Co., Ltd	0.83
Power Dekor Group Co., Ltd	0.83
Puli Trading Co., Ltd	0.83
Riverside Plywood Corporation	0.83
Samling Elegant Living Trading (Labuan) Limited	0.83
Samling Global USA, Inc.	0.83
Samling Riverside Co., Ltd	0.83
Sennorwell International Group (Hong Kong) Limited	0.83
Shanghai Demeijia Wooden Co., Ltd	0.83
Shanghai Eswell Timber Co., Ltd	0.83
Shanghai Lairunde Wood Co., Ltd	0.83
Shanghai New Sihi Wood Co., Ltd	0.83
Shanghai Shenlin Corp.	0.83
Shenyang Haobainian Wood Co.	0.83
Shenyang Sende Wood Co., Ltd	0.83
Shenzhenshi Huanwei Woods Co., Ltd	0.83
Suzhou Anxin Weiguang Timber Co., Ltd	0.83
Suzhou Dongda Wood Co., Ltd	0.83
Suzhou Times Flooring Co., Ltd	0.83
Vicwood Industry (Suzhou) Co. Ltd	0.83
Xiamen Yung De Ornament Co., Ltd	0.83
Xinyuan Wooden Industry Co., Ltd	0.83
Xuzhou Shenghe Wood Co., Ltd	0.83
Yekalon Industry, Inc.	0.83
Yixing Lion-King Timber Industry Co., Ltd	0.83
Zhejiang AnJi XinFeng Bamboo & Wood Co., Ltd	0.83
Zhejiang Biyork Wood Co., Ltd	0.83
Zhejiang Dadongwu GreenHome Wood Co., Ltd	0.83

Producer/exporter	Net subsidy rate
Zhejiang Desheng Wood Industry Co., Ltd	0.83
Zhejiang Fudeli Timber Indutry Co., Ltd	0.83
Zhejiang Haoyun Wood Co., Ltd	0.83
Zhejiang Jeson Wood Co., Ltd	0.83
Zhejiang Jiechen Wood Industry Co., Ltd	0.83
Zhejiang Longsen Lumbering Co., Ltd	0.83
Zhejiang Shiyou Timber Co., Ltd	0.83
Zhejiang Tianzhen Bamboo & Wood Development Co., Ltd	0.83

Assessment Rates

Upon issuance of these final results, the U.S. Customs and Border Protection (CBP) shall assess countervailing duties on all appropriate entries covered by this review. We intend to issue instructions to CBP 15 days after publication of these final results.

Cash Deposit Requirements

In accordance with section 751(a)(1) of the Act, the Department intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed companies, we will instruct CBP to continue to collect cash deposits at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by the *Amended Order,* but not examined in this review, are those established in the most recently completed segment of the proceeding for each company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: July 28, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Decision Memorandum

[FR Doc. 2014–18339 Filed 8–1–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–560–824]

Notice of Rescission of Countervailing Duty Administrative Review: Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the countervailing duty (CVD) order on certain coated paper suitable for high-quality print graphics using sheet-fed presses (certain coated paper) from Indonesia for January 1, 2012, through December 31, 2012 period of review (POR).

DATES: *Effective Date:* August 4, 2014.

FOR FURTHER INFORMATION CONTACT: Milton Koch, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2584.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 2010, the Department of Commerce (the Department) published the CVD order on certain coated paper from Indonesia.[1] On November 1, 2013, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the CVD order on certain coated paper from Indonesia for the 2012 POR.[2] On December 2, 2013, Appleton Coated LLC, NewPage Corporation, S.D. Warren, United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, (collectively "Petitioners") timely requested that the Department conduct an administrative review of PT. Pabrik Kertas Tjiwi Kimia, Tbk, PT. Pindo Deli Pulp and Paper Mills, and PT. Indah Kiat Pulp and Paper, Tbk for the 2012 POR. Petitioners were the only party to request this administrative review. On December 30, 2013, the Department published a notice of initiation of the CVD administrative review of certain coated paper from Indonesia for the 2012 POR.[3] On March 28, 2014,

[1] *See Certain Coated Paper Suitable for High-Quolity Print Grophics Using Sheet-Fed Presses From Indonesio: Countervoiling Duty Order,* 75 FR 70206 (November 17, 2010).

[2] *See Antidumping or Countervoiling Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 78 FR 65612 (November 1, 2013).

[3] *See Initiation of Antidumping ond Countervoiling Duty Administrotive Reviews ond*

Continued

Petitioners timely withdrew their request for the administrative review.

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. Petitioners timely withdrew their request before the 90-day deadline, and no other party requested an administrative review of the CVD order on certain coated paper from Indonesia for the 2012 POR. Therefore, we are rescinding the administrative review of the CVD order on certain coated paper from Indonesia covering the 2012 POR.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess CVDs on all appropriate entries. For the companies for which this review is rescinded, the CVDs shall be assessed at rates equal to the cash deposit of estimated CVDs required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i).

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of CVDs prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of CVDs occurred and the subsequent assessment of double CVDs.

Return or Destruction of Proprietary Information

This notice serves as a reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3). We request timely written notification of return or destruction of APO materials, or conversion to judicial protective order. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

The Department issues and publishes this notice in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213.

Requests for Revocation in Part, 78 FR 79392 (December 30, 2013).

Dated: July 29, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–18340 Filed 8–1–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD420

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's (Council) Scientific and Statistical Committee (SSC) will meet over two days to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Monday, August 25, 2014 at 9:30 a.m. and Tuesday, August 26, 2014 at 9 a.m.

ADDRESSES: The meeting will be held at the Courtyard by Marriott/Boston Logan Airport, 225 McClellan Highway, Boston, MA 02128; telephone: (617) 569–5250.

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 Items

The SSC will meet to (1) Review stock assessment information, consider information provided by the Groundfish PDT and develop ABC recommendations for Gulf of Maine haddock and Georges Bank yellowtail flounder for fishing years 2015–17; and (2) review stock assessment information, consider information provided by the Whiting PDT and develop ABC recommendations for northern and southern stocks of red hake, whiting (silver hake) and offshore hake for fishing years 2015–17. The committee may not complete all the ABC recommendations for these stocks at this meeting. The committee will address other business as necessary.

Although non-emergency issues not contained in this agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management 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 (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: July 29, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–18218 Filed 8–1–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA713

Endangered Species; File No. 16436–01

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

ACTION: Issuance of a permit modification and termination of a permit.

SUMMARY: Notice is hereby given that the New York State Department of Environmental Conservation, 21 South Putt Corners Road, New Paltz, NY 12561 [Kathryn Hattala: Responsible Party], has been issued a permit modification (Permit No. 16436–01) to take to take Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) and shortnose sturgeon (*Acipenser brevirostrum*) for purposes of scientific research. Additionally, Permit No. 16439, issued to the same Permit Holder for study of shortnose sturgeon, is hereby terminated.

ADDRESSES: The permit modification and related documents are available for review upon written request or by appointment in the following office:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room

13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead, (301) 427–8401.

SUPPLEMENTARY INFORMATION: Permit No. 16436 was issued April 6, 2012 (77 FR 21754) to the Permit Holder to capture Atlantic sturgeon life stages in the Hudson River estuary to assess juvenile abundance, characterize the adult spawning stock, and generate population estimates. Atlantic sturgeon were authorized captured with gill nets, trammel nets, and trawls; measured, weighed, tissue sampled, fin clipped for aging, PIT tagged and Floy tagged, internally and externally acoustic tagged, anesthetized with 150 ppm MS–222, and gastric lavaged.

The permit modification (Permit No. 16436–01) now consolidates takes of shortnose sturgeon issued in Permit No 16439 with those Atlantic sturgeon authorized in Permit No. 16436. Permit No. 16439 was terminated upon issuance of the modification. The takes of both Atlantic and shortnose sturgeon were increased in the modification to meet further objectives, including understanding impacts on each species from (1) construction of the Tappan Zee Bridge; (2) laying high voltage cable in the Hudson River; and (3) measuring contaminants levels in the Hudson River. New methods authorized in the modification include contaminant research sampling by performing laparoscopic liver biopsy, and anesthetizing animals with 250 mg/l MS–222 and electro-narcosis. A total of three incidental mortalities of shortnose and Atlantic sturgeon are now authorized annually as a result of increased research activity. The modification would be valid through the original expiration date of Permit No. 16436 on April 5, 2017.

Issuance of this permit modification, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith; (2) will not operate to the disadvantage of such endangered or threatened species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 30, 2014.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–18334 Filed 8–1–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Community Broadband Workshop

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Telecommunications and Information Administration (NTIA) will hold a one-day regional workshop, "Building a Community Broadband Roadmap: Lessons in Implementation," to share information to help communities build their broadband capacity and utilization. The workshop will present best practices and lessons learned from network infrastructure build-outs and digital inclusion programs from Minnesota and surrounding states, including broadband projects funded by NTIA. It will also explore effective business and partnership models and will include access to regional policymakers, federal funders and industry providers.

DATES: The Community Broadband Workshop will be held on September 4, 2014, from 9:00 a.m. to 5:00 p.m., Central Time.

ADDRESSES: The meeting will be held in the Hyatt Regency Minneapolis Northstar Ballroom at 1300 Nicollet Mall, Minneapolis, MN 55403.

FOR FURTHER INFORMATION CONTACT: Karen Hanson, National Telecommunications and Information Administration, U.S. Department of Commerce, Room 4628, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0213; email: *khanson@ntia.doc.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

SUPPLEMENTARY INFORMATION: The Community Broadband Workshop—Building a Community Broadband Roadmap: Lessons in Implementation—will include an NTIA presentation that discusses lessons learned through implementation of its broadband grants, and a panel that will explore key elements required for successful broadband projects using a mix of regional examples. Topics will include marketing/demand aggregation, outreach, coordination with government agencies, partnership strategies, construction and oversight. Another panel will examine business model options, including private networks, public/private partnerships, co-ops and municipal systems. The workshop will also include a panel discussion with federal and private funding entities that support investments in broadband infrastructure and adoption. NTIA will provide tips to communities on how to research funding options, make a compelling case to funders and leverage multiple federal and state funding streams.

The workshop will be open to the public and press. Pre-registration is required, and space is limited. Information on how to pre-register for the meeting will be available on NTIA's Web site: *www.ntia.doc.gov/workshop.* NTIA will ask registrants to provide their first and last names and email addresses for both registration purposes and to receive any updates on the workshop. If capacity for the meeting is reached, NTIA will maintain a waiting list and will inform those on the waiting list if space becomes available.

The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as language interpretation or other ancillary aids, are asked to notify the NTIA contact listed above at least five (5) business days before the meeting.

Meeting updates and relevant documents will be also available on NTIA's Web site at *www.ntia.doc.gov/workshop.*

Dated: July 30, 2014.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2014–18403 Filed 8–1–14; 8:45 am]

BILLING CODE 3510–60–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2014–0016]

Disclosure of Consumer Complaint Narrative Data

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed policy statement; extension of comment period.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) currently discloses certain complaint data it receives regarding consumer financial products and services via its web-based, public-facing database (Consumer Complaint Database). On July 23, 2014, the Bureau published in the **Federal Register** a Notice of Proposed Policy Statement with Request for Public Comment (Proposed Policy Statement) proposing to expand its disclosure to include unstructured consumer complaint narrative data (narratives). The Proposed Policy Statement

provided a 30-day comment period that will end on August 22, 2014. To allow interested persons additional time to consider and submit their responses, the Bureau has determined that an extension of the comment period until September 22, 2014, is appropriate.

DATES: The comment period for the Disclosure of Consumer Complaint Narrative Data Proposed Policy Statement published July 23, 2014, at 79 FR 42765, is extended. Responses must now be received on or before September 22, 2014.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2014–0016, by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington DC 20002.

Instructions: All submissions should include the agency name and docket number for this proposal. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. eastern standard time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. 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: For general inquiries, submission process questions, or any additional information, please contact Monica Jackson, Office of the Executive Secretary, 202–435–7275.

SUPPLEMENTARY INFORMATION: On July 17, 2014, the Bureau issued the Proposed Policy Statement. The Proposed Policy Statement was published in the **Federal Register** on July 23, 2014. The Proposed Policy Statement seeks comment, data and information from the public on the Bureau's proposal to include narratives in the Consumer Complaint Database.

On December 8, 2011, the Bureau published in the **Federal Register** a proposed policy statement describing its plans to disclose certain data about the credit card complaints that consumers submit to the Bureau (December 2011 Proposed Policy Statement).[1] After receiving and considering a number of comments, the Bureau finalized its plans for publically disclosing data from consumer credit card complaints and published the final policy statement on June 22, 2012 (June 2012 Policy Statement).[2]

Also on June 22, 2012, the Bureau concurrently published in the **Federal Register** a proposed policy statement describing its plans to disclose data from consumer complaints about financial products and services other than credit cards (June 2012 Proposed Policy Statement).[3] After receiving and considering a number of comments, the Bureau published the final policy statement on March 25, 2013 (March 2013 Policy Statement).[4] In the June 2012 Proposed Policy Statement, the Bureau did not propose including narratives in the Consumer Complaint Database.

Notwithstanding this, the Bureau received a significant number of comments specific to narrative disclosure. Consumer, civil rights, and open government groups supported disclosure on the grounds that disclosing narratives would provide consumers with more useful information on which to base financial decisions and would allow reviewers to assess the validity of the complaints. Two privacy groups, while acknowledging privacy risk stemming from publication of "non-identifiable" data and calling for further study, supported disclosure on an opt-in basis. Trade groups and industry commenters nearly uniformly opposed disclosure of consumer complaint narratives.

The Bureau believes that the utility of the overall Consumer Complaint Database would greatly increase with the inclusion of narratives. This could lead to increased use by advocates, academics, the press, and entrepreneurs, which itself would lead to increased consumer contacts with the Bureau.

The Bureau believes that the aforementioned increase in benefits and utility would lead to an increase in consumer contacts, which would have a positive effect on Bureau operations. As a critical mass of complaint data is achieved and exceeded, the representativeness of Bureau complaint data increases. Thus, narratives would not only enhance the above consumer benefits but also the many Bureau functions that rely, in part, on complaint data to perform their respective missions including the Offices of Supervision, Enforcement, and Fair Lending, Consumer Education and Engagement, and Research, Markets, and Rulemaking.

The Bureau balances interested parties' desire to have additional time to consider the issues raised in the Proposed Policy Statement, gather data, and prepare their responses, with the need to proceed expeditiously to consider comments and determine whether to issue a final policy statement. The Bureau believes that a 60-day extension is appropriate. The comment period therefore will close on September 22, 2014.

Dated: July 29, 2014.

Elizabeth A. Corbett,

Deputy Chief of Staff, Bureau of Consumer Financial Protection.

[FR Doc. 2014–18355 Filed 8–1–14; 8:45 am]

BILLING CODE 4810–AM–P

[1] 76 FR 76628, Dec. 8, 2011.

[2] 77 FR 37616, June 22, 2012.

[3] 77 FR 37616, June 22, 2012.

[4] 78 FR 21218, April 10, 2013.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. Sec. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its proposed Commission Support Grant Grantee Progress Report (GPR). All State

Commissions are required to complete a mid-year GPR, which is due in July and an end-of-year GPR, which is due in January. The GPR provides information for CNCS staff to monitor grantee progress and to respond to requests from Congress and other stakeholders.

Copies of the information collection request can be obtained by contacting the office listed in the Addresses section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by October 3, 2014.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, AmeriCorps State and National, Attention Carla Ganiel, Senior Program and Project Specialist, Room 9517B, 1201 New York Avenue NW., Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

(3) By fax to: 202–606–3476, Attention: Carla Ganiel, Senior Program and Project Specialist.

(4) Electronically through *www.regulations.gov.*

Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Carla Ganiel, 202–606–6773, or by email at *cganiel@cns.gov.*

SUPPLEMENTARY INFORMATION: CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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 expected to respond, including 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).

Background

All State Commission grantees complete the GPR, which provides information for CNCS staff to monitor grantee progress and to respond to requests from Congress and other stakeholders. The information is collected electronically through the eGrants system.

Current Action

This is a new instrument that will become part of the Commission Support Application information collection request 3045–0099.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Grantee Progress Report.

OMB Number: 3045–0099.

Agency Number: None.

Affected Public: AmeriCorps State and National grantees.

Total Respondents: 53.

Frequency: Semi-Annual.

Average Time Per Response: 6.5 hours per submission.

Estimated Total Burden Hours: 689.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 29, 2014.

Bill Basl,

Director, AmeriCorps State and National.

[FR Doc. 2014–18321 Filed 8–1–14; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF ENERGY

Orders Granting Authority To Import and Export Natural Gas, To Import and Export Liquefied Natural Gas and Vacating Prior Authority

During May 2014.

	FE Docket Nos.
HESS ENERGY MARKETING, LLC	14–32–NG
SEQUENT ENERGY MANAGEMENT, L.P	14–34–NG
PACIFIC GAS AND ELECTRIC	14–36–NG
SOCCO, INC	14–37–NG
QUICKSILVER RESOURCES INC	14–38–NG
UNITED ENERGY TRADING CANADA, ULC	14–39–NG
NATIONAL FUEL RESOURCES, INC	14–40–NG
ALCOA INC	14–41–NG
NORTHWEST NATURAL GAS COMPANY	14–47–NG
NEW YORK STATE ELECTRIC & GAS CORPORATION	14–42–NG
WEST TEXAS GAS, INC	14–43–NG
BG ENERGY MERCHANTS, LLC	14–44–NG
MINNESOTA ENERGY RESOURCES CORPORATION	14–45–NG
SHELL ENERGY NORTH AMERICA (US) L.P	14–46–NG
PAA NATURAL GAS CANADA ULC	14–48–NG
VIRGINIA POWER ENERGY MARKETING, INC	14–50–NG
GAVILON, LLC	13–50–NG
HESS CORPORATION	12–81–NG
THE DOW CHEMICAL COMPANY	14–49–NG
EMPIRE NATURAL GAS CORPORATION	14–51–NG
SEMPRA GENERATION, LLC	14–52–NG
IGI RESOURCES, INC	14–62–NG
TOURMALINE OIL MARKETING CORP	14–64–NG
UNITED ENERGY TRADING, LLC	14–65–NG

AGENCY: Office of Fossil Energy, Department of Energy (DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE of the Department of Energy gives notice that during May 2014, it issued orders granting authority to import and export natural gas, to import and export liquefied natural gas and vacating prior authority. These orders are summarized in the attached appendix and may be found on the FE Web site at *http://www.fossil.energy.gov/programs/gasregulation/authorizations/Orders-2014.html.*

They are also available for inspection and copying in the Office of Fossil Energy, Office of Oil and Gas Global Security and Supply, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on July 24, 2014.

John A. Anderson,

Director, Division of Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

Appendix

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

3420	05/01/14	14–32–NG	Hess Energy Marketing, LLC	Order granting blanket authority to import/export natural gas from/to Canada.
3421	05/01/14	14–34–NG	Sequent Energy Management, L.P	Order granting blanket authority to import/export natural gas from/to Canada.
3422	05/01/14	14–36–NG	Pacific Gas and Electric	Order granting blanket authority to import natural gas from Canada and vacating prior authority Order 3328.
3423	05/01/14	14–37–NG	Socco, Inc	Order granting blanket authority to import natural gas from Canada.
3424	05/01/14	14–38–NG	Quicksilver Resources Inc	Order granting blanket authority to import/export natural gas from/to Mexico.
3425	05/01/14	14–39–NG	United Energy Trading Canada, ULC	Order granting blanket authority to import/export natural gas from/to Canada.
3426	05/01/14	14–40–NG	National Fuel Resources, Inc	Order granting blanket authority to import/export natural gas from/to Canada.
3427	05/01/14	14–41–NG	Alcoa Inc	Order granting blanket authority to import natural gas from Canada.
3428	05/01/14	14–47–NG	Northwest Natural Gas Company	Order granting blanket authority to import/export natural gas from/to Canada.
3429	05/08/14	14–42–NG	New York State Electric & Gas Corporation.	Order granting blanket authority to import/export natural gas from/to Canada.
3430	05/08/14	14–43–NG	West Texas Gas, Inc	Order granting blanket authority to export natural gas to Mexico.
3431	05/08/14	14–44–NG	BG Energy Merchants, LLC	Order granting blanket authority to import/export natural gas from/to Canada/Mexico.
3432	05/08/14	14–45–NG	Minnesota Energy Resources Corporation.	Order granting blanket authority to import/export natural gas from/to Canada.
3433	05/08/14	14–46–NG	Shell Energy North America (US, L.P	Order granting blanket authority to import/export natural gas from/to Canada/Mexico, to export LNG to Canada/Mexico by vessel and truck, and to import LNG from various international sources by vessel.
3434	05/08/14	14–48–NG	PAA Natural Gas Canada ULC	Order granting blanket authority to import/export natural gas from/to Canada.
3435	05/15/14	14–50–NG	Virginia Energy Power Marketing, Inc	Order granting blanket authority to import/export natural gas from/to Canada.
3280–A	05/15/14	13–50–NG	Gavilon, LLC	Order vacating blanket authority to import/export natural gas from/to Canada.
3133–A	05/15/14	12–81–NG	Hess Corporation	Order vacating blanket authority to import/export natural gas from/to Canada.
3436	05/29/14	14–49–NG	The Dow Chemical Company	Order granting blanket authority to import/export natural gas from/to Canada/Mexico, and to import LNG from various international sources by vessel.
3437	05/29/14	14–51–NG	Empire Natural Gas Corporation	Order granting blanket authority to import/export natural gas from/to Canada.
3438	05/29/14	14–52–NG	Sempra Generation, LLC	Order granting blanket authority to import/export natural gas from/to Canada.
3439	05/29/14	14–62–NG	IGI Resources, Inc	Order granting blanket authority to import/export natural gas from/to Canada.
3440	05/29/14	14–64–NG	Tourmaline Oil Marketing Corp	Order granting blanket authority to import natural gas from Canada.
3441	05/29/14	14–65–NG	United Energy Trading, LLC	Order granting blanket authority to import/export natural gas from/to Canada.

[FR Doc. 2014–18350 Filed 8–1–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Open Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a teleconference call of the Secretary of Energy Advisory Board (SEAB). SEAB

was reestablished pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) (the Act). This notice is provided in accordance with the Act.

DATES: Friday, August 18, 2014 from 2:00 p.m. to 2:45 p.m. (ET). To receive the call-in number and passcode, please contact the Board's Deputy Designated Federal Officer (DFO) at the address or email listed below.

FOR FURTHER INFORMATION CONTACT: Corey Williams-Allen, Deputy Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; or email: *seab@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Board was established to provide advice and recommendations to the Secretary on the Department's basic and applied research, economic and national security policy, educational issues, operational issues, and other activities as directed by the Secretary.

Purpose of the Meeting

This meeting is a public meeting of the Board.

Tentative Agenda

The meeting will start at 2:00 p.m. on August 18, 2014. The tentative meeting agenda includes updates on the work of the SEAB Next Generation High Performance Computing Task Force and comments from the public. The meeting will conclude at 2:45 p.m. Agenda updates and a draft of the report will be posted on the SEAB Web site: *www.energy.gov/seab.*

Public Participation

The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Corey Williams-Allen at the address or email address listed above. Requests to make oral comments must be received five days prior to the meeting. The Designated Federal Officer (or designee) is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Those not able to join the teleconference call or who have insufficient time to address the committee are invited to send a written statement to Corey Williams-Allen, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, or email to: *seab@hq.doe.gov.*

Minutes

The minutes of the meeting will be available by contacting Mr. Williams-Allen. He may be reached at the postal address or email address above, or by visiting SEAB's Web site at *www.energy.gov/seab.*

Issued in Washington, DC on July 29, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–18345 Filed 8–1–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1107–002; *ER10–1107–004.*

Applicants: Pacific Gas and Electric Company.

Description: Clarification to December 31, 2102 updated market power analysis for the Southwest Region and September 6, 2013 Notice of Non-Material Change in Status of Pacific Gas and Electric Company.

Filed Date: 7/28/14.

Accession Number: 20140728–5104.

Comments Due: 5 p.m. ET 8/7/14.

Docket Numbers: ER14–2343–000.

Applicants: Florida Power & Light Company.

Description: FPL and Seminole Electric Cooperative, Inc. Supplement to TSA No. 162 to be effective N/A.

Filed Date: 7/28/14.

Accession Number: 20140728–5134.

Comments Due: 5 p.m. ET 8/18/14.

Docket Numbers: ER14–2514–000.

Applicants: ISO New England Inc., New England Power Company.

Description: Local Service Agreements TSA–NEP–83 and TSA–NEP–86 to be effective 9/27/2014.

Filed Date: 7/28/14.

Accession Number: 20140728–5091.

Comments Due: 5 p.m. ET 8/18/14.

Docket Numbers: ER14–2515–000.

Applicants: Florida Power & Light Company.

Description: FPL Revisions to LCEC Rate Schedule No. 312 to be effective 1/1/2013.

Filed Date: 7/28/14.

Accession Number: 20140728–5115.

Comments Due: 5 p.m. ET 8/18/14.

Docket Numbers: ER14–2516–000.

Applicants: Florida Power & Light Company.

Description: FPL Revisions to LCEC Rate Schedule No. 317 to be effective 1/1/2014.

Filed Date: 7/28/14.

Accession Number: 20140728–5117.

Comments Due: 5 p.m. ET 8/18/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 28, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–18319 Filed 8–1–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–1122–000.

Applicants: Natural Gas Pipeline Company of America.

Description: FPLE Forney Neg Rate to be effective 8/1/2014.

Filed Date: 7/24/14.

Accession Number: 20140724–5037.

Comments Due: 5 p.m. ET 8/5/14.

Docket Numbers: RP14–1123–000.

Applicants: Dauphin Island Gathering Partners.

Description: Dauphin Island Gathering Partners' 2014 Cash Out Refund Report.

Filed Date: 7/25/14.

Accession Number: 20140725–5012.

Comments Due: 5 p.m. ET 8/6/14.

Docket Numbers: RP14–1124–000.

Applicants: Wyckoff Gas Storage Company, LLC.

Description: Order to Show Cause Compliance Filing.

Filed Date: 7/25/14.
Accession Number: 20140725–5018.
Comments Due: 5 p.m. ET 8/6/14.
Docket Numbers: RP14–1125–000.
Applicants: Centra Pipelines Minnesota, Inc.
Description: Petition for Approval of Settlement of Centra Pipelines Minnesota, Inc.
Filed Date: 7/25/14.
Accession Number: 20140725–5142.
Comments Due: 5 p.m. ET 8/6/14.
Docket Numbers: RP14–1126–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: Duke Energy k410135 2014–11–01 Release to be effective 11/1/2014.
Filed Date: 7/28/14.
Accession Number: 20140728–5044.
Comments Due: 5 p.m. ET 8/11/14.
Docket Numbers: RP14–1127–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: Duke Energy k410135 2015–04–01 Release to be effective 4/1/2015.
Filed Date: 7/28/14.
Accession Number: 20140728–5045.
Comments Due: 5 p.m. ET 8/11/14.
Docket Numbers: RP14–1128–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: Duke Energy k410135 2015–11–01 Release to be effective 11/1/2015.
Filed Date: 7/28/14.
Accession Number: 20140728–5046.
Comments Due: 5 p.m. ET 8/11/14.
Docket Numbers: RP14–1129–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: Duke Energy k410135 2016–04–01 Release to be effective 4/1/2016.
Filed Date: 7/28/14.
Accession Number: 20140728–5047.
Comments Due: 5 p.m. ET 8/11/14.
Docket Numbers: RP14–1130–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: Duke Energy k410135 2016–11–01 Release to be effective 11/1/2016.
Filed Date: 7/28/14.
Accession Number: 20140728–5048.
Comments Due: 5 p.m. ET 8/11/14.
Docket Numbers: RP14–1131–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: East Tennessee Natural Gas, LLC submits tariff filing per 154.204: Duke Energy k410135 2017–04–01 Release to be effective 4/1/2017.
Filed Date: 7/28/14.
Accession Number: 20140728–5049.
Comments Due: 5 p.m. ET 8/11/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated July 28, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–18314 Filed 8–1–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–673–005; ER12–672–005; ER10–1908–008; ER10–1909–008; ER10–1910–008; ER10–1911–008; ER10–1533–009; ER10–2374–007; ER12–674–006; ER12–670–006.
Applicants: Brea Generation LLC, Brea Power II, LLC, Duquesne Conemaugh, LLC, Duquesne Keystone, LLC, Duquesne Light Company, Duquesne Power, LLC, Macquarie Energy LLC, Puget Sound Energy, Inc., Rhode Island Engine Genco, LLC, Rhode Island LFG Genco, LLC.
Description: Notice of Non-Material Change in Status of Brea Generation LLC, et. al.
Filed Date: 7/28/14.
Accession Number: 20140728–5069.
Comments Due: 5 p.m. ET 8/18/14.
Docket Numbers: ER14–2140–001.
Applicants: Mulberry Farm, LLC.
Description: Supplement Filing to Baseline Filing to be effective 10/1/2014.
Filed Date: 7/28/14.
Accession Number: 20140728–5001.
Comments Due: 5 p.m. ET 8/18/14.
Docket Numbers: ER14–2141–001.
Applicants: Selmer Farm, LLC.
Description: Supplement to Baseline Filing 2–Selmer Farm, LLC to be effective 10/1/2014.
Filed Date: 7/28/14.
Accession Number: 20140728–5000.
Comments Due: 5 p.m. ET 8/18/14.
Docket Numbers: ER14–2290–001.
Applicants: Josco Energy Corp.
Description: Josco MBR Supplement to be effective 8/11/2014.
Filed Date: 7/25/14.
Accession Number: 20140725–5136.
Comments Due: 5 p.m. ET 8/15/14.
Docket Numbers: ER14–2338–002.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric and WPPI RS FERC No 90–2014 revisions second amended to be effective 8/29/2014.
Filed Date: 7/23/14.
Accession Number: 20140723–5077.
Comments Due: 5 p.m. ET 8/13/14.
Docket Numbers: ER14–2511–000.
Applicants: New York Independent System Operator, Inc.
Description: Administrative Correction MST 2.13 Definition of Modified Wheeling Agreement to be effective 7/25/2014.
Filed Date: 7/25/14.
Accession Number: 20140725–5134.
Comments Due: 5 p.m. ET 8/15/14.
Docket Numbers: ER14–2512–000.
Applicants: Pacific Gas and Electric Company.
Description: Lathrop Irrigation District Engineering Agreement to be effective 7/29/2014.
Filed Date: 7/28/14.
Accession Number: 20140728–5004.
Comments Due: 5 p.m. ET 8/18/14.
Docket Numbers: ER14–2513–000.
Applicants: Public Service Company of New Hampshire.
Description: Design and Engineering Agreement for New Hampshire Electric Cooperative to be effective 7/29/2014.
Filed Date: 7/28/14.
Accession Number: 20140728–5038.
Comments Due: 5 p.m. ET 8/18/14.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA14–2–000.
Applicants: Wellhead Power Development, LLC.
Description: Quarterly Land Acquisition Report of the affiliated Wellhead MBR Entities.
Filed Date: 7/25/14.
Accession Number: 20140725–5143.
Comments Due: 5 p.m. ET 8/15/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 28, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–18318 Filed 8–1–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2014–0549; FRL–9914–67–OSWER]

Agency Information Collection Activities: Proposed Collection; Comment Request; Application for Reimbursement to Local Governments for Emergency Response to Hazardous Substance Releases Under CERCLA; EPA ICR No. 1425.06, OMB Control No. 2050–0077

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that Environmental Protection Agency (EPA) is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request to renew an existing approved collection. This ICR is scheduled to expire on January 31, 2015. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before October 3, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2014–0549 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Boynton.Lisa@epa.gov.*
- *Fax:* 202–564–8729.
- Mail ICR Renewal for Local Goverments Reimbursement Application, Environmental Protection Agency, Mailcode: 5104A, 1200 Pennsylvania Ave. NW., Washington, DC.
- *Instructions:* Direct your comments to Docket ID No. EPA–HQ–SFUND–2014–0549. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Lisa Boynton, Office of Solid Waste and Emergency Response, Office of Emergency Management, (5104A) Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2487; fax number: (202) 564–8729; email address: *Boynton.Lisa@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–SFUND–2014–0549 which is available for online viewing at *www.regulations.gov,* or in person viewing at the Superfund Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Superfund Docket is (202) 566–1677.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Docket ID number: EPA–HQ–SFUND–2014–0549.

Affected entities: Entities potentially affected by this action are Local Governments that apply for reimbursement under this program.

Title: Local Governments Reimbursement Application.

ICR numbers: EPA ICR No. 1425.05, OMB Control No. 2050–0077.

ICR status: This ICR is currently scheduled to expire on January 31, 2015. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Agency requires applicants for reimbursement under this program authorized under section 123 of CERCLA to submit an application that demonstrates consistency with program eligibility requirements. This is necessary to ensure proper use of the Superfund. EPA reviews the information to ensure compliance with all statutory and program requirements. The applicants are local governments who have incurred expenses, above and beyond their budgets, for hazardous substance response. Submission of this information is voluntary and to the applicant's benefit.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 9 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 30.

Frequency of response: voluntary, on occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 270 hours.

Estimated total annual costs: $7,493. This includes an estimated burden cost of $18.50/hour and there are no capital investment or maintenance and operational costs.

Are there changes in the estimates from the last approval?

At this time, the Agency does not anticipate any substantial changes.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: July 23, 2014.

Lawrence M. Stanton,

Director, Office of Emergency Management.

[FR Doc. 2014–18354 Filed 8–1–14; 8:45 am]

BILLING CODE 6560–50–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 August 19, 2014.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Daniel Hirschfeld, Timonium, Maryland, Thomas J. Faust, and Charles J. Ilardo,* both of Lutherville, Maryland; to acquire voting shares of Regal Bancorp, Inc., and thereby indirectly acquire voting shares of Regal Bank & Trust, both in Owings Mills, Maryland.

Board of Governors of the Federal Reserve System, July 30, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–18312 Filed 8–1–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: *"Evaluation of the Implementation of TeamSTEPPS in Primary Care Settings (ITS–PC)."* In accordance with the Paperwork Reduction Act of 1995,

Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on May 21st, 2014 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by September 3, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@ahrq.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Evaluation of the Implementation of TeamSTEPPS in Primary Care Settings (ITS–PC)

As part of its effort to fulfill its mission goals, AHRQ, in collaboration with the Department of Defense's (DoD) Tricare Management Activity (TMA), developed TeamSTEPPS® (aka, Team Strategies and Tools for Enhancing Performance and Patient Safety) to provide an evidence-based suite of tools and strategies for training teamwork-based patient safety to health care professionals. TeamSTEPPS includes multiple toolkits which are all tied to or are variants of the core curriculum. In addition to the core curriculum, TeamSTEPPS resources have been developed for primary care, rapid response systems, long-term care, and patients with limited English proficiency.

The main objective of the TeamSTEPPS program is to improve patient safety by training health care staff in various teamwork, communication, and patient safety concepts, tools, and techniques and ultimately helping to build national capacity for supporting teamwork-based patient safety efforts in health care organizations. Since 2007, AHRQ's National Implementation Program has produced (and continues to produce) Master Trainers who have stimulated the use and adoption of TeamSTEPPS in health care delivery systems. These individuals were trained using the TeamSTEPPS core curriculum at regional training centers across the U.S. AHRQ has also provided technical assistance and consultation on implementing TeamSTEPPS and has developed various channels of learning (e.g., user networks, various educational venues) for continued support and the improvement of teamwork in health care. Since the inception of the National Implementation Program, AHRQ has trained more than 5,000 participants to serve as TeamSTEPPS Master Trainers.

Given the success of the National Implementation Program, AHRQ launched an effort to provide TeamSTEPPS training to primary care health professionals using the *TeamSTEPPS in Primary Care* version of the curriculum. Most of the participants in the current National Implementation Program's training come from hospital settings, because the TeamSTEPPS core curriculum is most aligned with that context. Under this new initiative, primary care practice facilitators will be trained through a combination of in-person and online training. Upon completion of the course, these individuals will be Master Trainers who will (a) train the staff at primary care practices, and (b) implement or support the implementation of TeamSTEPPS tools and strategies in primary care practices.

As part of this initiative, AHRQ seeks to conduct an evaluation of the TeamSTEPPS in Primary Care training program. This evaluation seeks to understand the effectiveness of the TeamSTEPPS in Primary Care training and how trained practice facilitators implement TeamSTEPPS in primary care practices.

This research has the following goals:

(1) Conduct a formative assessment of the TeamSTEPPS for Primary Care training program to determine what revisions and improvement should be made to the training and how it is delivered, and

(2) Identify how trained participants use and implement the TeamSTEPPS tools and resources in primary care settings.

This study is being conducted by AHRQ through its contractor, the Health Research and Education Trust (HRET) and HRET's subcontractor, IMPAQ International, pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of healthcare services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

To achieve the goals of this project, AHRQ will train primary care practice facilitators using the TeamSTEPPS in Primary Care training curriculum. Primary care practice facilitators may voluntarily sign up for this free, AHRQ sponsored training. Training will be delivered through a combination of online and in-person instruction. Online training will cover the core TeamSTEPPS tools and strategies that can be implemented in primary care. In-person instruction will cover coaching, organizational change, and implementation science. Practice facilitators, who complete the training, will be surveyed six months post-training.

The *TeamSTEPPS Primary Care Post-Training Survey* is an online instrument that will be administered to all primary care practice facilitators who complete the TeamSTEPPS in Primary Care training. The survey will be administered six months after participants complete training.

This is a new data collection effort for the purpose of conducting an evaluation of TeamSTEPPS in Primary Care Training. The evaluation is formative in nature as AHRQ seeks information to improve the content and delivery of the training. Training will be provided through a combination of online and in-person instruction.

To conduct the evaluation, the *TeamSTEPPS in Primary Care Post-Training Survey* will be administered to all individuals who complete the TeamSTEPPS in Primary Care training six months after training. The survey assesses the degree to which participants felt prepared by the training and what they did to implement TeamSTEPPS in primary care practices. Specifically, participants will be asked about their reasons for participating in the program; the degree to which they feel the training prepared them to train others in and use TeamSTEPPS in the primary care setting; what tools they have implemented in primary care practices; and resulting changes they have observed in the delivery of care.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondent's time to participate in the study. The *TeamSTEPPS in Primary Care Post-Training Survey* will be completed by approximately 150 individuals. We estimate that each respondent will answer 20 items (i.e., number of responses per respondent) and responding to these 20 questions will require 20 minutes. The total

annualized burden is estimated to be 50 hours.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to participate in the study. The total cost burden is estimated to be $4,348.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
TeamSTEPPS in Primary Care Post-Training Survey	150	1	20/60	50
Total	150	NA	NA	50

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
TeamSTEPPS Primary Care Post-Training Survey	150	50	[a] $86.95	$4,348
Total	150	50	86.95	4,348

* National Compensation Survey: Occupational wages in the United States May 2012, "U.S. Department of Labor, Bureau of Labor Statistics."
[a] Based on the mean wages for Family and General Practitioners 29–1062.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: July 25, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–18299 Filed 8–1–14; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "Continuing Education for Comparative Effectiveness Research Survey." In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by October 3, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@ahrq.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Continuing Education for Comparative Effectiveness Research Survey

Patient-centered outcomes research (PCOR) is an area that has seen increased focus from research agencies and other government entities. Also known as comparative effectiveness research, PCOR is the focus of AHRQ's Effective Health Care (EHC) program, which has the mission of providing health care decision-makers (e.g., patients, healthcare providers, purchasers, and policymakers) with recent evidence-based information about the harms, benefits, and effectiveness of various treatment options by comparing medical devices, surgeries, tests, drugs, or ways to deliver health care.

The EHC program was created in response to Section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and became the first federal program to conduct PCOR and disseminate those findings to the public. AHRQ works with researchers, academic organizations, and research centers through the EHC program on work relating to methods, training, and dissemination of products to a variety of stakeholders to help spread awareness and knowledge about PCOR. It is important for AHRQ to be able to measure the effectiveness of these products, which include training modules and publications, specifically around how they are affecting health care professionals' understanding, awareness, and use of PCOR and its related concepts. It is also important for

AHRQ to be able to identify ways to improve how this information is being disseminated to the medical community.

The Continuing Education for Comparative Effectiveness Research Project is designed to provide online continuing education materials that inform physicians and other healthcare providers about patient-centered health research from the EHC Program, specifically comparative effectiveness research reports, and other government-funded comparative clinical effectiveness research. Online multimedia continuing education modules based on the Effective Health Care Program *http://www.effectivehealthcare.ahrq.gov/tools-and-resources/cmece-activities/* comparative effectiveness research reports will be planned, developed, disseminated, and promoted. In addition, data will be collected on the modules to assess their effectiveness and impact.

This study is being conducted by AHRQ through its contractor, Hayes Inc. (Hayes) and Hayes' subcontractors, Deloitte Consulting LLP (Deloitte), pursuant to AHRQ's statutory authority to support the agency's dissemination of comparative clinical effectiveness research findings. 42 U.S.C. 299b–37(a)–(c).

Method of Collection

To achieve the goals of this project, the following data collection will be implemented:

(1) Each training module will involve one follow-up questionnaire that would be administered six months after the completion of the course for the purposes of tracking the longer-term effectiveness of the modules.

This data collection will help to meet AHRQ's objectives to:

1. Understand the extent to which these online continuing education modules based on the EHC Program comparative effectiveness research reports improve knowledge of each topic and change participants' awareness of, attitude towards, and/or confidence to apply GER in their clinical practice.

2. Track information about the dissemination efforts employed for CE/CER information specific to the modules, and the uptake of AHRQ's other EHC Program materials as a result of the project, including the Clinician and Consumer Summaries when available.

3. Determine implementation practices (e.g. changes in practice behavior or implementation of the information conveyed in the modules) that occur as a result of the learning.

4. Identify opportunities for improving the presentation and delivery of CE modules by gathering information on the participants' reactions to the modules and to the faculty presenters through the post-event evaluation assessment.

AHRQ will use the information collected through this Information Collection Request to assess the short- and long-term progress in achieving the dissemination and implementation aims of the Continuing Education project.

Estimated Total Respondent Burden

Exhibit 1 provides information on the estimated time to complete the data collection survey. These educational activities are enduring training modules and will be available for a 2-year period. The AHRQ Continuing Education for Comparative Effectiveness Research Survey will be administered to each individual 6 months after completing the module. On average, respondents will spend 5 minutes completing the survey. As many as 4,400 health care professionals are expected to complete the surveys, based on an average of 2,000 health care providers taking each module with a 10% response rate, or 200; 200 × 22 modules = 4,400. On average, respondents will spend 5 minutes completing the survey. The total burden is estimated to be 367 hours.

EXHIBIT 1—ESTIMATED RESPONDENT BURDEN

A	B	C	D	E	F	G
Estimated number of respondents	Average burden per respondent (minutes)	Total burden (minutes) (A*B)	Number of responses per respondent	Total respondent burden (minutes) (C*D)	Total burden per respondent (minutes) (B*D)	Total respondent burden (hours) (E/60)
4400	5	22,000	1	22,000	5	367

EXHIBIT 2—ESTIMATED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
AHRQ Online CME/CE 6-Month Evaluation	4,400	367	$49.83	$18,288
Total	4,400	367	N/A	18,288

* Based upon the mean of the average hourly wages for Physicians (29–1069; $92.25), Pharmacists (29–1051; $56.01), Physician Assistants (29–1071; $45.36), Nurse Practitioners (29–1171; $45.71), Registered Nurses (29–1111; $33.13), and Healthcare Practitioners (29–9099; $26.54), May 2013 National Occupational Employment and Wage Estimates, United States, U.S. Department of Labor, Bureau of Labor Statistics. *http://www.bls.gov/oes/current/oes_nat.htm#29-0000* viewed May 5, 2014.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of

automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: July 24, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–18296 Filed 8–1–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "Updating and Expanding the AHRQ QI Toolkit for Hospitals." In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on May 12th 2014 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by September 3, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@ahrq.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Updating and Expanding the AHRQ QI Toolkit for Hospitals

AHRQ has developed sets of Quality Indicators (QIs) that can be used to document quality and safety conditions at U.S. hospitals. Three sets of QIs are particularly relevant for hospitals and include: The Inpatient Quality Indicators (IQIs), the Patient Safety Indicators (PSIs), and the Pediatric Quality Indicators (PDIs). The IQIs contain measures of volume, mortality, and utilization for common medical conditions and major surgical procedures. The PSIs are a set of measures to screen for potentially preventable adverse events that patients may experience during hospitalization. The PDIs measure the quality of pediatric health care, mainly focusing on preventable complications that occur as a consequence of hospitalization among pediatric patients. These QIs have been previously developed and evaluated by AHRQ, and are in use at a number of hospitals throughout the country. The QIs and supportive documentation on how to work with them are posted on AHRQ's Web site at *www.qualityindicators.ahrq.gov.*

Despite the availability of the QIs as tools to help hospitals assess their performance, many U.S. hospitals have limited experience with the use of such measurement tools, or in using quality improvement methods to improve their performance as assessed by these measures. To this end, RAND has previously contracted with AHRQ to develop an AHRQ Quality Indicators Toolkit for Hospitals (Toolkit). This Toolkit is publicly available and is posted on AHRQ's Web site at *http://www.ahrq.gov/professionals/systems/hospital/qitoolkit/index.html.* The Toolkit assists hospitals in both using the QIs and improving the quality and safety of the care they provide, as measured by those indicators. As such, the Toolkit includes: (1) Instruction on how a hospital can apply the QIs to its inpatient data to estimate rates for each indicator; (2) methods the hospital can use to evaluate these QI rates for identifying opportunities for improvement; (3) strategies for implementing interventions (or evidence-based best practices); (4) methods to measure progress and performance on the QIs; (5) tools for evaluating the cost-effectiveness of these changes; and (6) discussion of the value of using the QIs for quality improvement as well as potential challenges and barriers to quality improvement efforts that incorporate the QIs and how to help overcome them.

OMB approval was obtained for the development and evaluation of the original Toolkit in 2012, Development and Evaluation of AHRQ's Quality Indicators Improvement Toolkit (OMB #0935–0164), which consisted of a protocol very similar to the one described in this statement.

Since the release of the Toolkit in 2012, the QIs have been updated and expanded, best practices have advanced, and many hospitals have improved their understanding of their quality improvement needs as well as increased their familiarity with the use of the Toolkit. These factors all point to the critical need to update the Toolkit. AHRQ has funded RAND which partners with the University HealthSystem Consortium (UHC) to update and expand the Toolkit, and field test the updated Toolkit with hospitals as they carry out initiatives designed to improve performance on the QIs.

This research has the following goals:

(1) To assess the usability of the updated Toolkit for hospitals—with an emphasis on the Pediatric Quality Indicators (PDI)—in order to improve the Toolkit, and

(2) To examine hospitals' experiences in implementing interventions to improve their performance on the AHRQ QIs, the results of which will be used to guide successful future applications of the Toolkit.

This study is being conducted by AHRQ through its contractor, the RAND Corporation, under contract number HHSA290201000017I, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

To achieve the goals of this project, the following data collections will be implemented:

(1) Pre/post-test interview protocol—consisting of both open and closed ended questions will be administered prior to implementation of the Toolkit and again post implementation. The purpose of this data collection is to obtain data on the steps the hospitals took to implement actions to improve performance on the QIs; their plans for making process changes; and their experiences in achieving changes and perceptions regarding lessons learned that could be shared with other hospitals.

(2) Update protocol—consisting of both open and closed ended questions will be administered three times during the study (quarterly during the implementation year). The purpose of this data collection is to capture longitudinal data regarding hospitals' progress in implementing changes, successes and challenges, and plans for subsequent actions. These data will include descriptive information on changes over time in the hospitals' implementation actions and how they are using the Toolkit, as well as experiential information on the perceptions of participants regarding the improvement implementation process and its effects. It also ensures the collection of information close to pertinent events, which avoids the recall bias associated with retrospective reporting of experiences.

(3) Usability testing protocol—also consisting of both open and closed ended questions will be administered once at the end of the evaluation period. The purpose of this data collection is to gather information from the hospitals on how they used each tool in the updated Toolkit, the ease of use of each tool, which tools were most helpful, suggested changes to improve each tool, and suggestions for other tools to add to the updated Toolkit. This information will be used in the revisions of the updated Toolkit following the end of the field test.

All the information obtained from the proposed data collection will be used to strengthen the updated Toolkit before finalizing and disseminating it to hospitals for their use. First, information will be collected from the six hospitals participating in the Toolkit field test about their experiences in implementing performance improvements related to the AHRQ QIs, which will be used to prepare experiential case examples for inclusion in the Toolkit as a resource for other hospitals. Second, feedback will be elicited from them about the usability of the Toolkit, which will be applied to modify and refine the Toolkit so that it is as responsive as possible to the needs and priorities of the hospitals for which it is intended.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in this information collection. Three protocols will be used to collect data from respondents in interviews that will take one hour each. The pre/post-test interview protocol will be administered twice—at the beginning and end of the field-test year. The pre-test interviews will be performed as one-hour group interviews with the six hospitals' implementation teams at the start of the year. Each hospital's implementation team is expected to consist of about five people. At the end of the year, post-test interviews that last one hour each and use the same protocol as the pre-test interviews will be conducted during site visits at the six hospitals with the implementation team. The five people of the implementation team at each hospital will be interviewed twice, both pre- and post-field test. At the post-test site visits, data will also be collected through one-hour interviews performed separately with four key stakeholder groups—physicians, nurses, clerks, and others—that are not on the implementation team. Each stakeholder group is expected to consist of about five people. These 20 people from the four stakeholder groups at each hospital will be interviewed once in a one hour post-field test. Interviewing these additional stakeholder groups will ensure that information is gathered on stakeholder variations in perceptions and experiences, of which the implementation teams might not be aware.

The quarterly update protocol will be administered quarterly to two hospital staff members from each hospital during the year (in months 3, 6, and 9). The usability testing protocol will be administered to four staff members once at the end of the evaluation period. The total burden is estimated to be 240 hours.

Exhibit 2 shows the estimated annualized cost burden associated with the respondents' time to participate in the evaluation. The total cost burden is estimated to be $7,179.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Data collection	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Pre/Post-Test Interview Protocol with Implementation Team	30	2	1	60
Pre/Post-Test Interview Protocol with Stakeholder Groups	120	1	1	120
Quarterly Update Protocol	12	3	1	36
Usability Testing Protocol	24	1	1	24
Total	186	NA	NA	240

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Data collection	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Pre/Post-Test Interview Protocol (Implementation Team and Stakeholder Groups)	150	180	29.91	5,384
Quarterly Update Protocol	12	36	29.91	1,077
Usability Testing Protocol	24	24	29.91	718
Total	186	240	NA	$7,179

*Based upon the mean of the average wages taken from an average of hourly rates for occupations likely to be involved in the QI process (registered nurses, nurse practitioners, medical records and health information technicians, statisticians, and health technologists and technicians). Statistics are taken from the General Medical and Surgical Hospitals industry category in the May 2012 National Industry-Specific Occupational Employment and Wage Estimates from the Bureau of Labor Statistics, U.S. Department of Labor, accessed on January 22, 2014 [*www.bls.gov/oes/*].

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: July 24, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–18297 Filed 8–1–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1072]

Agency Information Collection Activities; Proposed Collection; Comment Request; Application for Participation in the Food and Drug Administration Commissioner's Fellowship Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the application for participation in the FDA Commissioner's Fellowship Program (CFP).

DATES: Submit either electronic or written comments on the collection of information by October 3, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Application for Participation in the FDA Commissioner's Fellowship Program; (OMB Control Number 0910—New)

Sections 1104, 1302, 3301, 3304, 3320, 3361, 3393, and 3394 of Title 5 of the United States Code authorize Federal Agencies to rate applicants for Federal jobs. Collecting applications for the CFP will allow FDA's Office of the Commissioner to easily and efficiently elicit and review information from students and health care professionals who are interested in becoming involved in FDA-wide activities. The process will reduce the time and cost of submitting written documentation to the Agency and lessen the likelihood of applications being misrouted within the Agency mail system. It will assist the Agency in promoting and protecting the public health by encouraging outside persons to share their expertise with FDA.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity/5 U.S.C. Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
1104,1302, 3301, 3304, 3320, 3361, 3393, and 3394	600	1	600	1.33	798
Total	.....	.....	.....	.....	798

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA based these estimates on the number of inquiries that have been received concerning the program and the number of requests for application forms over the past 5 years.

Dated: July 29, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–18302 Filed 8–1–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1031]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food and Drug Administration Recall Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on FDA recalls for human drugs, biological products, devices, animal drugs, food, cosmetics, and tobacco.

DATES: Submit either electronic or written comments on the collection of information by October 3, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology. FDA Recall Regulation—21 CFR Part 7 (OMB Control Number 0910–0249)—Extension

Section 701 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) charges the Secretary of Health and Human Services (HHS), through the FDA, with the responsibility of assuring recalls (21 U.S.C. 371, Regulations and hearings, and 21 CFR Part 7, Enforcement Policy, Subpart C, Recalls (Including Product Corrections)—Guidance on Policy, Procedures, and Industry Responsibilities) which pertain to the recall regulations and provide guidance to manufacturers on recall responsibilities. The guidelines apply to all FDA-regulated products (i.e., food, including animal feed; drugs, including animal drugs; medical devices, including in vitro diagnostic products; cosmetics; biological products intended for human use; and tobacco). These responsibilities include providing FDA with complete details of the recall including reason(s) for the removal or correction, risk evaluation, quantity produced, distribution information, the firm's recall strategy, a copy of any recall communication(s), and a contact official (§ 7.46); notifying direct accounts of the recall, providing guidance regarding further distribution, giving instructions as to what to do with the product, providing recipients with a ready means of reporting to the recalling firm (§ 7.49); and submitting periodic status reports so that FDA may assess the progress of the recall. Status report information may be determined by, among other things, evaluation return reply cards, effectiveness checks and product returns (§ 7.53); and providing the opportunity for a firm to request in writing that FDA terminate the recall (§ 7.55(b)).

A search of FDA's database was performed to determine the number of recalls that took place during fiscal years 2011 to 2013. The resulting number of total recalls (11,403) from this database search were then averaged over the 3 years, and the resulting per year average of recalls (3,801) are used in estimating the current annual reporting burden for this report. The resulting number of total terminations (11,403 from this database search were then averaged over the 3 years, and the resulting per year average of terminations (3,801 are used in estimating the current annual reporting burden for this report.

FDA estimates the total annual industry burden to collect and provide the previous information to be 627,165 burden hours.

The following is a summary of the estimated annual burden hours for recalling firms (manufacturers, processors, and distributors) to comply with the voluntary reporting requirements of FDA's recall regulations. Recognizing that there may be a vast difference in the information collection and reporting time involved in different recalls of FDA's regulated products.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Recall	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Firm Initiated Recall (21 CFR 7.46) and Recall Communications (21 CFR 7.49)	3,801	1	3,801	25	95,025
Recall Status Reports (21 CFR 7.53)	3,801	13	49,413	10	494,130
Termination of a Recall (21 CFR 7.55(b))	3,801	1	3,801	10	38,010
Total					627,165

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

I. Total Annual Reporting

A. Firm Initiated Recall and Recall Communications

Request firms voluntarily remove or correct foods and drugs (human or animal), cosmetics, medical devices, biologics, and tobacco to immediately notify the appropriate FDA District Office of such actions. The firm is to provide complete details of the recall reason, risk evaluation, quantity produced, distribution information, firms' recall strategy and a contact official as well as requires firms to notify their direct accounts of the recall and to provide recipients with a ready means of reporting to the recalling firm. Under these portions of the collection of information, the Agency estimates it will receive 3,801 responses annually based on the average number of recalls over the last 3 fiscal years. The number of responses multiplied by the number of respondents equal 3,801. The average burden hours of 25 multiplied by the total number of annual responses equal 95,025. The average burden hour person response was 30 and has decreased by 5.

B. Recall Status Reports

Request that recalling firms provide periodic status reports so FDA can ascertain the progress of the recall. This request only applies to firms with active recalls, and is estimated to be reported every 2 to 4 weeks. This collection of information will generate approximately 3,801 responses annually, based on the average number of recalls over the last 3 fiscal years 11,403. The number of respondents multiplied by the number of responses per respondents (13) equal a total number of annual responses of 49,413. The total number of responses 49,413 with an average burden hours of 10 per response equal a total of 494,130 total hours.

C. Termination of a Recall

Provide the firms an opportunity to request in writing that FDA end the recall. The Agency estimates it will receive 3,801 responses annually based on the average number of terminations over the past 3 fiscal years. The total annual responses of 3,801 multiplied by the average burden hours of 10 per response equal a total number of hours of 38,010.

II. Hours per Response Estimates

FDA has no information which would allow it to make a calculated estimate on the hours per response burden to FDA regulated firms to conduct recalls. Variables in the type of products, the quantity and level of distribution and the various circumstances of recall notifications could cause the hours per response to vary significantly. The best guesstimate of average burden hours per response from previous information collection request reports are utilized again for the current estimates on burden hours per response.

Dated: July 29, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–18322 Filed 8–1–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Endocrinologic and Metabolic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 11, 2014, from 8 a.m. to 5 p.m.

Location: The Marriott Inn and Conference Center, University of Maryland University College, Potomac Ballroom, 3501 University Blvd. East, Hyattsville, MD 20783. The conference center's telephone number is 301–985–7300.

Contact Person: Karen Abraham-Burrell, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2147, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *EMDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss the safety and efficacy of new drug application (NDA) 206321, liraglutide for injection, sponsored by Novo Nordisk, Inc. The proposed indication for liraglutide is as an adjunct to a reduced-calorie diet and increased physical activity for chronic weight management in adult patients with an initial body mass index (BMI) of 30 kilograms per square meter (kg/m^2) or greater, or with an initial BMI of 27 kg/m^2 or greater in the presence of at least one weight-related comorbidity.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will

be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before August 27, 2014. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before August 19, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by August 20, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Karen Abraham-Burrell at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 29, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–18304 Filed 8–1–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Tribal Management Grant Program; Correction

AGENCY: Indian Health Service, HHS.

ACTION: Notice; correction.

SUMMARY: The Indian Health Service published a document in the **Federal Register** on July 3, 2014, for the FY 2014 Tribal Management Grant Program Announcement. Key information pertaining to Funding Restrictions was omitted.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Spotted Horse, Program Analyst, Office of Direct Service and Contracting Tribes, Indian Health Service, 801 Thompson Avenue, Suite 220, Rockville, MD 20852, Telephone (301) 443–1104. (This is not a toll-free number.)

Corrections

In the **Federal Register** of July 3, 2014, in FR Doc. 2014–15595, on page 38043, in the second column, under the heading 5. Funding Restrictions after the fourth bullet, the following language regarding Restrictions should be added:

- The TMG may not be used to support recurring operational programs or to replace existing public and private resources. Funding received under a recurring Public Law 93–638 contract cannot be totally supplanted or totally replaced. Exception is allowed to charge a portion or percentage of salaries of existing staff positions involved in implementing the TMG grant, if applicable. However, this percentage of TMG funding must reflect supplementation of funding for the project not supplantation of existing ISDEAA contract funds. Supplementation is "adding to a program" whereas supplantation is "taking the place of" funds. An entity cannot use the TMG funds to supplant the ISDEAA contract or recurring funding.
- Ineligible Project Activities—The inclusion of the following projects or activities in an application will render the application ineligible.
  - Planning and negotiating activities associated with the intent of a Tribe to enter the IHS Self-Governance Project. A separate grant program is administered by the IHS for this purpose. Prospective applicants interested in this program should contact Mrs. Anna Johnson, Program Analyst, Office of Tribal Self-Governance, Indian Health Service, Reyes Building, 801 Thompson Avenue, Suite 240, Rockville, Maryland 20852, (301) 443–7821, and request information concerning the "Tribal Self-Governance Program Planning Cooperative Agreement Announcement" or the "Negotiation Cooperative Agreement Announcement."
  - Projects related to water, sanitation, and waste management.
  - Projects that include direct patient care and/or equipment to provide those medical services to be used to establish or augment or continue direct patient clinical care. Medical equipment that is allowable under the Special Diabetes Grant Program is not allowable under the TMG Program.
  - Projects that include recruitment efforts for direct patient care services.
  - Projects that include long-term care or provision of any direct services.
  - Projects that include tuition, fees, or stipends for certification or training of staff to provide direct services.
  - Projects that include pre-planning, design, and planning of construction for facilities, including activities relating to program justification documents.
  - Projects that propose more than one project type. Refer to Section II, "Award Information," specifically "Eligible TMG Project Types, Maximum Funding Levels and Project Periods" for more information. An example of a proposal with more than one project type that would be considered ineligible may include the creation of a strategic health plan (defined by TMG as a planning project type) and improving third-party billing structures (defined by TMG as a health management structure project type). Multi-year applications that include in the first year planning, evaluation, or feasibility activities with the remainder of the project years addressing management structure are also deemed ineligible.
- Other Limitations—A current TMG recipient cannot be awarded a new, renewal, or competing continuation grant for any of the following reasons:
  - The grantee will be administering two TMGs at the same time or have overlapping project/budget periods;
  - The current project is not progressing in a satisfactory manner;
  - The current project is not in compliance with program and financial reporting requirements; or
  - The applicant has an outstanding delinquent Federal debt. No award shall be made until either:

- The delinquent account is paid in full; or
- A negotiated repayment schedule is established and at least one payment is received.

Dated: July 28, 2014.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2014–18281 Filed 8–1–14; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; NCI Cancer Genetics Services Directory Web-Based Application and Update Mailer

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on May 8, 2014 Vol. 79, page 26438 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments To OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Margaret Beckwith, International Cancer Research Databank Branch, Office of Communications and Education, 9609 Medical Center Drive, MSC 9776, Bethesda, MD 20892–9776 or call non-toll-free number 240–376–6593 or Email your request, including your address to: *mbeckwit@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: NCI Cancer Genetics Services Directory Web-Based Application and Update Mailer, Revision, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The Office of Communications and Education International Cancer Research Databank Branch has created the NCI Cancer Genetics Services Directory on NCI's Web site Cancer.gov. This directory is a searchable collection of information about professionals who provide services related to cancer genetics. These services include cancer risk assessment, genetic counseling, and genetic susceptibility testing. The professionals have applied to be in the directory using an online application form and have met basic criteria outlined on the form.

There are currently 587 genetics professionals listed in the directory. Approximately 30–60 new professionals are added to the directory each year. The applicants are nurses, physicians, genetic counselors, and other professionals who provide services related to cancer genetics. The information collected on the application form includes name, professional qualifications, practice locations, and the area of specialization. The information is updated annually using a Web-based update mailer that mirrors the application form.

The NCI Cancer Genetics Services Directory is a unique resource for cancer patients and their families who are looking for information about their family risk of cancer and genetic counseling. Collecting applicant information and verifying it annually by using the NCI Cancer Genetics Services Directory Web-based Application Form and Update Mailer is important for providing this information to the public and for keeping it current.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 180.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Web-based Application Form	Genetics Professional	60	1	30/60	30
Web-based Update Mailer	Genetics Professional	600	1	15/60	150

Dated: July 29, 2014.

Karla Bailey,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2014–18352 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; The National Diabetes Education Program (NDEP) Comprehensive Evaluation Plan

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 19 2014, pages 15351 and 15351[FR DOC #: 2014–06064], and allowed 60 days for public comment. There was 1 public comment received. The purpose of this notice is to allow an additional 30 days

for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments To OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Ms. Joanne Gallivan, M.S., R.D., Director, National Diabetes Education Program, OCPL, NIDDK, 31 Center Drive, MSC 2560, Bethesda, MD 20892, or call non-toll-free number 301–496–6110, or Email your request, including your address to: *joanne_gallivan@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: The National Diabetes Education Program (NDEP) Comprehensive Evaluation Plan, 0925–0552, Expiration Date 10/31/2015, REVISION, National Institute of Diabetes and Digestive and Kidney Disease (NIDDK), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Diabetes Education Program (NDEP) is a partnership of the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention (CDC) and more than 200 public and private organizations. The long-term goal of the NDEP is to reduce the burden of diabetes and pre-diabetes in the United States, and its territories, by facilitating the adoption of proven strategies to prevent or delay the onset of diabetes and its complications.

The NDEP evaluation will document the extent to which the NDEP program has been implemented and how successful it has been in meeting program objectives, outlined in the NDEP Strategic Plan. The evaluation relies heavily on data gathered from existing national surveys such as National Health and Nutrition Examination Survey (NHANES), the National Health Interview Survey (NHIS), the Behavioral Risk Factor Surveillance System (BRFSS), among others for this information. This is a continued collection of additional primary data from NDEP target audiences on some key process and impact measures that are necessary to effectively evaluate the program. The audiences targeted by the NDEP include people at risk for diabetes, people with diabetes and their families, and the public.

OMB approval is requested for changing the data collection methodology from a random-digit-dialing (RDD) telephone survey to a probability-based web-based survey as well as an update of the survey questionnaire which has not been updated since it was first developed in 2006. There are no costs to respondents other than their time. The total estimated annualized burden hours are 833. This represents a modest increase in the burden amount from the previously approved 749 hours to 833 hours, an additional 84 hours overall. This burden reflects an increase of 5 minutes per participant due to survey content changes and an additional 400 participants.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent and instrument	Estimated number of respondents	Estimated number of responses per respondent	Average time per response (in hours)	Estimated total annual burden hours
Adults—Survey instrument	2500	1	20/60	833

Dated: July 14, 2014.

Frank Holloman,

Project Clearance Liaison, NIDDK, NIH.

[FR Doc. 2014–18351 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Interagency Coordinating Committee on the Validation of Alternative Methods Biennial Progress Report: 2012–2013; Availability of Report

SUMMARY: The National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) announces the availability of the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) Biennial Progress Report: 2012–2013. This report describes ICCVAM and ICCVAM agency activities during the period from January 2012 through December 2013 and was prepared in accordance with requirements of the ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3).

ADDRESSES: The report is available at *http://ntp.niehs.nih.gov/go/iccvam-bien.*

FOR FURTHER INFORMATION CONTACT: Dr. Warren S. Casey, Director, NICEATM; email: *warren.casey@nih.gov;* telephone: (919) 316–4729.

SUPPLEMENTARY INFORMATION:

Background: The ICCVAM Authorization Act of 2000 established ICCVAM as a permanent interagency committee of the National Institute of Environmental Health Sciences (NIEHS) under NICEATM. ICCVAM's mission is to facilitate development, validation, and regulatory acceptance of new and revised regulatory test methods that reduce, refine, or replace the use of animals in testing while maintaining and promoting scientific quality and the protection of human health, animal health, and the environment.

A provision of the ICCVAM Authorization Act states that ICCVAM shall prepare "reports to be made available to the public on its progress under this Act." The first report was to be completed within 12 months of enactment of the Act, and subsequent reports were to be biennially thereafter. The sixth report is now available, and summarizes ICCVAM activities and accomplishments for the calendar years 2012 and 2013.

Summary of Report Contents: The main body of the ICCVAM Biennial Progress Report: 2012–2013 includes three chapters:

- Chapter 1 provides background information on ICCVAM and its role in coordinating evaluations of alternative

toxicological methods and summarizes recent changes in the vision and direction of ICCVAM.

• Chapter 2 describes activities of ICCVAM and the 15 ICCVAM member agencies relevant to the development and validation of alternative test methods for eye safety testing, biologics and vaccine testing, development of tests to identify potential skin sensitizers, and other areas.

• Chapter 3 describes ICCVAM outreach, communication, and collaborative activities.

Availability of Report: The report is available as an electronic PDF document at *http://ntp.niehs.nih.gov/go/iccvam-bien.* All past ICCVAM annual and biennial reports are also available on this page.

Background Information on ICCVAM and NICEATM: ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. ICCVAM conducts technical evaluations of new, revised, and alternative safety testing methods and integrated testing strategies with regulatory applicability, and promotes the scientific validation and regulatory acceptance of testing methods that more accurately assess the safety and hazards of chemicals and products and replace, reduce, or refine (enhance animal well-being and lessen or avoid pain and distress) animal use.

The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) establishes ICCVAM as a permanent interagency committee of NIEHS and provides the authority for ICCVAM involvement in activities relevant to the development of alternative test methods. ICCVAM acts to ensure that new and revised test methods are validated to meet the needs of Federal agencies, increase the efficiency and effectiveness and Federal agency test method review, and optimize utilization of scientific expertise outside the Federal Government. Additional information about ICCVAM can be found at *http://ntp.niehs.nih.gov/go/iccvam.*

NICEATM provides support for ICCVAM and conducts data analyses, workshops, independent validation studies, and other activities to assess new, revised, and alternative test methods and strategies. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods and strategies applicable to the needs of U.S. Federal agencies. Additional information about NICEATM can be found at *http://ntp.niehs.nih.gov/go/niceatm.*

Dated: July 29, 2014.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2014–18239 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Diabetes and Digestive and Kidney Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDDK.

Date: September 18–19, 2014.

Time: 8:00 a.m. to 4:20 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health Building 5, Room 127 5 Memorial Drive, Bethesda, MD 20892.

Contact Person: Michael W. Krause, Ph.D., Scientific Director, National Institute of Diabetes and Digestive and Kidney Diseases, National Institute of Health, Building 5, Room B104, Bethesda, MD 20892–1818, (301) 402–4633, *mwkrause@helix.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 28, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–18233 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; International Collaborations in Infectious Diseases Research (U01 & U19).

Date: August 20–22, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Silver Spring Hotel, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Annie Walker-Abbey, Scientific Review Officer, Scientific Review Program, NIAID/NIH/DHHS, 6700B Rockledge Drive, Rm. 3126, MSC–7616, Bethesda, MD 20892–7616, 301–451–2671, *aabbey@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: July 30, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–18325 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel Limited Competition: NIMHD Exploratory Centers of Excellence Pilot Research Project (P20).

Date: August 19, 2014.

Time: 08:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Maryline Laude-Sharp, Ph.D., Scientific Review Officer, National Institute on Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 451–9536, *mlaudesharp@mail.nih.gav.*

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the research review cycle.

Dated: July 28, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–18238 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Environmental Health Sciences Council.

Date: September 9–10, 2014.

Open: September 09, 2014, 8:30 a.m. to 4:30 p.m.

Agenda: Discussion of program policies and issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: September 10, 2014, 8:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Gwen W. Collman, Ph.D., Interim Director, Division of Extramural Research & Training, National Institutes of Health, Nat. Inst. of Environmental Health Sciences, 615 Davis Dr., KEY615/3112, Research Triangle Park, NC 27709, (919) 541–4980, *collman@niehs.nih.gav.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page:*http://www.niehs.nih.gov/about/baards/naehsc/index.cfm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: July 29, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisary Committee Policy.

[FR Doc. 2014–18242 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Time-Sensitive Obesity Policy and Program Evaluation.

Date: August 28, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–254,2 (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Pragmatic Research and Natural Experiments.

Date: September 8, 2014.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Persan: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Multi-Center Clinical Study Cooperative Agreement (U01).

Date: September 18, 2014.

Time: 12:00 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza , 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–7682, *campd@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 28, 2014 .

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–18236 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; KUH Fellowship Review.

Date: October 3, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Kinzie Hotel, 20 W Kinzie Street, Chicago, IL 60654.

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Fellowships in Digestive Diseases and Nutrition.

Date: October 21, 2014.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 760, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 29, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–18232 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, International Collaborations in Infectious Diseases Research (U01 & U19).

Date: August 20–22, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Silver Spring Hotel, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Annie Walker-Abbey, Scientific Review Officer, Scientific Review Program, NIAID/NIH/DHHS, 6700B Rockledge Drive, Rm 3126, MSC–7616, Bethesda, MD 20892–7616, 301–451–2671, *aabbey@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: July 28, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–18231 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Career Transition Award for Tenure-Track and Tenured Intramural Investigators (K22).

Date: August 13, 2014.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: David M. Armstrong, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center/ Room 6138/MSC 9608, 6001 Executive Boulevard, Bethesda, MD 20892–9608, 301–443–3534, *armstrda@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: July 29, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–18241 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Data Sharing and Archiving (U24) mtg.

Date: August 22, 2014.

Time: 9:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5B01E, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Carla T. Walls, Ph.D., Scientific Review Administrator, Scientific Review Branch, National Institute of Child Health And Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6898, *wallsc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 29, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–18237 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International; Center Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Fogarty International Center Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Fogarty International Center Advisory Board.

Date: September 15, 2014.

Closed: September 15, 2014 3:00 p.m. to 5:00 p.m.

Agenda: Second level review of grant applications.

Place: National Institutes of Health, Lawton L. Chiles International House, Bethesda, MD 20892.

Open: September 16, 2014 1:45 p.m. to 5:00 p.m.

Agenda: Update and discussion of current and planned FIC activities, including a discussion on bioethics.

Place: National Institutes of Health, Lawton L. Chiles International House, Bethesda, MD 20892.

Contact Person: Kristen Weymouth, Executive Secretary, Fogarty International Center, National Institutes of Health, 31 Center Drive, Room B2C02, Bethesda, MD 20892, (301) 496–1415, *weymouthk@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.fic.nih.gov/About/Advisory/Pages/default.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health HHS)

Dated: July 29, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–18243 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NIH Conference Grant Review (R13/U13).

Date: August 28, 2014

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Tony L. Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzotl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Transfusion and Cellular Therapies.

Date: September 4, 2014.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7200, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael P. Reilly, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7200, Bethesda, MD 20892, 301–496–9659, *reillymp@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 29, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–18244 Filed 8–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Biannual Infrastructure Development Measures for State Adolescent Treatment Enhancement and Dissemination (SAT–ED) and State Youth Treatment Enhancement and Dissemination (SYT–ED) Programs—New

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment has developed a set of infrastructure development measures in which recipients of cooperative agreements will report on various benchmarks on a semi-annual basis. The infrastructure development measures are designed to collect information at the state-level and site-level.

The infrastructure development measures are based on the programmatic requirements conveyed in TI–12–006, Cooperative Agreements for State Adolescent Treatment Enhancement and Dissemination (SAT–ED) and TI–13–014, Cooperative Agreements for State Youth Treatment Enhancement and Dissemination (SYT–ED).

The purpose of this program is to provide funding to States/Territories/Tribes to improve treatment for adolescents and transitional age youth through the development of a learning laboratory with collaborating local community-based treatment provider sites. Through the shared experience between the State/Territory/Tribe and the local community-based treatment provider sites, an evidence-based practice (EBP) will be implemented, youth and families will be provided services, and a feedback loop will be developed to enable the State/Territory/Tribe and the sites to identify barriers and test solutions through a services component operating in real time. The expected outcomes of these cooperative agreements will include needed changes to State/Territorial/Tribal policies and procedures; development of financing structures that work in the current environment; and a blueprint for States/Territories/Tribes and providers that can be used throughout the State/Territory/Tribe to widen the use of effective substance use treatment EBPs. Additionally, adolescents (ages 12 to 18), transitional age youth (ages 18 to 24), and their families/primary caregivers who are provided services through grant funds will inform the process to improve systems issues.

Estimates for response burden were calculated based on the methodology (survey data collection) being used and are based on previous experience collecting similar data and results of the pilot study. For emailed biannual surveys, burden estimates of 12.0 hours were used for Project Directors and/or Program Managers and burden estimates of 7.2 hours were used for other project staff members. It is estimated that 13 Project Directors and/or Program Managers and 26 other staff members from Cohort 1 will respond to the emailed survey biannually (i.e., twice each year) for 3 years at an estimated total burden of 2,059.2 hours for Cohort 1. It is estimated that 10 Project Directors and/or Program Managers and 20 other staff members from Cohort 2 will respond to the emailed survey biannually (i.e., twice each year) for 5 years at an estimated total burden of 2,640 hours for Cohort 2. It is estimated that 12 Project Directors and/or Program Managers and 24 other staff members from Cohort 3 will respond to the emailed survey biannually (i.e., twice each year) for 5 years at an estimated total burden of 3,168 hours for Cohort 2. The burden hours of Cohort 1 (2,059.2 hours), Cohort 2 (2,640 hours) and Cohort 3 (3,168 hours) combined comes to a total estimated burden for the emailed biannual survey of 7,867.2 hours.

ESTIMATES OF ANNUALIZED HOUR BURDEN FOR BIANNUAL INFRASTRUCTURE DEVELOPMENT MEASURE

Respondent type	Number of respondents	Responses per respondent	Total responses	Hours per response	Total annual hour burden
Project Director	35	2	70	12.0	840

Written comments and recommendations concerning the proposed information collection should be sent by September 3, 2014 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2014–18343 Filed 8–1–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C.

Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Survey of Current and Alumni SAMHSA Fellows of the Minority Fellowship Program (MFP) (OMB No. 0930–0304)—Reinstatement

SAMHSA is requesting Office of Management and Budget (OMB) approval for the conduct of surveys of current and Alumni MFP Fellows. This survey would gather information about current and Alumni MFP Fellows that will help SAMHSA meet its responsibilities under the Government Performance and Results Modernization Act for gathering, analyzing, and interpreting information about government-funded programs such as the MFP.

In 1973, in response to a substantial lack of ethnic and racial minorities in the mental health professions, the Center for Minority Health at the National Institute of Mental Health established the Minority Fellowship Program (MFP). Since its move to SAMHSA in 1992, the MFP has continued to facilitate the entry of minority graduate students and psychiatric residents into mental health careers and has increased the number of psychology, psychiatry, nursing, and social work professionals trained to provide mental health and substance abuse services to minority groups. The MFP, in turn, offers sustained grants to six national behavioral health professional associations: The American Association of Marriage and Family Therapy, the American Nurses Association, the American Psychiatric Association, the American Psychological Association, the Council on Social Work Education, and, as of August 2012, the National Board for Certified Counselors and Affiliates. Additional associations, such as the International Certification and Reciprocity Consortium and the National Association for Alcoholism and Drug Abuse Counselors, are expected to join the program later this year. Others may join in future years.

The MFP is supported by funds from all three SAMHSA centers: The Center for Mental Health Services (CMHS), the Center for Substance Abuse Treatment, and the Center for Substance Abuse Prevention. SAMHSA's CMHS has funded the development of the MFP surveys.

To assess the performance of the MFP, SAMHSA is requesting OMB approval for the conducting of a survey of current and Alumni MFP Fellows. This survey would gather information about current and Alumni MFP Fellows that will help SAMHSA meet its responsibilities under the Government Performance and Results Modernization Act for gathering, analyzing, and interpreting information about government-funded programs such as the MFP.

This package requests approval of two survey instruments (to be sent to approximately 1.300 Current and Alumni Fellows with an expected response rate of 788 respondents). Two online (Internet based) surveys (with the option for a hard copy mailed through the U.S. Postal Service) will be used with the following stakeholders in the MFP:

1. *Current SAMHSA MFP Fellows* currently receiving support during their doctoral-level training or psychiatric residency will be asked about their experiences in the MFP (from recruitment into the program through their participation in the various activities provided by the Grantees).

2. *MFP Alumni* who participated in the MFP during the time the program was administered by SAMHSA will be asked about their previous experiences as Fellows in the MFP and also about their subsequent involvement and leadership in their professions.

None of the data collected in the surveys will be redundant with any existing reporting requirements or data sources. Survey data will be obtained to assess the following measures:

1. *Completing the Fellowship Program.* Data on the completion of MFP goals, median and average of time to complete Fellowship goals, and the number of mentors, total mentored hours, and helpfulness of mentorship.

2. *Employment of Past Fellows.* Data on the initial type of employment to include employment in the substance abuse or mental health field in the year after completion of the MFP goals, type of employment situation categories (academia, clinical, etc., by private/public organization), and focus of work on underserved youth and elderly in urban and/or rural settings.

3. *Current Employment Position.* Data on current employment, including employment in the substance abuse or mental health field in the year after completion of the MFP Fellowship goals, type of employment situation categories (academia, clinical, etc., by private/public organization), and focus of work on underserved youth and elderly in urban and/or rural settings.

4. *Improving Skills and Knowledge.* Data on the number of certifications and licensures obtained by Fellows and median and average number of continuing education hours credited.

5. *Number of Contributions to the Field.* Data on the number of presentations at national meetings, professional publications, and national, state, or local honors or citations.

The total annual burden estimate for conducting the surveys is shown below:

Survey name	Number of respondents	Responses per respondent	Total number of responses	Hours per response	Total hours
Current SAMHSA MFP Fellows Survey	128	1	128	0.33	42.24
SAMHSA MFP Alumni Survey	660	1	660	0.67	442.20
Totals	788		788		484.44

Written comments and recommendations concerning the proposed information collection should be sent by September 3, 2014 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2014–18342 Filed 8–1–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request. National Fire Academy Long-Term Evaluation Form for Supervisors and National Fire Academy Long-Term Evaluation for Students/Trainees.

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 60-day notice and request for comments; revision of a previously approved information collection; OMB No. 1660–0039; FEMA Form 078–0–2A, National Fire Academy Long-Term Evaluation Student/Trainee; FEMA Form 078–0–2, National Fire Academy Long-Term Evaluation Supervisors.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the long-term evaluation forms used to evaluate all National Fire Academy resident training.

DATES: Comments must be submitted on or before October 3, 2014.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2014–0018. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Regulatory Affairs Division, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dawn Long, Statistician, (301) 447–1488, for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 212–4701 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: The NFA is mandated under the Fire Prevention and Control Act of 1974 (Pub. L. 93–498) to provide training and education to the Nation's fire service and emergency service personnel. The state of-the-art programs offered by the NFA serve as models of excellence and State and local fire service agencies rely heavily on the curriculum to train their personnel. To maintain the quality of these training programs, it is critical that courses be evaluated after students have had the opportunity to apply the knowledge and skills gained from their training.

Collection of Information

Title: National Fire Academy Long-Term Evaluation Form for Supervisors and National Fire Academy Long-Term Evaluation for Students/Trainees.

Type of Information Collection: Revision of a currently approved information collection.

FEMA Forms: OMB No. 1660–0039; FEMA Form 078–0–2A, National Fire Academy Long-Term Evaluation Student/Trainee; FEMA Form 078–0–2, National Fire Academy Long-Term Evaluation Supervisors.

Abstract: The National Fire Academy Long-Term Evaluation Forms will be used to evaluate all National Fire Academy (NFA) on-campus resident training courses. Course graduates and their supervisors will be asked to evaluate the impact of the training on both individual job performance and the performance of the fire and emergency response department where the student works. The data provided by students and supervisors is used to update existing NFA course materials and to develop new courses that reflect the emerging issues/needs of the Nation's fire service.

Affected Public: State, local or Tribal government.

Number of Respondents: Estimated 3,000 total annual respondents.

Number of Responses: Estimated 3,000 total annual responses.

Estimated Total Annual Burden Hours: 405 burden hours.

Data collection activity/instrument	Number of respondents	Frequency of responses	Hour burden per response	Annual responses	Total annual burden hours
NFA Long Term Evaluation Students/Trainees/FEMA Form 078–0–2A	1,500	1	.17	1,500	255
NFA Long Term Evaluation Supervisors/FEMA Form 078–0–2	1,500	1	.1	1,500	150
Total	3,000			3,000	405

Estimated Cost: There is no annual start-up or capital costs.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (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.

Dated: July 10, 2014.

Loretta Cassatt,

Branch Chief, Records, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–18400 Filed 8–1–14; 8:45 am]

BILLING CODE 9111–45–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2014–0025; OMB No. 1660–0130]

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

DATES: Comments must be submitted on or before October 3, 2014.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2014–0025. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Office of Chief Counsel, Regulatory Affairs Division, DHS/FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov*, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Contact Charlene Myrthil, Director, FEMA Records Management Division, at (202) 646–3935 for further information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 212–4701 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0130.

FEMA Forms: None.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback, we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Affected Public: Individuals or Households.

Number of Respondents: 326,207.

Number of Responses: 326,207.

Estimated Total Annual Burden Hours: 54,436 hours.

Type of respondent	Form name/ form No.	Number of respondents	Number of responses per respondent	Total number of responses	Avg. burden per response (in hours)	Total annual burden (in hours)	Avg. hourly wage rate	Total annual respondent cost
Customer Satisfaction Survey		91,882	1	91,882	0.1677	15,409	$31.26	$481,673.19
Focus Group		3,800	1	3,800	0.2500	950	31.26	29,697.00
Other: Course Evaluation		225,525	1	225,525	0.1670	37,663	31.26	1,177,335.22
Customer Comment Card		5,000	1	5,000	0.0830	415	31.26	12,972.90
Total		326,207		326,207		54,436		1,701,678.31

Estimated Cost: The estimated annual cost to respondents for the hour burden is $1,701,678.31. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The cost to the Federal Government is $1,997,899.53.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data

collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (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.

Dated: July 16, 2014.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–18397 Filed 8–1–14; 8:45 am]

BILLING CODE 9111–19–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3371–EM; Docket ID FEMA–2014–0003]

Washington; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Washington (FEMA–3371–EM), dated July 23, 2014, and related determinations.

DATES: *Effective Date:* July 23, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 23, 2014, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Washington resulting from wildfires beginning on July 9, 2014, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* ("the Stafford Act"). Therefore, I declare that such an emergency exists in the State of Washington.

You are authorized to provide appropriate assistance for required emergency measures, authorized under title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Michael J. Hall, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Washington have been designated as adversely affected by this declared emergency:

The counties of Chelan and Okanogan and the Confederated Tribes of the Colville Reservation for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–18394 Filed 8–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4182–DR; Docket ID FEMA–2014–0003]

Minnesota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Minnesota (FEMA–4182–DR), dated July 21, 2014, and related determinations.

DATES: *Effective Date:* July 21, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 21, 2014, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Minnesota resulting from severe storms, straight-line winds, flooding, landslides, and mudslides during the period of June 11 to July 11, 2014, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Minnesota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75

percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to Section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Warren J. Riley, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Minnesota have been designated as adversely affected by this major disaster:

Chippewa, Freeborn, Jackson, Murray, Nobles, Pipestone, Renville, and Rock Counties for Public Assistance.

All counties within the State of Minnesota are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–18391 Filed 8–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4184–DR; Docket ID FEMA–2014–0003]

Iowa; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Iowa (FEMA–4184–DR), dated July 24, 2014, and related determinations.

DATES: *Effective Date:* July 24, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 24, 2014, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Iowa resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of June 14–23, 2014, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Iowa.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to Section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael L. Parker, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Iowa have been designated as adversely affected by this major disaster:

Allamakee, Buchanan, Buena Vista, Butler, Cherokee, Chickasaw, Clay, Dickinson, Emmet, Fayette, Franklin, Hancock, Humboldt, Ida, Kossuth, Lyon, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, Winnebago, Winneshiek, Woodbury, and Wright Counties for Public Assistance.

All counties within the State of Iowa are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–18369 Filed 8–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4183–DR; Docket ID FEMA–2014–0003]

Nebraska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Nebraska (FEMA–4183–DR), dated July 24, 2014, and related determinations.

DATES: *Effective Date:* July 24, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 24, 2014, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Nebraska resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of June 14–21, 2014, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T.

Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Nebraska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Christian Van Alstyne, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Nebraska have been designated as adversely affected by this major disaster:

Cedar, Cuming, Dakota, Dixon, Franklin, Furnas, Harlan, Kearney, Phelps, Stanton, Thurston, and Wayne Counties for Public Assistance.

All counties within the State of Nebraska are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–18374 Filed 8–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0029]

Agency Information Collection Activities: Revision of a Currently Approved Information Collection, Form I–601

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until October 3, 2014.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0029 in the subject box, the agency name and Docket ID USCIS–2007–0042. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* You may access the **Federal Register** Notice and submit comments via the Federal eRulemaking Portal Web site by visiting *www.regulations.gov*. In the search box either copy and paste, or type in, the e-Docket ID number USCIS–2007–0042. Click on the link titled Open Docket Folder for the appropriate Notice and supporting documents, and click the Comment Now tab to submit a comment;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov*, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov*.

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check "My Case Status" online at: *https://egov.uscis.gov/cris/Dashboard.do*, or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) 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;

(2) 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;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Waiver of Grounds of Inadmissibility.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–601; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief*

abstract: Primary: Individuals or Households. The information collected on this form is used by U.S Citizenship and Immigration Services (USCIS) to determine whether the applicant is eligible for a waiver of excludability under section 212 of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20,625 responses (paper-format) at 1.75 hours per response; 100 responses (biometrics) at 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 36,211 burden hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: July 28, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–18300 Filed 8–1–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Robinson International USA, Inc., as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of Robinson International USA, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Robinson International USA, Inc. has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of November 26, 2013.

DATES: *Effective Dates:* The approval of Robinson International USA, Inc., as a commercial gauger became effective on November 26, 2013. The next triennial inspection date will be scheduled for November 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Robinson International USA, Inc., 4400 South Wayside Drive, Suite #106, Houston, TX 77207, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Robinson International USA, Inc. is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

API Chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
12	Calculations.
17	Maritime measurement.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf.*

Dated: July 24, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2014–18366 Filed 8–1–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation of Intertek USA, Inc., as a Commercial Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation of Intertek USA, Inc., as a commercial laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc., has been accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of November 14, 2013.

DATES: *Effective Dates:* The accreditation of Intertek USA, Inc., as commercial laboratory became effective on November 14, 2013. The next triennial inspection date will be scheduled for November 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gaugers and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12, that Intertek USA, Inc., 8500 West Bay Road, MS #37, Baytown, TX 77523, has been accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12.

Intertek USA, Inc. is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–48	ASTM D–4052.	Standard test method for density and relative density of liquids by digital density meter.

Anyone wishing to employ this entity to conduct laboratory analyses should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test requested. Alternatively, inquiries regarding the specific test this entity is accredited to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.*http://*

www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories

Dated: July 25, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2014–18371 Filed 8–1–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning July 1, 2014, the interest rates for overpayments will be 2 percent for corporations and 3 percent for non-corporations, and the interest rate for underpayments will be 3 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

DATES: *Effective Date:* July 1, 2014.

FOR FURTHER INFORMATION CONTACT: Michael P. Dean, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614–4882.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: One for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2014–14, the IRS determined the rates of interest for the calendar quarter beginning July 1, 2014, and ending on September 30, 2014. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (1%) plus one percentage point (1%) for a total of two percent (2%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). These interest rates are subject to change for the calendar quarter beginning October 1, 2014, and ending December 31, 2014.

For the convenience of the importing public and U.S. Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate over-payments (eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate over-payments (eff. 1–1–99) (percent)
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	093014	3	3	2

Dated: July 30, 2014.

R. Gil Kerlikowske,

Commissioner.

[FR Doc. 2014–18362 Filed 8–1–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–61]

30-Day Notice of Proposed Information Collection: Fellowship Placement Pilot Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: Comments Due Date: September 3, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on February 28, 2014.

A. Overview of Information Collection

Title of Information Collection: Fellowship Placement Pilot Program.

OMB Approval Number: 2528–0298.02–New.

Type of Request: This is a revision to amend the existing surveys for program evaluation.

Form Number: None.

Description of the need for the information and proposed use: The Fellowship Placement Program places highly-skilled fellows in distressed cities to work on strategic projects and help build city capacity. The fellowship program is seeking to evaluate its program through surveys of program stakeholders.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours to complete a survey is 1 hour. The number of respondents is estimated to be 32 respondents. The total number of burden hours is 32 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.

Dated: July 29, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–18356 Filed 8–1–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2014–N107; 40120–1112–0000–F2]

Incidental Take Permit and Environmental Assessment for Condominium Construction, Perdido Key, Escambia County, Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Under the Endangered Species Act (Act), we, the U.S. Fish and Wildlife Service, announce the receipt and availability of a proposed habitat conservation plan (HCP) and environmental assessment (EA) for take of the Perdido Key beach mouse incidental to construction of a multi-unit condominium in Escambia County, Florida. We invite public comments on these documents.

DATES: We must receive any written comments at our Regional Office (see **ADDRESSES**) on or before October 3, 2014.

ADDRESSES: Documents are available for public inspection by appointment during normal business hours at the Fish and Wildlife Service's Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345; or the Panama City Field Office, Fish and Wildlife Service, 1601 Balboa Avenue, Panama City, FL 32405.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional HCP Coordinator (see **ADDRESSES**), telephone: 404–679–7313; or Ms. Kristi Yanchis, Field Office Project Manager, at the Panama City Field Office (see **ADDRESSES**), telephone: 850–769–0552.

SUPPLEMENTARY INFORMATION: We announce the availability of the proposed HCP, accompanying incidental take permit (ITP) application, and an environmental assessment (EA), which analyze the take of the endangered Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*) incidental to construction and occupation of a condominium development. The Applicant, Millennium Group LLC, requests a 25-year ITP under section 10(a)(1)(B) of the Act (16 U.S.C. 1531 *et seq.*), as amended. The Applicant's HCP describes the mitigation and minimization measures proposed to address the impacts to the species.

We specifically request scientific or technical information, views, and opinions from the public via this notice on our proposed Federal action, including identification of any other aspects of the human environment not already identified in the EA pursuant to National Environmental Policy Act (NEPA) regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6. Further, we specifically solicit information regarding the adequacy of the HCP per 50 CFR parts 13 and 17.

The EA assesses the likely environmental impacts associated with the implementation of the activities, including the environmental consequences of the no-action alternative and the proposed action. The proposed action alternative is issuance of the ITP and implementation of the HCP as submitted by the Applicant. The HCP covers land clearing, construction, and occupation of a 15-unit condominium, which would permanently alter 0.428 acre of the 1.21 acres owned by the Applicant. Avoidance, minimization, and mitigation measures include retention of natural habitat on 0.782 acre of the property, enhancement of natural habitat with native vegetation plantings, protection of portions of the natural habitat via a conservation easement, operational covenants to minimize impacts, and endowment of off-site habitat acquisition and management via the existing Perdido Key Conservation Fund.

Public Comments

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.

If you wish to comment, you may submit comments by any one of several methods. Please reference TE143687–0 in such comments. You may mail comments to the Fish and Wildlife Service's Regional Office (see **ADDRESSES**). You may also comment via the Internet to *david_dell@fws.gov*. Please include your name and return address in your Internet message. If you do not receive a confirmation from us that we have received your Internet message, contact us directly at either telephone number listed under **FOR FURTHER INFORMATION CONTACT.**

Finally, you may hand-deliver comments to either of our offices listed under **ADDRESSES.**

Covered Area

Perdido Key, a barrier island 16.9 miles long, constitutes the entire historic range of the Perdido Key beach mouse. The area encompassed by the HCP and ITP application is a 1.21-acre Gulf front lot in Escambia County, within the central portions of Perdido Key.

Next Steps

We will evaluate the ITP application, including the HCP and any comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of a section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue the ITP. If we determine that the requirements are met, we will issue the ITP for the incidental take of Perdido Key beach mouse.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: June 24, 2014.

Jeffrey M. Fleming,

Acting Regional Director.

[FR Doc. 2014–18310 Filed 8–1–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK930000.L13100000.FF0000.241A]

Renewal of Approved Information Collection

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) invites public comments on, and plans to request approval to continue, the collection of information from applicants for oil shale leases, oil shale lessees, and oil shale operators. The Office of Management and Budget (OMB) has assigned control

number 1004–0201 to this information collection.

DATES: Please submit comments on the proposed information collection by October 3, 2014.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail. Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240. Fax: To Jean Sonneman at 202–245–0050. Electronic mail: *Jean_Sonneman@blm.gov.* Please indicate "Attn: 1004–0201" regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Mary Linda Ponticelli at 202–912–7115. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339 to leave a message for Ms. Ponticelli.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to the OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until the OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) The accuracy of the agency's burden estimates; (3) Ways to enhance the quality, utility and clarity of the information collection; and (4) Ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to the OMB.

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 following information is provided for the information collection:

Title: Oil Shale Management (43 CFR Parts 3900, 3910, 3920, and 3930).

OMB Control Number: 1004–0201.

Summary: This control number applies to the exploration, development, and utilization of oil shale resources on BLM-managed public lands. Currently, the only oil shale leases issued by the BLM are for research, development, and demonstration (RD&D) leases. However, the BLM has issued a regulatory framework for both RD&D leases and commercial leases.

Frequency of Collection: On occasion.

Forms: None.

Description of Respondents: Applicants for oil shale leases, oil shale lessees, and oil shale operators.

Estimated Annual Responses: 24.

Estimated Annual Burden Hours: 1,795.

Estimated Annual Non-Hour Costs: $526,622.

The estimated burdens are itemized in the following table:

A. Type of response	B. Number of responses	C. Hours per response	D. Total time (column B × column C)
Application for Waiver, Suspension, or Reduction of Rental or Payment In Lieu of Production; Application for Reduction in Royalty; or Application for Waiver of Royalty. 43 CFR 3903.54(b)	1	1	1
Bonding Requirements. 43 CFR Subpart 3904	1	1	1
Application for an Exploration License. 43 CFR 3910.31(a) through (e)	1	24	24
Notice Seeking Participation in an Exploration License. 43 CFR 3910.31(f)	1	1	1
Data Obtained Under an Exploration License. 43 CFR 3910.44	1	8	8
Response to Call for Expression of Leasing Interest. 43 CFR 3921.30	1	4	4
Application for a Lease—Individuals. 43 CFR 3902.23, 3922.20, and 3922.30	1	308	308
Application for a Lease—Associations. 43 CFR 3902.24, 3922.20, and 3922.30	1	308	308
Application for a Lease—Corporations. 43 CFR 3902.25, 3922.20, and 3922.30	1	308	308
Sealed Bid. 43 CFR 3924.10	1	8	8
Application to Convert Research, Development, and Demonstration Lease to Commercial Lease. 43 CFR 3926.10(c)	1	308	308
Drill and Geophysical Logs. 43 CFR 3930.11(b)	1	19	19
New Geologic Information. 43 CFR 3930.20(b)	1	19	19
Plan of Development. 43 CFR 3931.11	1	308	308
Application for Suspension of Lease Operations and Production. 43 CRR 3931.30	1	24	24
Exploration Plan. 43 CFR 3931.41	1	24	24
Modification of Approved Exploration Plan or Plan of Development. 43 CFR 3931.50	1	24	24
Production Maps and Production Reports. 43 CFR 3931.70	1	16	16
Records of Core or Test Hole Samples and Cuttings. 43 CFR 3931.80	1	16	16
Application for Modification of Lease Size. 43 CFR 3932.10, 3930.20, and 3932.30	1	12	12
Request for Approval of Assignment of Record Title or Sublease or Notice of Overriding Royalty Interest Assignment. 43 CFR Subpart 3933	2	10	20
Relinquishment of Lease or Exploration License. 43 CFR 3934.10	1	18	18
Production and Sale Records. 43 CFR 3935.10	1	16	16
Totals	24		1,795

Jean Sonneman,
Information Collection Clearance Officer, Bureau of Land Management.
[FR Doc. 2014–18358 Filed 8–1–14; 8:45 am]
BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA 053643, LLCAD08000.L51010000.ER0000.LVRWB14B5150.14XL5017AP]

Notice of Intent To Amend the California Desert Conservation Area Plan for the Coolwater to Lugo Transmission Line Project and Prepare a Joint Environmental Impact Statement and Environmental Impact Report, San Bernardino County, CA

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 (FLPMA), the Bureau of Land Management (BLM) Barstow Field Office intends to prepare an amendment to the California Desert Conservation Area (CDCA) Plan (1980, as amended) with a joint Environmental Impact Statement (EIS) and Environmental Impact Report (EIR) in cooperation with the California Public Utilities Commission in order to analyze Southern California Edison's proposal for the Coolwater to Lugo Transmission Line Project in San Bernardino County. This notice announces the beginning of the scoping process to solicit public comments and identify issues.

DATES: Comments on issues may be submitted in writing until September 3, 2014. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local news media, newspapers and the BLM Web site at: *http://www.blm.gov/ca/st/en/fo/cdd.html.* In order to be included in the analysis, 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 as appropriate.

ADDRESSES: You may submit comments on issues and planning criteria related to the Coolwater to Lugo Transmission Line Project by any of the following methods:

- Web site: *http://www.blm.gov/ca/st/en/fo/barstow/renewableenergy/coolwater_lugo.html*
- Email: *jchilders@blm.gov*
- Fax: 951–697–5299
- Mail: ATTN: Jeffery Childers, Project Manager, BLM California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553–9046

Documents pertinent to this proposal may be examined at the BLM California Desert District Office and the Barstow Field Office.

FOR FURTHER INFORMATION CONTACT: Jeffery Childers, telephone: 951–697–5308; address: BLM California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553–9046; email: *jchilders@blm.gov.* Contact Mr. Childers 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 Mr. Childers during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question for Mr. Childers. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Southern California Edison Company (SCE) is proposing a new high-voltage (220/500-kV) transmission line extending 64 miles from SCE's existing Coolwater Generation Station Switchyard located in Daggett, California, to SCE's existing Lugo Substation in Hesperia, California. The proposed Coolwater to Lugo Transmission Line Project (CLTP) would traverse 16 miles of public lands managed by the BLM, with the remainder on private or other lands within San Bernardino County. Approximately 47 miles of the transmission line would parallel or be within existing overhead utility rights-of-way (ROWs) and designated transmission corridors with the remaining 17 miles requiring a plan amendment to the CDCA plan to designate a new transmission line corridor. The proposed project also includes new substation facilities to support transmission line termination and new telecommunication facilities for a Special Protection System to maintain transmission system reliability. The new 500/220/115/12–kV Desert View Substation, which will initially be constructed as a switching station, is southeast of Apple Valley, California. The new telecommunications lines would extend from the Gale Substation to Pisgah Substation and from the new Desert View Substation to the Apple Valley Substation, traversing 6 miles of BLM-managed lands. The majority of the telecommunications fiber optic cable would be installed on existing poles. The project would include installation of 373 new single and double-circuit 220-kV and 500-kV transmission structures, and removal of 168 structures associated with the existing Lugo-Pisgah 220-kV transmission lines No. 1 and No. 2; construction of 25 miles of new roads; upgrades to 17 miles of roads; temporary use and construction areas; and 215 setup areas for conductor pulling and splicing. This project is needed to ensure that power from the nearly completed 275–MW Mojave Solar Project is delivered to population centers in Southern California. Additionally, the line is designed with additional capacity to facilitate the interconnection of future renewable energy projects that are expected to be developed in the region.

This document provides notice that the BLM Barstow Field Office, Barstow, California, intends to prepare a Draft CDCA plan amendment with an associated joint EIS/EIR with the California Public Utilities Commission for the CLTP; announces the beginning of the scoping process; and seeks public input on environmental issues and planning criteria. 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. Preliminary issues for the plan amendment area have been identified by BLM personnel, Federal, State, and local agencies, and other stakeholders. The issues include: Air quality and greenhouse gas emissions, biological resources including special status species, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use, noise, recreation, traffic, visual resources, cumulative effects, and areas with high potential for renewable energy development. Impacts will be reviewed and the BLM will identify opportunities to apply mitigation strategies for on-site, regional, and compensatory mitigation. Mitigation may include regional compensatory measures for raven management and big horn sheep habitat, and desert tortoise habitat acquisition.

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. To be most helpful, you should submit comments by the close of the 30-day scoping period or within 30 days after the last public meeting, whichever is later.

A preliminary list of the potential planning criteria that will be used to help guide and define the scope of the plan amendment includes:

1. The plan amendment will be completed in compliance with FLPMA, NEPA, and all other relevant Federal laws, executive orders, and BLM policies;

2. Existing valid plan decisions will not be changed and any new plan decisions will not conflict with existing plan decisions; and

3. The plan amendment(s) will recognize valid existing rights.

The BLM will use the NEPA public participation requirements to assist the agency in satisfying the public involvement requirements under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) pursuant to 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 Section 106 of the NHPA.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including 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 action 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. The list of attendees for each scoping meeting and the scoping report 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 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 draft plan amendment/EIS/EIR as to why an issue was placed in category two or three. The public is also encouraged to help identify any management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that are 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, lands and realty, hydrology, soils, sociology and economics.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2.

Thomas Pogacnik,

Deputy State Director—Resources.

[FR Doc. 2014–18393 Filed 8–1–14; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–16169; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before July 5, 2014. Pursuant to § 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by August 19, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 11, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

NEW YORK

Albany County

Livingston, Philip, Junior High School, 315 Northern Blvd., Albany, 14000485

Dutchess County

Corlies—Ritter—Hart House, 103 S. Hamilton St., Poughkeepsie, 14000486

Morschauser, Charles, House, 115 Hooker Ave., Poughkeepsie, 14000487

Violet Avenue School, 191 Violet Ave., Poughkeepsie, 14000488

Erie County

Public School No. 60, 238 Ontario St., Buffalo, 14000489

Nassau County

Landsberg, William, House, 5 Tianderah Rd., Port Washington, 14000490

NORTH CAROLINA

Ashe County

Clark—Miller Roller Mill, (Ashe County, North Carolina, c. 1799–1955 MPS) 180 Long Branch Rd., Lansing, 14000491

Columbus County

Black Rock Plantation House, 7875 Old Stage Rd., Riegelwood, 14000492

Forsyth County

Chatham, Thurmond and Lucy, House, 112 N. Stratford St., Winston-Salem, 14000493

Reynolds Building, 51 E. 4th St., Winston-Salem, 14000494

Guilford County

Gibsonville School, 500 Church St., Gibsonville, 14000495

Randolph County

Acme—McCrary Hosiery Mills, 124, 148, 159 North & 173 N. Church Sts., Asheboro, 14000496

TEXAS

Fayette County

East Navidad River Bridge, FM 1579 at East Navidad R., Schulenburg, 14000497

Parker County

Chandor Gardens, 711 W. Lee St., Weatherford, 14000498

Travis County

West Sixth Street Bridge at Shoal Creek, W. 6th St. at Shoal Cr., Austin, 14000499

WASHINGTON

Cowlitz County

Nutty Narrows Bridge, Olympic Way between 18th Ave. & Maple St., Longview, 14000500

Lewis County

Lewis County Courthouse, 351 NW. North St., Chehalis, 14000501

WISCONSIN

Brown County

Krause, Julius, Store Building, 106 S. Broadway, De Pere, 14000502

Vernon County

Cunningham, Bert and Mary, Round Barn, (Wisconsin Centric Barns MPS) E7702 A Upper Maple Dale Rd., Viroqua, 14000503

A request for removal has been received for the following resources:

INDIANA

Putnam County Appleyard, Address Restricted, Greencastle, 90000325

TEXAS

Bosque County

Bosque County Jail, 203 E. Morgan, Meridian, 79002918

Harris County

General Mercantile Store, 7322 N. Main St., Houston, 14000498

[FR Doc. 2014–18283 Filed 8–1–14; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–16235; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before July 12, 2014. Pursuant to § 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by August 19, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 17, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

IDAHO

Canyon County

Mercy Hospital, 1615 8th St., S., Nampa, 14000504

ILLINOIS

Cook County

Oak Park Village Hall, 123 Madison St., Oak Park, 14000505

Lake County

Hall, David, House, 25420 W. Cedar Crest Ln., Lake Villa, 14000506

Madison County

Glen Carbon Grade School, 124 School St., Glen Carbon, 14000507

Marshall County

Marshall Site, (Native American Rock Art Sites of Illinois MPS) Address Restricted, Chillicothe, 14000508

Morgan County

Jacksonville Historic District (Additional Documentation, Boundary Increase), Roughly bounded by Grand, Elm, Dunlap & Chambers, Jacksonville, 14000509

Sangamon County

Great Western Railroad Depot, 930 E. Monroe St., Springfield, 14000510

Whiteside County

Morrison Main Street Historic District, Roughly between Orange & Madison Sts., Lincolnway, UPRR, Morrison, 14000511

MICHIGAN

Oakland County

First Methodist Episcopal Church of Farmington, 33112 Grand River Ave., Farmington, 14000512

Wayne County

Dearborn City Hall Complex, 13615 Michigan Ave., Dearborn, 14000513

Pilgrim and Puritan Apartment Complex, 9303–9333 E. Jefferson Ave., Detroit, 14000514

NEW JERSEY

Burlington County

High Street Historic District (Boundary Increase), 6 W. Pearl St., Burlington, 14000515

Cape May County

Foster, Judge Nathaniel, House, 1649 Bayshore Dr., Lower Township, 14000516

NORTH CAROLINA

Craven County Craven Terrace, 601 Roundtree St.,

New Bern, 14000517

Edgecombe County

Savage, William and Susan, House, 704 NC 97 E., Leggett, 14000518

Forsyth County

Waller House, 9186 Reynolda Rd., Pfafftown, 14000519

Guilford County

Carolina Cadillac Company Building, 304 E. Market St., Greensboro, 14000520

Harnett County

Harnett County Training School, 610 E. Johnson St., Dunn, 14000521

Sampson County

Bullard, Thomas, House, (Sampson County MRA) 386 Carry Bridge Rd., Autryville, 14000522

Wake County

Merrimon—Wynne House, 500 N. Blount St., Raleigh, 14000523

TEXAS

Culberson County

Butterfield Overland Mail Corridor, 400 Pine Canyon Rd., Salt Flat, 14000524

VIRGINIA

Botetourt County

Rader, George Washington, House, 8910 Lee Hwy., Fincastle, 14000525

Franklin County

Boones Mill Historic District, US 220, Maggodee Ln., Bethlehem, Dogwood Hill & Boones Mill Rds., Boon, Easy & Church Hill Sts., Boones Mill, 14000526

Lynchburg Independent City

Pierce Street Historic District, 1300–1400 blks. of Pierce, 1300 blk. Fillmore & Buchanan Sts., Lynchburg, 14000527

Montgomery County

Prices Fork Historic District (Boundary Increase), Prices Fork Rd., Blacksburg, 14000528

Norfolk Independent City

Norfolk Auto Row Historic District, Roughly bounded by E. 14th, Boush & Granby Sts., Monticello & W. Brambleton Aves., Norfolk, 14000529

Williamston—Woodland Historic District, Roughly bounded by NSRR, Church, 18th & Omohundro Sts., Norfolk, 14000530

Wythe County

Rural Retreat Depot, 105 Railroad Ave., Rural Retreat, 14000531

[FR Doc. 2014–18285 Filed 8–1–14; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–922]

Certain Devices Containing Non-Volatile Memory and Products Containing the Same; Institution of Investigation Pursuant to 19 U.S.C. 1337

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 June 27, 2014, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Macronix International Co., Ltd. of Taiwan and Macronix America, Inc., of Milpitas, California. The complaint 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 devices containing non-volatile memory and products containing the same by reason of infringement of certain claims of U.S. Patent No. 5,998,826 ("the '826 patent"); U.S. Patent No. 6,031,757 ("the '757 patent"); U.S. Patent No. 8,341,324 ("the '324 patent"); and U.S. Patent No. 8,341,330 ("the '330 patent") . The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative 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 (2014).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on July 28, 2014, *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 devices containing non-volatile memory and products containing the same by reason of infringement of one or more of claims 1, 2, 5, 7, 11, 12, 13, 17, and 27–29 of the '826 patent; claims 1, 2, 4, 5, 7, 8, 12, and 13 of the '757 patent; claims 1, 2, 7, 8, and 15 of the '324 patent; and claims 1–3 and 8–11 of the '330 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(3) 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 complainants are:

Macronix International Co., Ltd., No. 16, Li-Hsin Road, Science Park, Hsin-chu, Taiwan

Macronix America, Inc., 680 North McCarthy Boulevard, Suite 200, Milpitas, CA 95035

(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:

Spansion Inc., 915 DeGuigne Drive, Sunnyvale, CA 94085

Spansion LLC, 915 DeGuigne Drive, Sunnyvale, CA 94085

Spansion (Thailand) Ltd., 229 Moo 4 Changwattana Road, Pakkred, Nonthaburi 11120, Thailand

Aerohive Networks, Inc., 330 Gibralter Drive, Sunnyvale, CA 94089

Allied Telesis, Inc., 19800 N. Creek Parkway, Suite 100, Bothell, WA 98011

Ciena Corporation, 7035 Ridge Road, Hanover, MD 20176

Delphi Automotive PLC, Courteney Road, Hoath Way, Gillingham, Kent ME8 ORU, United Kingdom

Delphi Automotive Systems, LLC, 5725 Delphi Drive, Troy, MI 48098

Polycom, Inc., 6001 America Center Drive, San Jose, CA 95002

Ruckus Wireless, Inc., 350 West Java Drive, Sunnyvale, CA 94089

ShoreTel Inc., 960 Stewart Drive, Sunnyvale, CA 94085

Tellabs, Inc., 1415 West Diehl Road, Naperville, IL 60563

Tellabs North America, Inc., 1415 West Diehl Road, Naperville, IL 60563

TiVo Inc., 2160 Gold Street, San Jose, CA 95002

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

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: July 29, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–18289 Filed 8–1–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–14–026]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission

TIME AND DATE: August 6, 2014 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000

STATUS: Open to the public

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none
2. Minutes
3. Ratification List
4. Vote in Inv. Nos. 701–TA–498 and 731–TA–1213 (Final) (Certain Steel Threaded Rod from India). The Commission is currently scheduled to complete and file its determinations and views of the Commission on August 18, 2014.
5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: July 30, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–18446 Filed 7–31–14; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended ("CERCLA"), 42 U.S.C. 9601 et seq.

On July 30, 2014, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Maine in the lawsuit entitled *United States* v. *ConAgra Grocery Products Company, LLC*, Civil Action No. 11–cv–0455–NT. The proposed Consent Decree would resolve the United States' claim against ConAgra Grocery Products Company, LLC ("ConAgra") for reimbursement of past costs under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9601 et seq., relating to the A.C. Lawrence Leather Company Sludge Lagoons Superfund Site, located in South Paris, Maine.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *ConAgra Grocery Products Company, LLC*, D.J. Ref. No. 90–11–3–10097. 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.usdoj.gov/enrd/Consent_Decrees.html*. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $4.00 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $3.00.

Robert E. Maher Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–18332 Filed 8–1–14; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting Notice Matter To Be Added to the Agenda for Consideration at an Agency Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: JULY 28, 2014 (79 FR 43782)

TIME AND DATE: 11:45 a.m., Thursday, July 31, 2014.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

Pursuant to the provisions of the "Government in Sunshine Act" notice is hereby given that the NCUA Board gave notice on July 24, 2014 (published on July 28, 2014 at 79 FR 43782) of the regular meeting of the NCUA Board scheduled for July 31, 2014. Prior to the meeting, on July 30, 2014, with less than seven days' notice to the public, the NCUA Board unanimously determined that agency business required changing the previously announced closed meeting time from 11:45 a.m. to 9:00 a.m. No earlier notice of the change was possible.

REVISED TIME: 9:00 a.m., Thursday, July 31, 2014

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2014–18511 Filed 7–31–14; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) will be submitting the following information collection requirement to Office of Management and Budget (OMB) for review and clearance under the paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 et seq.). This is the second notice for public comment; the first was published in the **Federal Register** at *79 FR 29220* and no comments were received. NSF is forwarding the proposed renewal submission to the OMB for clearance simultaneously with the publication of

this second notice. The full submission may be found at *http://www.reginfo.gov/public/do/PRASearch.*

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Foundation, including whether the information will have practical utility; b) the accuracy of the Foundation's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street NW., Room 10235, Washington, DC 20503, and to Ms. Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification.

NSF 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.

SUPPLEMENTARY INFORMATION:

Title: Survey of Graduate Students and Postdoctorates in Science and Engineering.

OMB Approval Number: 3145–0062.

Summary of Collection: The Survey of Graduate Students and Postdoctorates in Science and Engineering (GSS), sponsored by the NSF and the National Institutes of Health (NIH), is a census of all institutions with post-baccalaureate programs in science, engineering and health fields in the United States. The GSS is the only national survey that collects information on specific characteristics of graduate enrollment for science, engineering and health disciplines at the department level. It also collects information on race and ethnicity, citizenship, gender, sources of support, mechanisms of support, and enrollment status for graduate students; information on postdoctoral appointees (postdocs) by citizenship, sex, sources of support, type and origin of doctoral degree; and information on other doctorate-holding non-faculty researchers. To improve coverage of postdocs, the GSS periodically collects information on the race and ethnicity, sex, citizenship, source of support, field of research for the postdocs employed in Federally Funded Research and Development Centers (FFRDCs). The survey will be collected in conformance with the National Science Foundation Act of 1950, as amended, and the Privacy Act of 1974. Responses from the institutions are voluntary.

The Federal government, universities, researchers, and others use the information extensively. The NSF and the NIH publish statistics from the survey in several reports, but primarily in the data tables, and the congressionally mandated biennial publication series, "Science and Engineering Indicators" and "Women, Minorities and Persons with Disabilities in Science and Engineering." In addition, survey results will be used for research or statistical purposes, analyzing data, and preparing scientific reports and articles. All tables and reports are made available in various electronic formats on the GSS Web site (*http://www.nsf.gov/statistics/srvygradpostdoc/*). The survey results are also available in the Web-based Computer-Aided Science Policy Analysis and Research (WebCASPAR) database system. The URL for WebCASPAR is *https://ncsesdata.nsf.gov/webcaspar/.* A public release file is also made available on the GSS Web site (*http://www.nsf.gov/statistics/srvygradpostdoc/*).

Description of Respondents: Institutions.

Number of Respondents: 14,065.

Frequency of Responses: Annually.

Total Burden Hours: 35,760.

Dated: July 30, 2014.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2014–18316 Filed 8–1–14; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0183]

Laboratory Investigations of Soils and Rocks for Engineering Analysis and Design of Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–1256, "Laboratory Investigations of Soils and Rocks for Engineering Analysis and Design of Nuclear Power Plants." This guide describes a method that the NRC staff considers acceptable for use in the laboratory testing of soils and rocks needed to confirm the design and safety of nuclear power plants.

DATES: Submit comments by October 3, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0183. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN 6A–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see "Accessing Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Scott Stovall, telephone: 301–251–7922, email: *scott.stoval@nrc.gov* or Edward O'Donnell, telephone: 301–251–7455, email: *edward.odonnell@nrc.gov.* Both of the Office of Nuclear Regulatory

Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0183 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0183.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The draft regulatory guide is available electronically in ADAMS under Accession Number ML13186A032. The regulatory analysis may be found in ADAMS under Accession No. ML13186A034.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

B. Submitting Comments

Please include Docket ID NRC–2014–0183 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC will not edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, "Laboratory Investigations of Soils and Rocks for Engineering Analysis and Design of Nuclear Power Plants," is proposed revision 3 of Regulatory Guide 1.138, dated December 2003, and it is temporarily identified by its task number, DG–1256. This DG describes laboratory investigations and testing practices acceptable to the NRC staff for determining soil and rock properties and characteristics needed for engineering analysis and design of foundations and earthworks for nuclear power plants. The DG was revised to reflect changes in standards for testing procedures developed since 2003, and at the same time, the guide was re-formatted. The most significant change is in Section C.6.3, "Resonant Column Tests," which provides an alternative method for resonant column and torsional shear testing of soil and rock samples.

III. Backfitting and Issue Finality

Issuance of this DG in final form does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. This DG would not apply to any construction permits, operating licenses, early site permits, limited work authorizations already issued under 10 CFR 50.10 for which the NRC issued a final environmental impact statement (EIS) preceded by a draft EIS under 10 CFR 51.76 or 51.75, or combined licenses, any of which were issued by the NRC prior to issuance of the final regulatory guide. The NRC has already completed its siting determination for those construction permits, operating licenses, early site permits, limited work authorizations, and combined licenses. Therefore, no further NRC regulatory action on siting will occur for those licenses, permits, and authorizations, for which the guidance in the DG would be relevant, absent voluntary action by the licensees (e.g., license amendment, exemption request). Testing of soils and rocks for engineering analysis and design activities may be performed consistent with the licensing basis for each permit and license with respect to such testing; and need not comply with this regulatory guide. However, when a licensee or holder of an NRC regulatory approval voluntarily seeks a change to its license or regulatory approval for which new soils or rock testing is necessary and essential consideration of the NRC's evaluation of the change's acceptability, then the NRC may condition its approval on the licensee's or holder's agreement to conduct the soil or rock testing in accordance with the guidance in the DG (if finalized).

Once finalized, the guidance in this regulatory guide may be applied to applications for early site permits, combined licenses, and limited work authorizations issued under 10 CFR 50.10 (including information under 10 CFR 51.49(b) or (f)), any of which are docketed and under review by the NRC as of the date of issuance of the final regulatory guide. The guidance in this regulatory guide may also be applied to applications for construction permits, early site permits, combined licenses, and limited work authorizations (including information under 10 CFR 51.49(b) or (f)), any of which are submitted after the issuance of the final regulatory guide. Such action does not constitute backfitting as defined in 10 CFR 50.109(a)(1) and is not otherwise inconsistent with the applicable issue finality provisions in 10 CFR part 52. Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under part 52. Neither the Backfit Rule nor the issue finality provisions under part 52—with certain exclusions discussed below—were intended to every NRC action which substantially changes the expectations of current and future applicants.

Dated at Rockville, Maryland, this 30th day of July, 2014.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2014–18303 Filed 8–1–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285; NRC–2014–0010]

Omaha Public Power District; Fort Calhoun Station, Unit No. 1

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; withdrawal by applicant.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has granted the request of Omaha Public Power District to withdraw its application dated February 18, 2013, as supplemented by letter dated February 20, 2014, for a proposed amendment to Renewed Facility Operating License No. DPR–40. The proposed amendment would have revised the Technical Specification Definitions and Technical Specification Sections 2.0.1 and 2.7 for Inoperable System, Subsystem or Component Due to Inoperable Power Source.

ADDRESSES: Please refer to Docket ID NRC–2014–0010 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0010. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* 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: Fred Lyon, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2296 email: *Fred.Lyon@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC has granted the request of Omaha Public Power District (the licensee) to withdraw its February 18, 2013, application, as supplemented by letter dated February 20, 2014 (ADAMS Accession Nos. ML13051A741 and ML14052A204, respectively), for proposed amendment to Renewed Facility Operating License No. DPR–40 for the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska.

The proposed amendment would have revised the Technical Specification Definitions and Technical Specification Sections 2.0.1 and 2.7 for Inoperable System, Subsystem or Component Due to Inoperable Power Source. Specifically, the proposed amendment would: (1) Revise the definition for Operable—Operability in the Fort Calhoun Station, Unit No. 1, Technical Specifications; (2) modify the provisions under which equipment may be considered operable when either its normal or emergency power source is inoperable; and (3) revise the minimum requirement statement in Technical Specification Section 2.7 to the wording previously reviewed and approved by the NRC in Amendment No. 147, dated August 3, 1992.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 21, 2014 (79 FR 3417). However, by letter dated July 15, 2014 (ADAMS Accession No. ML14198A397), the licensee withdrew the proposed change.

Dated at Rockville, Maryland, this 25th day of July 2014.

For the Nuclear Regulatory Commission.

Carl F. Lyon,

Project Manager, Plant Licensing Branch IV–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–18398 Filed 8–1–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–228–LT; ASLBP No. 14–931–01–LT–BD01]

Atomic Safety and Licensing Board; Before Administrative Judge: E. Roy Hawkens, Presiding Officer; In the Matter of Aerotest Operations, Inc. (Aerotest Radiography and Research Reactor); *Notice of Hearing* (Notice of Closed Evidentiary Hearing)

July 29, 2014.

The Atomic Safety and Licensing Board hereby gives notice that it will convene an evidentiary hearing pursuant to the 10 CFR part 2, Subpart M procedures to receive testimony and exhibits in the proceeding regarding the license transfer application of Aerotest Operations, Inc. and its proposed transferee, Nuclear Labyrinth, LLC (together, the Companies). Because the testimony will focus on proprietary information regarding whether the Companies satisfy financial qualification requirements for a license transfer under 10 CFR 50.33(f), the hearing will be closed to the public.

I. Matters to Be Considered

As set forth by the Licensing Board in its May 2014 Memorandum and Order Ruling on Admissibility of Areas of Controversy, there are two litigable areas of controversy in this proceeding: (1) Whether the Staff correctly concluded that the Companies failed to demonstrate that they have, or with reasonable assurance will have, sufficient funding to conduct activities authorized by the Aerotest Radiography and Research Reactor (ARRR) license if the license is indirectly transferred; and (2) whether the Staff correctly concluded that the Companies failed to demonstrate that there will be sufficient funds to cover the annual cost of spent fuel storage until the Department of Energy accepts ARRR's spent fuel. *See* Memorandum and Order (Ruling on Admissibility of Areas of Controversy) at 2 (May 22, 2014).[1]

II. Date, Time, and Location of Evidentiary Hearing

The evidentiary hearing will commence at 10:00 a.m. Eastern Time (ET) on Tuesday, August 12, 2014 in the Atomic Safety and Licensing Board Panel's Rockville Hearing Room and, if

[1] *See also* Safety Evaluation by the Office of Nuclear Reactor Regulation Indirect License Transfer of [ARRR] Due to the Proposed Acquisition of Aerotest Operations, Inc. by Nuclear Labyrinth, LLC Facility Operating License No. R–98 (July 24, 2013) at 9, 11; *see also* CLI–14–05, 76 NRC at __ -__ (slip op. at 4–5).

practicable, will continue that day until complete.

III. Availability of Documentary Information Regarding the Proceeding

Documents related to this proceeding are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically via the publicly-available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *www.nrc.gov/reading-rm/adams.html* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at (800) 397–4209 or (301) 415–4737 (available between 8:00 a.m. and 4:00 p.m., ET, Monday through Friday except federal holidays) or by email to *pdr@nrc.gov.*

IV. Information Updates to Schedule

Any updates or revisions to the evidentiary hearing schedule can be found on the NRC Web site at *www.nrc.gov/public-involve/public-meetings/index.cfm,* or by calling (800) 368–5642, extension 5036 (available between 7:00 a.m. and 9:00 p.m. ET, Monday through Friday, except federal holidays), or by calling (301) 415–5036 (available seven days a week, twenty-four hours a day).

It is so *ordered.*

The Atomic Safety and Licensing Board.
Rockville, Maryland.

Dated: July 29, 2014.

E. Roy Hawkens,

Presiding Officer.

[FR Doc. 2014–18402 Filed 8–1–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act Meeting Notice

DATE: Weeks of August 4, 11, 18, 25, September 1, 8, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of August 4, 2014

There are no meetings scheduled for the week of August 4, 2014.

Week of August 11, 2014—Tentative

There are no meetings scheduled for the week of August 11, 2014.

Week of August 18, 2014—Tentative

There are no meetings scheduled for the week of August 18, 2014.

Week of August 25, 2014—Tentative

There are no meetings scheduled for the week of August 25, 2014.

Week of September 1, 2014—Tentative

There are no meetings scheduled for the week of September 1, 2014.

Week of September 8, 2014—Tentative

Tuesday, September 9, 2014

9:30 a.m. Briefing on NRC International Activities (Closed–Ex. 1 & 9)

Wednesday, September 10, 2014

9:30 a.m. Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting) (Contact: Donna Williams, 301–415–1322)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

* * * * *

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Darlene.Wright@nrc.gov.*

Dated: July 31, 2014.

Richard J. Laufer,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–18508 Filed 7–31–14; 4:15 pm]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before October 3, 2014.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION:

Title: Report of Dental Examination.

OMB Control Number: 0420–0546.

Type of Request: Extension without change of a currently approved information collection.

Affected Public: Individuals/physicians.

Respondents Obligation To Reply: Voluntary.

Respondents: Potential and current volunteers.

Burden to the Public:

a. Estimated number of respondents.	5,000.
b. Estimated average burden per response.	45 minutes.
c. Frequency of response	One time.
d. Annual reporting burden	3,750 hours.

General description of collection: The Peace Corps Act requires that Volunteers receive health examinations prior to their service. The information collected is required for consideration for Peace Corps Volunteer service. The Report of Dental Exam is used by the examining physician and dentist both

for applicants and currently serving Volunteers. The results of the examinations are used to ensure that applicants for Volunteer service will, with reasonable accommodation, be able to serve in the Peace Corps without jeopardizing their health.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on July 29, 2014.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2014–18293 Filed 8–1–14; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before October 3, 2014.

ADDRESSES: Comments should be addressed to Denora Miller, FOIA/Privacy Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION: The Peace Corps Response Volunteer Application form is necessary to recruit qualified volunteers to serve in Peace Corps Response, which sends Volunteers throughout the world to work in specialized short term projects. Applicants are selected based on their qualifications for a specific Volunteer assignment.

OMB Control Number: 0420–0547.

Title: Peace Corps Response Volunteer Application Form.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals.

Respondents' Obligation To Reply: Voluntary.

Burden to the Public:

a. Number of Respondents: 1,500.

b. Frequency of response: One time.

c. Completion time: 60 minutes.

d. Annual burden hours: 1,500.

General Description of Collection: The information collected in the Peace Corps Response Volunteer Application is used by Peace Corps Response staff to perform initial screening for potential candidates for Peace Corps Response assignments. Applications contain basic information concerning technical skills and eligibility for Peace Corps Response assignments.

Request for Comment: Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on July 29, 2014.

Dated: July 29, 2014.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2014–18292 Filed 8–1–14; 8:45 am]

BILLING CODE 6051–01–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

TIME AND DATE: September 10, 2014, at 11 a.m.

PLACE: Commission hearing room, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001.

STATUS: The Postal Regulatory Commission will hold a public meeting to discuss the agenda items outlined below. Part of the meeting will be open to the public as well as audiocast, and the audiocast may be accessed via the Commission's Web site at *http://www.prc.gov.* Part of the meeting will be closed. After the close of the public part of the meeting, a *public listening session* will be offered to allow the public to comment on any agenda item or related subject matter. The Commission will then resume in its closed session.

MATTERS TO BE CONSIDERED: The agenda for the Commission's September 10, 2014 meeting includes the items identified below.

PORTIONS OPEN TO THE PUBLIC: 1. Report from the Office of Public Affairs and Government Relations on legislative activities and the handling of rate and service inquiries from the public.

2. Report from the Office of General Counsel on the status of Commission dockets.

3. Report from the Office of Accountability and Compliance.

4. Report from the Office of the Secretary and Administration.

5. Presentation to Commissioners on the Customs and Border Protection (CBP) role in cross-border postal operations by a representative of the Department of Homeland Security.

PORTIONS CLOSED TO THE PUBLIC: 6. Discussion of pending litigation.

CONTACT PERSON FOR MORE INFORMATION: David A. Trissell, General Counsel, Postal Regulatory Commission, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001, at 202–789–6820 (for agenda-related inquiries) and Shoshana M. Grove, Secretary of the Commission, at 202–789–6800 or *shoshana.grove@prc.gov* (for inquiries related to meeting location, changes in date or time of the meeting, access for handicapped or disabled persons, the audiocast, or similar matters). The Commission's Web site may also provide information on changes in the date or time of the meeting.

By direction of the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–18454 Filed 7–31–14; 4:15 pm]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Accredited Business Consolidators Corp., AsherXino Corp., Bakers Footwear Group, Inc., Card Activation Technologies, Inc., High Plains Gas, Inc., and Pacific Copper Corp.; Order of Suspension of Trading

July 31, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Accredited Business Consolidators Corp. because it has not filed any periodic reports since the period ended September 30, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of AsherXino Corp. because it has not filed any periodic reports since the period ended June 30, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Bakers Footwear Group, Inc. because it has not filed any periodic reports since the period ended April 28, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Card Activation Technologies, Inc. because it has not filed any periodic reports since the period ended June 30, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of High Plains Gas, Inc. because it has not filed any periodic reports since the period ended September 30, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pacific Copper Corp. because it has not filed any periodic reports since the period ended April 30, 2012.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on July 31, 2014, through 11:59 p.m. EDT on August 13, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–18462 Filed 7–31–14; 4:15 pm]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 8811]

Culturally Significant Objects Imported for Exhibition Determinations: "From Bauhaus to Buenos Aires: Grete Stern and Horacio Coppola" Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition "From Bauhaus to Buenos Aires: Grete Stern and Horacio Coppola," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Museum of Modern Art, New York, NY, from on or about May 23, 2015, until on or about September 13, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: July 29, 2014.

Evan M. Ryan,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–18330 Filed 8–1–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8809]

Provision of Certain Temporary and Limited Sanctions Relief in Order To Implement the Joint Plan of Action of November 24, 2013 Between the P5+1 and the Islamic Republic of Iran, as Extended Through November 24, 2014

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: On November 24, 2013, the United States and its partners in the P5+1 (France, the United Kingdom, Russia, China, and Germany) and the EU reached an initial understanding with Iran, outlined in a Joint Plan of Action (JPOA), that halts progress on its nuclear program and rolls it back in key respects. In return, the P5+1 committed to provide limited, temporary, and targeted sanctions relief to Iran. The JPOA was scheduled to expire after July 20, 2014.

The JPOA was renewed by mutual consent of the P5+1, EU, and Iran on July 19, 2014, extending the temporary sanctions relief provided under the JPOA through November 24, 2014 (the Extended JPOA Period), in order to continue to negotiate a long-term comprehensive solution to prevent Iran from acquiring a nuclear weapon and to ensure that Iran's nuclear program will be exclusively peaceful.

This Notice outlines the U.S. government actions taken to implement the sanctions relief aspects of this understanding.

DATES: *Effective Date:* The effective dates of these waiver actions are as described in the determinations set forth below.

FOR FURTHER INFORMATION CONTACT: On general issues: John Hughes, Office of Economic Sanctions Policy and Implementation, Department of State, Telephone: (202) 647–7489.

SUPPLEMENTARY INFORMATION: To implement this limited sanctions relief, the U.S. government has executed temporary, partial waivers of certain statutory sanctions and has issued guidance regarding the suspension of sanctions under relevant Executive Orders and regulations. All U.S. sanctions not explicitly waived or suspended pursuant to the JPOA as extended remain fully in force, including sanctions on transactions with individuals and entities on the SDN List unless otherwise specified.

Furthermore, U.S. persons and foreign entities owned or controlled by U.S. persons ("U.S.-owned or -controlled foreign entities") continue to be

generally prohibited from conducting transactions with Iran, including any transactions of the types permitted pursuant to the JPOA as extended, unless licensed to do so by the Office of Foreign Assets Control (OFAC). The U.S. government will continue to enforce U.S. sanctions laws and regulations against those who engage in sanctionable activities that are not covered by the suspensions and temporary waivers pursuant to the JPOA as extended.

All suspended sanctions are scheduled to resume on November 25, 2014 unless further action is taken by the P5+1 and Iran and subsequent waivers and guidance are issued by the U.S. government. Companies engaging in activities covered by the temporary sanctions relief described in this fact sheet should expect sanctions to apply to any activities that extend beyond the current end date of the Extended JPOA Period, November 24, 2014. The temporary suspension of sanctions applies only to activities that begin and end during the period January 20, 2014 to November 24, 2014. Except as specified below with respect to payments for insurance claims, the suspension does not apply to any related, otherwise sanctionable conduct, including shipping and financial activities, undertaken before that period or after that period, even if they are undertaken pursuant to contracts entered into during the JPOA period or Extended JPOA Period. For example, deliveries of goods or services after the Extended JPOA Period would be sanctionable even if relevant contracts were entered into during the JPOA Period or Extended JPOA Period.

To the extent that the provision of insurance or reinsurance is an associated service of an activity for which the JPOA provides temporary relief, the provision of such insurance or reinsurance by a non-U.S. person not otherwise subject to the Iranian Transactions and Sanctions Regulations (ITSR) during the Extended JPOA Period would not be sanctionable.

Insurance payments for claims arising from incidents that occur during the JPOA Period and/or Extended JPOA Period may be paid after November 24, 2014, so long as the underlying transactions and activities conform to all other aspects of the sanctions remaining in place and the terms of the sanctions relief provided in the JPOA. Insurance and reinsurance companies should contact the U.S. government directly with any inquiries.

U.S. persons and their foreign subsidiaries remain prohibited from participating in the provision of insurance or reinsurance services to or for the benefit of Iran or sanctioned entities, including with respect to all elements of the sanctions relief provided pursuant to the JPOA, unless specifically authorized by OFAC.

The Secretary of State took the following action:

Acting under the authorities vested in me as Secretary of State, including through the applicable delegations of authority, I hereby make the following determinations and certifications:

Pursuant to Sections 1244(i), 1245(g), 1246(e), and 1247(f) of the Iran Freedom and Counter-Proliferation Act of 2012 (subtitle D of title XII of Pub. L. 112–239, 22 U.S.C. 8801 *et seq.*) (IFCA), I determine that it is vital to the national security of the United States to waive the imposition of sanctions pursuant to:

1. Section 1244(c)(1) of IFCA [1] to the extent required for:

a. Transactions by non-U.S. persons for the export from Iran of petrochemical products,[2] and for associated services, excluding any transactions involving persons on the list of specially designated nationals and blocked persons of the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury (hereinafter the SDN List) except for the following companies: Bandar Imam Petrochemical Company; Bou Ali Sina Petrochemical Company; Ghaed Bassir Petrochemical Products Company; Iran Petrochemical Commercial Company; Jam Petrochemical Company; Marjan Petrochemical Company; Mobin Petrochemical Company; National Petrochemical Company; Nouri Petrochemical Company; Pars Petrochemical Company; Sadaf Petrochemical Assaluyeh Company; Shahid Tondgooyan Petrochemical Company; Shazand Petrochemical Company; and Tabriz Petrochemical Company;

b. Transactions by U.S. or non-U.S. persons for the supply and installation of spare parts necessary for the safety of flight for Iranian civil aviation, for safety-related inspections and repairs in Iran, and for associated services, provided that OFAC has issued any required licenses, excluding any transactions involving persons on the SDN List except for Iran Air;

c. Transactions by non-U.S. persons to which sanctions would not apply if an exception under section 1244(g)(2) of IFCA were applied to China, India, Japan, the Republic of Korea, Taiwan, and Turkey, and for insurance and transportation services associated with such transactions, provided that such transactions are consistent with the purchase amounts provided for in the Joint Plan of Action of November 24, 2013, as extended, excluding any transactions or associated services involving persons on the SDN List except for the National Iranian Oil Company and the National Iranian Tanker Company;

d. Transactions by non-U.S. persons for the sale, supply or transfer to or from Iran of precious metals, provided that such transactions are within the scope of the waiver of Sections 1245(a)(1)(A) and 1245(c) of IFCA (section 3 below), and for associated services, excluding any transactions involving persons on the SDN List except for any political subdivision, agency, or instrumentality of the Government of Iran listed solely pursuant to E.O. 13599;

2. Section 1244(d) of IFCA to the extent required for the sale, supply or transfer of goods or services by non-U.S. persons in connection with transactions by non-U.S. persons to which sanctions would not apply if an exception under section 1244(g)(2) of IFCA were applied to China, India, Japan, the Republic of Korea, Taiwan, and Turkey, and for insurance and transportation services associated with such transactions, provided that such transactions are consistent with the purchase amounts provided for in the Joint Plan of Action of November 24, 2013, as extended, excluding any transactions or associated services involving persons on the SDN List except for the National Iranian Oil Company and the National Iranian Tanker Company;

3. Sections 1245(a)(1)(A) and 1245(c) of IFCA to the extent required for transactions by non-U.S. persons for the sale, supply, or transfer to or from Iran of precious metals, provided that:

a. Such transactions do not involve persons on the SDN List, except for any political subdivision, agency, or instrumentality of the Government of Iran listed solely pursuant to E.O. 13599 or any Iranian depository institution listed solely pursuant to E.O. 13599; and

b. This waiver shall not apply to transactions for the sale, supply, or transfer to Iran of precious metals involving funds credited to an account located outside Iran pursuant to Section 1245(d)(4)(D)(ii)(II) of the National Defense Authorization Act for Fiscal Year 2012;

[1] Pursuant to section 1244(c)(2)(C)(iii) of IFCA, the relevant sanction in Section 1244(c)(1) continues not to apply, by its terms, in the case of Iranian financial institutions that have not been designated for the imposition of sanctions in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction, support for international terrorism, or abuses of human rights (as described in section 1244(c)(3)).

[2] 77 FR 67726–67731 (Nov. 13, 2012).

4. Section 1246(a) of IFCA [3] to the extent required for the provision of underwriting services or insurance or reinsurance:

a. By non-U.S. persons for the export from Iran of petrochemical products and for associated services, excluding any transactions involving persons on the SDN List except for the following companies: Bandar Imam Petrochemical Company; Bou Ali Sina Petrochemical Company; Ghaed Bassir Petrochemical Products; Iran Petrochemical Commercial Company; Jam Petrochemical Company; Marjan Petrochemical Company; Mobin Petrochemical Company; National Petrochemical Company; Nouri Petrochemical Company; Pars Petrochemical Company; Sadaf Petrochemical Assaluyeh Company; Shahid Tondgooyan Petrochemical Company; Shazand Petrochemical Company; and Tabriz Petrochemical Company;

b. By U.S. persons or non-U.S. persons for the supply and installation of spare parts necessary for the safety of flight for Iranian civil aviation, for safety-related inspections and repairs in Iran, and for associated services, provided that OFAC has issued any required licenses, excluding any transactions involving persons on the SDN List except for Iran Air;

c. By non-U.S. persons for transactions to which sanctions would not apply if an exception under section 1244(g)(2) of IFCA were applied to China, India, Japan, the Republic of Korea, Taiwan, and Turkey, and for insurance and transportation services associated with such transactions, provided that such transactions are consistent with the purchase amounts provided for in the Joint Plan of Action of November 24, 2013, as extended, excluding any transactions or associated services involving persons on the SDN List except for the National Iranian Oil Company and the National Iranian Tanker Company; and

d. By non-U.S. persons for the sale, supply or transfer to or from Iran of precious metals, provided that such transactions are within the scope of the waiver of Sections 1245(a)(1)(A) and 1245(c) of IFCA, and for associated services, excluding any transactions involving persons on the SDN List except for any political subdivision, agency, or instrumentality of the Government of Iran listed solely pursuant to E.O. 13599;

e. By non-U.S. persons for the sale, supply or transfer to Iran of goods and services used in connection with the automotive sector of Iran and for associated services, excluding any transactions involving persons on the SDN List.

5. Section 1247(a) of IFCA [4] to the extent required for transactions by foreign financial institutions on behalf of:

a. Bandar Imam Petrochemical Company; Bou Ali Sina Petrochemical Company; Ghaed Bassir Petrochemical Products; Iran Petrochemical Commercial Company; Jam Petrochemical Company; Marjan Petrochemical Company; Mobin Petrochemical Company; National Petrochemical Company; Nouri Petrochemical Company; Pars Petrochemical Company; Shahid Tondgooyan Petrochemical Company; Sadaf Petrochemical Assaluyeh Company; Shahid Tondgooyan Petrochemical Company; Shazand Petrochemical Company; and Tabriz Petrochemical Company for the export from Iran of petrochemicals;

b. Iran Air for the supply and installation of spare parts necessary for the safety of flight by Iran Air and for safety-related inspections and repairs for Iran Air, provided that OFAC has issued any required licenses;

c. The National Iranian Oil Company and the National Iranian Tanker Company for transactions by non-U.S. persons to which sanctions would not apply if an exception under section 1244(g)(2) of IFCA were applied to China, India, Japan, the Republic of Korea, Taiwan, and Turkey, provided that such transactions are consistent with the purchase amounts provided for in the Joint Plan of Action of November 24, 2013, as extended, excluding any transactions or associated services involving any other persons on the SDN List; and

d. Any political subdivision, agency, or instrumentality of the Government of Iran listed solely pursuant to E.O. 13599 for the sale, supply or transfer to or from Iran of precious metals, provided that such transactions are within the scope of the waiver of Sections 1245(a)(1)(A) and 1245(c) of IFCA.

Pursuant to Section 4(c)(1)(A) of the Iran Sanctions Act of 1996 (Pub. L. 104–172, 50 U.S.C. 1701 note) (ISA), I certify that it is vital to the national security interests of the United States to waive the application of section 5(a)(7) of ISA to the National Iranian Oil Company and the National Iranian Tanker Company to the extent required for insurance and transportation services provided on or after July 18, 2014, and associated with transactions to which sanctions would not apply if an exception under section 1244(g)(2) of IFCA were applied to China, India, Japan, the Republic of Korea, Taiwan, and Turkey, provided that such transactions are consistent with the purchase amounts provided for in the Joint Plan of Action of November 24, 2013, as extended.

These waivers shall take effect upon their transmittal to Congress, unless otherwise provided in the relevant provision of law, and the waivers shall apply to transactions during the period July 18, 2014, through November 24, 2014.

(Signed John F. Kerry, Secretary of State)

Therefore, these sanctions have been waived as described in the determinations above. Relevant agencies and instrumentalities of the United States Government shall take all appropriate measures within their authority to carry out the provisions of this notice.

Dated: July 28, 2014.

Charles H. Rivkin,

Assistant Secretary for Economic and Business Affairs.

[FR Doc. 2014–18333 Filed 8–1–14; 8:45 am]

BILLING CODE 4710–07–P

[3] Pursuant to section 1246(a)(1)(C) of IFCA, the relevant sanction in section 1246(a)(1) continues not to apply, by its terms, in the case of Iranian financial institutions that have not been designated for the imposition of sanctions in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction, support for international terrorism, or abuses of human rights (as described in section 1246(b)).

[4] Pursuant to section 1247(a) of IFCA, the relevant sanction in section 1247(a) still continues not to apply, by its terms, in the case of Iranian financial institutions that have not been designated for the imposition of sanctions in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction, support for international terrorism, or abuses of human rights (as described in section 1247(b)).

DEPARMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Northwest Corridor Project—Municipalities of Hatillo, Camuy, Quebradillas, Isabela, Moca and Aguadilla, Commonwealth of Puerto Rico

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed Northwest Corridor highway project within the Municipalities of Hatillo,

Camuy, Quebradillas, Isabela, Moca and Aguadilla in the Commonwealth of Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Luis D. López-Rivera, PE, Environmental Specialist, FHWA Puerto Rico Division Office, 350 Avenue Carlos Chardón Suite 210, San Juan PR 00918–2161; Telephone: (787) 766–5600.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Puerto Rico Highway & Transportation Authority (PRHTA), will prepare an environmental impact statement (EIS) on a proposal for improvements to the Hatillo–Aguadilla Northwest Corridor in the Commonwealth of Puerto Rico. The proposed project starts at PR–22/PR–2 intersection in the municipality of Hatillo, and ends at State Road PR–2 between kilometers 128.0 and 130.0 in the municipality of Aguadilla for a total length of approximately 45 kilometers.

The main goals of the Northwest Corridor project are: (1) Complete an expressway from San Juan to Aguadilla; (2) provide a more efficient system linkage in the study corridor; (3) alleviate local congestion on PR–2 in the municipalities of Hatillo, Camuy, Quebradillas, Isabela, Moca, and Aguadilla; (4) reduce travel time in at least 20% from Hatillo to Aguadilla; (5) improve traffic safety conditions from Hatillo to Aguadilla; (6) reduce the vehicle operating and maintenance costs of vehicle owners using the route; (7) reduce vehicle air emissions; and (8) promote the socioeconomic development of the northwest region of Puerto Rico.

Alternates under consideration include but are not limited to the following: (1) Taking no action; (2) widening the existing four-lane and at grade intersections to six-lanes and intersection overpasses at State Road PR–2; (3) constructing a four-lanes, limited access highway on new location; (4) and (5) constructing four-lanes, limited access highway segments on two new locations in combination with widening the existing four-lane and at grade intersections to six-lanes and intersection overpasses on other State Road PR–2 segments; (6) Dynamic Toll Lanes at State Road PR–2 from Hatillo to Aguadilla and constructing a four lanes limited access highway on the Aguadilla segment. The EIS will be developed in accordance with 23 U.S.C. 139, 23 CFR 771, and 40 CFR 1500–1508.

Public involvement will occur throughout the development of the environmental studies and the EIS. These documents will be made available for review and comments by federal and state resource agencies and the public. Specific efforts to encourage involvement by, and solicit comments from, minority and low-income populations in the project study area will be made. A series of public information meetings will be held during the project study. In addition, a public hearing will be held after the completion of the Draft EIS. Public notice will be given as to the time and place of all public information meetings and hearings.

Inquiries related to the Hatillo–Aguadilla Northwest Corridor Project EIS can be sent to FHWA at the address provided above or at *http://www.corredornoroeste.com.* To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

The EIS process will conclude with a Record of Decision selecting either the no build alternative or a preferred alternative.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Dated: July 29, 2014.

Luis D. López-Rivera,

Environmental Specialist, San Juan, Puerto Rico.

[FR Doc. 2014–18309 Filed 8–1–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Request for Comment

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

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces that the Information Collection Request (ICR) abstracted below will be submitted to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the information collection and its expected burden. A **Federal Register** Notice with a 60-day comment period soliciting public comments on the following information collection was published on April 30, 2014 (**Federal Register**/Vol. 79, No. 83/pp. 24494–24495).

DATES: Submit comments to the Office of Management and Budget (OMB) on or before September 3, 2014.

FOR FURTHER INFORMATION CONTACT: Dr. Kathy Sifrit at the National Highway Traffic Safety Administration, Office of Behavioral Safety Research (NTI–132), W46–472, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Dr. Sifrit's phone number is 202–366–0868 and her email address is *kathy.sifrit@dot.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2127—New.

Title: Older Drivers and Navigation Devices.

Form No.: NHTSA Form 1260.

Type of Review: Regular.

Respondents: Drivers age 60 and older who have responded to a solicitation for participation in a study of older drivers and navigation devices and provided a phone number or email for contact.

Estimated Number of Respondents: A maximum of 320 phone conversations with respondents to a solicitation who have provided contact information, to yield 160 participants.

Estimated Time per Response: The average amount of time to respond to the questions is estimated at 10 minutes for each telephone conversation with a respondent.

Total Estimated Annual Burden Hours: 53.33 hours.

Frequency of Collection: The questions will be presented a single time.

Abstract: Some older drivers have difficulty navigating to unfamiliar places. As a result, they may restrict their driving thereby decreasing their quality of life or attempt to drive and potentially encounter difficulties including becoming lost and risking injury or death. A number of electronic devices have been advanced as means to prolong older adults' driving careers. These include electronic navigation systems (ENSs), which could aid older drivers through freeing cognitive resources otherwise needed for wayfinding. It is possible, however, that these systems may increase driver workload because they cause a distraction or select a route that is different than the driver expects. The purpose of the study is to document differences in older adults' driving performance while they drive to familiar destinations, unfamiliar destinations using paper directions, and unfamiliar

destinations using an ENS. The project will include participants who are experienced in using navigation devices to explore the effects of familiarity using an ENS on driving performance, and will then assess the benefits of providing training in using an ENS to older adults. Each driver who meets study inclusion criteria based on responses to the proposed questions will be asked if he or she wishes to participate. Volunteer participants will complete an evaluation session conducted by a driver rehabilitation specialist (DRS) to determine their fitness to drive. In the first segment of the study, participants will complete multiple on-the-road drives using no directional aid, turn-by-turn directions on paper, or an ENS. After participants have finished the driving tasks, they will complete an ENS destination entry task. In the next segment of the study, participants will receive training in ENS use before completing the drives, with a DRS assessing driver performance on each drive. The proposed questions are needed to allow research staff to ensure that prospective participants meet study inclusion criteria and facilitate their study participation. NHTSA will use findings from this study to develop recommendations to health care providers and to the public regarding safety consequences of older drivers' use of ENSs, with the ultimate goal of reducing injuries and loss of life on the highway.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for Department of Transportation, National Highway Traffic Safety Administration, or by email at *oira_submission@omb.eop.gov*, or fax: 202–395–5806.

Comments Are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department of Transportation, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication of this notice.

Authority: 44 U.S.C. 3506(c)(2)(A).

Issued in Washington, DC, on July 30, 2014.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2014–18317 Filed 8–1–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 278X); Docket No. AB 55 (Sub-No. 728X)]

Central of Georgia Railroad Company—Abandonment Exemption—in Montgomery County, Ala.; CSX Transportation, Inc.—Discontinuance of Service Exemption—in Montgomery County, Ala.

Central of Georgia Railroad Company (CGA), a wholly owned subsidiary of Norfolk Southern Railway Company, and CSX Transportation, Inc. (CSXT) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for (1) CGA to abandon a total of 2.12 miles of CGA railroad line extending between Milepost H 411.50 and Milepost H 413.62, in the City of Montgomery, Montgomery County, Ala. (the Line); and (2) CSXT to discontinue service over approximately 0.55 miles of the Line, between Milepost H 413.07 and Milepost H 413.62. The Line traverses United States Postal Service Zip Codes 36104 and 36107.

Applicants have certified that (1) no local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years, and if there were any overhead traffic, it could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on September 3, 2014, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 14, 2014. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 25, 2014, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: William A. Mullins (representing CGA), Baker & Miller PLLC, 2401 Pennsylvania Avenue NW., Suite 300, Washington, DC 20037; and Louis E. Gitomer (representing CSXT), Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemptions are void *ab initio*.

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by August 8, 2014. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines*, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CGA shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by CGA's filing of a notice of consummation by August 4, 2015, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at "*www.stb.dot.gov.*"

Decided: July 30, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2014–18337 Filed 8–1–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Publication of Guidance Relating to the Provision of Certain Temporary Sanctions Relief, as Extended

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice, publication of guidance.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing Guidance Relating to the Provision of Certain Temporary Sanctions Relief in Order to Implement the Joint Plan Of Action (JPOA) Reached on November 24, 2013, between the P5 + 1 and the Islamic Republic of Iran, as Extended Through November 24, 2014 (Guidance).

DATES: *Effective Date:* July 21, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Policy, tel.: 202–622–2402, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202–622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202–622–0077.

Background

On November 24, 2013, the United States and its partners in the P5 + 1 (China, France, Germany, Russia, the United Kingdom, and the United States, coordinated by the European Union's High Representative) reached an initial understanding with Iran, outlined in the JPOA, that halts progress on Iran's nuclear program and rolls it back in key respects. In return for Iran's commitment to place meaningful limits on its nuclear program, the P5 + 1 committed to provide Iran with limited, targeted, and reversible sanctions relief for a six-month period, renewable by mutual consent. In furtherance of the United States Government's (USG's) commitments under the JPOA, the U.S. Department of State and the U.S. Department of the Treasury implemented sanctions relief relating to certain activities and associated services taking place exclusively during the six-month period beginning on January 20, 2014, and ending July 20, 2014 (the JPOA Period).

The JPOA was renewed by mutual consent of the P5 + 1 and Iran on July 19, 2014, extending the temporary sanctions relief provided under the JPOA to cover the period beginning on July 21, 2014, and ending November 24, 2014 (the Extended JPOA Period), in order to continue to negotiate a long-term comprehensive solution to ensure that Iran's nuclear program will be exclusively peaceful. During the Extended JPOA Period, the sanctions relief the USG committed to during the JPOA will be continued, as set out in the Guidance. The USG retains the authority to revoke this limited sanctions relief at any time if Iran fails to meet its commitments under the JPOA.

The Department of State and the Department of the Treasury jointly issued the updated Guidance on July 21, 2014. At the time of its issuance on July 21, 2014, OFAC made the Guidance available on the OFAC Web site: *www.treasury.gov/ofac* and the Department of State made the Guidance available on its Web site: *www.state.gov.* With this notice, OFAC is publishing the Guidance in the **Federal Register.**

Guidance

U.S. Department of the Treasury
U.S. Department of State

Guidance Relating to the Provision of Certain Temporary Sanctions Relief in Order To Implement the Joint Plan of Action Reached on November 24, 2013, Between the P5 + 1 and the Islamic Republic of Iran, as Extended Through November 24, 2014

On November 24, 2013, the United States and its partners in the P5 + 1 (China, France, Germany, Russia, the United Kingdom, and the United States, coordinated by the European Union's High Representative) reached an initial understanding with Iran, outlined in a Joint Plan of Action (JPOA), that halts progress on Iran's nuclear program and rolls it back in key respects. In return for Iran's commitment to place meaningful limits on its nuclear program, the P5 + 1 committed to provide Iran with limited, targeted, and reversible sanctions relief for a six-month period, renewable by mutual consent. In furtherance of the U.S. Government's (USG) commitments under the JPOA, the U.S. Department of State and the U.S. Department of the Treasury implemented sanctions relief relating to certain activities and associated services taking place exclusively during the six-month period beginning on January 20, 2014, and ending July 20, 2014 (the JPOA Period).

The JPOA was renewed by mutual consent of the P5 + 1 and Iran on July 19, 2014, extending the temporary sanctions relief provided under the JPOA to cover the period beginning on July 21, 2014, and ending November 24, 2014 (the Extended JPOA Period), in order to continue to negotiate a long-term comprehensive solution to ensure that Iran's nuclear program will be exclusively peaceful. During the Extended JPOA Period, the sanctions relief the USG committed to during the JPOA will be continued, as set out below. The USG retains the authority to revoke this limited sanctions relief at any time if Iran fails to meet its commitments under the JPOA.

For purposes of the JPOA sanctions relief, the USG interprets the term "associated service" to mean any necessary service—including any insurance, transportation, or financial service—ordinarily incident to the underlying activity covered by the JPOA, provided, however, that unless otherwise noted, such services may not involve persons identified on the Department of the Treasury's Office of Foreign Assets Control's (OFAC) List of

Specially Designated Nationals and Blocked Persons (SDN List).[1]

The USG retains the authority to continue imposing sanctions under the authorities identified below during the Extended JPOA Period for activities that occurred prior to January 20, 2014. Moreover, the USG retains the authority to impose sanctions under the authorities outlined below for activities occurring during the JPOA Period and/or the Extended JPOA Period to the extent such activities are materially inconsistent with sanctions relief described in the JPOA and outlined in this guidance. The USG also retains the authority to continue imposing sanctions during the Extended JPOA Period for activities occurring before and during the JPOA Period and the Extended JPOA Period under other authorities, such as those used to combat terrorism and the proliferation of weapons of mass destruction. During the Extended JPOA Period, the USG will continue to vigorously enforce our sanctions against Iran, including by taking action against those who seek to evade or circumvent our sanctions.

Please note that, with the exception of civil aviation activities described in section IV and the humanitarian channel described in section VI below, none of the sanctions relief outlined in this guidance may involve a U.S. person, or, as applicable, a foreign entity owned or controlled by a U.S. person,[2] if otherwise prohibited under any sanctions program administered by the USG.

I. Sanctions Related to Iran's Export of Petrochemical Products

The JPOA provides for the temporary suspension of U.S. sanctions on "*Iran's petrochemical exports, as well as sanctions on any associated services.*" To implement this provision of the JPOA during the Extended JPOA Period, the USG will continue to take the following steps to allow for the export of petrochemical products from Iran, as well as associated services, by non-U.S. persons not otherwise subject to section 560.215 of the Iranian Transactions and Sanctions Regulations, 31 CFR part 560 (ITSR), (hereinafter "non-U.S. persons not otherwise subject to the ITSR"):

1. *Correspondent or Payable-Through Account Sanctions:* The USG will not impose correspondent or payable-through account sanctions under section 1(a)(iii) of Executive Order (E.O.) 13622 (as amended by section 16(b) of E.O. 13645); section 3(a)(i) of E.O. 13645; and sections 561.204(a) and 561.204(b)(3) of the Iranian Financial Sanctions Regulations, 31 CFR part 561 (IFSR), on foreign financial institutions that conduct or facilitate transactions that are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period by non-U.S. persons not otherwise subject to the ITSR for exports of petrochemical products[3] from Iran that are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period, including transactions involving the petrochemical companies listed in the Annex to this guidance, provided that the transactions do not involve persons on the SDN List other than the petrochemical companies listed in the Annex to this guidance or any Iranian depository institutions[4] listed solely pursuant to E.O. 13599.

2. *Blocking Sanctions:* The USG will not impose blocking sanctions under section 2(a)(i)–(ii) of E.O. 13645 with respect to persons that, exclusively during the JPOA Period and/or the Extended JPOA Period, materially assist, sponsor, or provide financial, material, or technological support for, or goods or services to or in support of, the petrochemical companies listed in the Annex to this guidance for exports of petrochemical products from Iran that are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period, provided that the activities do not involve persons on the SDN List other than the petrochemical companies listed in the Annex to this guidance or any Iranian depository institutions listed solely pursuant to E.O. 13599.

3. *Menu-based Sanctions:*[5] The USG will not impose sanctions under section 2(a)(ii) of E.O. 13622 (as amended by section 16(d) of E.O. 13645) on non-U.S. persons not otherwise subject to the ITSR who engage in transactions exclusively during the JPOA Period and/or the Extended JPOA Period for exports of petrochemical products from Iran that are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period, including transactions involving the petrochemical companies listed in the Annex to this guidance, provided that the activities do not involve persons on the SDN List other than the petrochemical companies listed in the Annex to this guidance or any Iranian depository institutions listed solely pursuant to E.O. 13599.

In addition, please see section VII below, which describes the exercise of certain waiver authorities relevant to the activities and transactions described in this section.

II. Sanctions Related to Iran's Auto Industry

The JPOA provides for the temporary suspension of U.S. sanctions on "Iran's auto industry, as well as sanctions on associated services." To implement this provision during the Extended JPOA Period, the USG will continue to take the following steps to allow for the sale, supply, or transfer to Iran of significant goods or services used in connection with the automotive sector of Iran, as well as the provision of associated services by non-U.S. persons not otherwise subject to the ITSR:

1. *Correspondent or Payable-through Account Sanctions:* The USG will not impose correspondent or payable-through account sanctions under section 3(a)(ii) of E.O. 13645 with respect to foreign financial institutions that, exclusively during the JPOA Period and/or the Extended JPOA Period, knowingly conduct or facilitate

[1] Insurance payments for claims arising from incidents that occur during the JPOA Period and/or the Extended JPOA Period may be paid after November 24, 2014, so long as the underlying transactions and activities conform to all others aspects of the sanctions remaining in place and the terms of the sanctions relief provided by the JPOA. Insurance and reinsurance companies should contact the USG directly with any inquiries. U.S. persons and U.S.-owned or -controlled foreign entities remain prohibited from participating in the provision of insurance or reinsurance services to or for the benefit of Iran or sanctioned entities, including with respect to all elements of the sanctions relief provided pursuant to the JPOA, unless specifically authorized by OFAC.

[2] Consistent with section 218 of the Iran Threat Reduction and Syria Human Rights Act of 2012 and with section 560.215 of the Iranian Transactions and Sanctions Regulations, 31 CFR part 560 (ITSR), foreign entities that are owned or controlled by U.S. persons ("U.S.-owned or -controlled foreign entities") are subject to the ITSR.

[3] For purposes of this guidance, the USG is interpreting the term "petrochemicals," as used in the JPOA, as having the meaning given to the term "petrochemical products" in, *inter alia*, section 10(m) of E.O. 13622; therefore, the term includes any aromatic, olefin, and synthesis gas, and any of their derivatives, including ethylene, propylene, butadiene, benzene, toluene, xylene, ammonia, methanol, and urea. For further information on what products are considered to fall within this definition of "petrochemical products" see the November 13, 2012 State Department Sanctions Information and Guidance, 77 Fed. Reg. 67726–67731.

[4] For purposes of this guidance, as defined in section 14(g) of E.O. 13645, the term "Iranian depository institution" means any entity (including foreign branches), wherever located, organized under the laws of Iran or any jurisdiction within Iran, or owned or controlled by the Government of Iran, or in Iran, or owned or controlled by any of the foregoing, that is engaged primarily in the business of banking (for example, banks, savings banks, savings associations, credit unions, trust companies, and bank holding companies).

[5] E.O. 13622 and 13645, among others, describe menus of sanctions that the USG may impose in response to certain conduct specified within other sections of the relevant E.O. For the purposes of this guidance, such sanctions are termed "Menu-based Sanctions."

financial transactions for the sale, supply, or transfer to Iran of significant goods or services used in connection with the automotive sector of Iran that are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period, provided that the transactions do not involve persons on the SDN List other than any Iranian depository institutions listed solely pursuant to E.O. 13599.

2. *Menu-based Sanctions:* The USG will not impose sanctions described in sections 6 and 7 of E.O. 13645 with respect to persons that, as described in section 5(a) of E.O. 13645, knowingly engage in transactions for the sale, supply, or transfer to Iran of significant goods or services used in connection with the automotive sector of Iran that are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period, provided that the transactions do not involve persons on the SDN List other than any Iranian depository institutions listed solely pursuant to E.O. 13599.

In addition, please see section VII below, which describes the exercise of certain waiver authorities relevant to the activities and transactions described in this section.

III. Sanctions Related to Gold and Other Precious Metals

The JPOA provides for the temporary suspension of U.S. sanctions on "*gold and precious metals, as well as sanctions on associated services.*" To implement this provision of the JPOA during the Extended JPOA Period, the USG will continue to take the following steps to allow for the sale of gold and other precious metals to or from Iran, as well as the provision of associated services, by non-U.S. persons not otherwise subject to the ITSR:

1. *Correspondent or Payable-through Account Sanctions:* The USG will not impose correspondent or payable-through account sanctions under section 3(a)(i) of E.O. 13645 with respect to foreign financial institutions that, exclusively during the JPOA Period and/or the Extended JPOA Period, conduct or facilitate transactions by non-U.S. persons not otherwise subject to the ITSR for the purchase or acquisition of precious metals to or from Iran that are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period, provided that the funds for these purchases of gold and other precious metals may not be drawn from Restricted Funds, and further provided that the transactions do not involve persons on the SDN List other than any political subdivision, agency, or instrumentality of the Government of Iran listed solely pursuant to E.O. 13599 or any Iranian depository institutions listed solely pursuant to E.O. 13599.

2. *Blocking Sanctions:* The USG will not impose blocking sanctions under section 5(a) of E.O. 13622; sections 2(a)(i)–(ii) of E.O. 13645; and section 560.211(c)(2) of the ITSR, with respect to persons that, exclusively during the JPOA Period and/or the Extended JPOA Period, materially assist, sponsor, or provide financial, material, or technological support for, or goods or services in support of, the purchase or acquisition of precious metals to or from Iran or by the Government of Iran if such activities are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period, provided that the funds for these purchases of gold and other precious metals are not drawn from Restricted Funds,[6] and further provided that the transactions do not involve persons on the SDN List other than any political subdivision, agency, or instrumentality of the Government of Iran listed solely pursuant to E.O. 13599 or any Iranian depository institutions listed solely pursuant to E.O. 13599.

In addition, please see section VII below, which describes the exercise of certain waiver authorities relevant to the activities and transactions described in this section.

IV. Sanctions Related to Civil Aviation

The JPOA provides for the temporary licensing of "*the supply and installation in Iran of spare parts for safety of flight for Iranian civil aviation and associated services. License safety related inspections and repairs in Iran as well as associated services.*" To implement this provision during the Extended JPOA Period, the USG will continue to take the following steps:

1. *Statement of Licensing Policy:* OFAC is issuing an Amended Statement of Licensing Policy on Activities Related to the Safety of Iran's Civil Aviation Industry (Amended SLP) to extend the date of the previously-issued policy to the end of the Extended JPOA Period. The Amended SLP will establish, during the JPOA Period and the Extended JPOA Period, a favorable licensing policy regime under which U.S. persons, U.S.-owned or -controlled foreign entities, and non-U.S. persons involved in the export of U.S.-origin goods can request specific authorization from OFAC to engage in transactions that are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period to ensure the safe operation of Iranian commercial passenger aircraft, including transactions involving Iran Air.

2. *Correspondent or Payable-Through Account Sanctions:* The USG will not impose correspondent or payable-through account sanctions under section 3(a)(i) of E.O. 13645 and section 561.201(a)(5)(ii) of the IFSR on foreign financial institutions that, exclusively during the JPOA Period and/or the Extended JPOA Period, conduct or facilitate financial transactions relating to the type of activities covered by the Amended SLP that are conducted on behalf of non-U.S. persons not otherwise subject to the ITSR, provided such activities are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period, and further provided that the transactions do not involve persons on the SDN List other than Iran Air or any Iranian depository institutions listed solely pursuant to E.O. 13599.

3. *Blocking Sanctions:* The USG will not impose blocking sanctions under section 1(a)(iii) of E.O. 13382; sections 2(a)(i)–(ii) of E.O. 13645; and section 544.201(a)(3) of the Weapons of the Mass Destruction Proliferators Sanctions Regulations, 31 CFR part 544 (WMDPSR), with respect to persons that, exclusively during the JPOA Period and/or the Extended JPOA Period, materially assist, sponsor, or provide financial, material, or technological support for, or goods or services to or in support of, Iran Air in connection with activities intended to ensure the safe operation of Iranian commercial passenger aircraft, provided such activities are outlined in the JPOA and are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period and do not involve persons on the SDN List other than Iran Air or any Iranian depository institutions listed solely pursuant to E.O. 13599.

In addition, please see Section VII below, which describes the exercise of certain waiver authorities relevant to the activities and transactions described in this section.

V. Sanctions Related to Iran's Export of Crude Oil

The JPOA provides for certain sanctions relief related to Iran's crude oil sales. Under the JPOA, the USG will "*pause efforts to further reduce Iran's crude oil sales, enabling Iran's current customers to purchase their current*

[6] For the purposes of this guidance, the term "Restricted Funds" refers to: (i) Any existing and future revenues from the sale of Iranian petroleum or petroleum products, wherever they may be held, and (ii) any Central Bank of Iran (CBI) funds, with certain exceptions for non-petroleum CBI funds held at a foreign country's central bank.

average amounts of crude oil. Enable the repatriation of an agreed amount of revenue held abroad. For such oil sales, suspend U.S. sanctions on associated insurance and transportation services.'' To implement this provision of the JPOA during the Extended JPOA Period, the USG will continue to take the following steps to allow for China, India, Japan, the Republic of Korea, Taiwan, and Turkey to maintain their current average level of imports from Iran during the JPOA Period and the Extended JPOA Period and to render non-sanctionable a limited number of transactions for the release in installments of an agreed amount of revenue to Iran for receipt at participating foreign financial institutions in selected jurisdictions:

1. *Correspondent or Payable-Through Account Sanctions:* The USG will not impose correspondent or payable-through account sanctions under sections 1(a)(i)–(ii) of E.O. 13622 (as amended by section 16(a) of E.O. 13645); section 3(a)(i) of E.O. 13645; and sections 561.201(a)(5), 561.204(a), and 561.204(b)(1)–(2) of the IFSR with respect to foreign financial institutions that conduct or facilitate transactions exclusively during the JPOA Period and/or the Extended JPOA Period by non-U.S. persons not otherwise subject to the ITSR for exports of petroleum and petroleum products from Iran to China, India, Japan, the Republic of Korea, Taiwan, or Turkey, and associated insurance [7] and transportation services, that are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period, including transactions involving the National Iranian Oil Company (NIOC) or the National Iranian Tanker Company (NITC), provided that the transactions do not involve persons on the SDN List other than NIOC, NITC, or any Iranian depository institutions listed solely pursuant to E.O. 13599.[8]

2. *Blocking Sanctions:* The USG will not impose blocking sanctions under section 1(a)(iii) of E.O. 13382; section 5(a) of E.O. 13622; sections 2(a)(i)–(ii) of E.O. 13645; section 544.201(a)(3) of the WMDPSR; and section 560.211(c)(2) of the ITSR with respect to non-U.S. persons not otherwise subject to the ITSR that, exclusively during the JPOA Period and/or the Extended JPOA Period, materially assist, sponsor, or provide financial, material, or technological support for, or goods or services in support of, exports of petroleum and petroleum products from Iran to China, India, Japan, the Republic of Korea, Taiwan, or Turkey, and associated insurance [9] and transportation services, including for activities involving NIOC or NITC, provided such activities are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period, and further provided that the activities do not involve persons on the SDN List other than NIOC, NITC, or any Iranian depository institutions listed solely pursuant to E.O. 13599.

3. *Menu-Based Sanctions:* The USG will not impose sanctions under section 2(a)(i) of E.O. 13622 (as amended by section 16(c) of E.O. 13645) on non-U.S. persons not otherwise subject to the ITSR who engage in transactions exclusively during the JPOA Period and/or the Extended JPOA Period for exports of petroleum and petroleum products from Iran to China, India, Japan, the Republic of Korea, Taiwan, or Turkey, and associated insurance [10] and transportation services, including transactions involving NIOC or NITC, provided such activities are initiated and completed entirely within the JPOA Period and/or the Extended JPOA Period, and further provided that the activities do not involve persons on the SDN List other than NIOC, NITC, or any Iranian depository institutions listed solely pursuant to E.O. 13599.

In addition, please see Section VII below, which describes the exercise of certain waiver authorities relevant to the activities and transactions described in this section.

VI. Facilitation of Humanitarian and Certain Other Transactions

The JPOA provides for the establishment of *''a financial channel to facilitate humanitarian trade for Iran's domestic needs using Iranian oil revenues held abroad. Humanitarian trade [is] defined as transactions involving food and agricultural products, medicine, medical devices, and medical expenses incurred abroad. This channel could also enable transactions required to pay Iran's UN obligations . . . and direct tuition payments to universities and colleges for Iranian students studying abroad.''* In furtherance of the JPOA, the P5+1 and Iran established mechanisms to further facilitate the purchase of, and payment for, the export of food, agricultural commodities, medicine, and medical devices to Iran, as well as to facilitate Iran's payments of UN obligations, Iran's payments for medical expenses incurred abroad by Iranian citizens, and Iran's payments of an agreed amount of governmental tuition assistance for Iranian students studying abroad. The mechanisms will remain in place during the Extended JPOA Period. Foreign financial institutions whose involvement in hosting these new mechanisms was sought by Iran have been contacted directly by the U.S. Department of the Treasury and provided specific guidance.

Please note that the JPOA-related mechanism for humanitarian trade transactions is not the exclusive way to finance or facilitate the sale of food, agricultural commodities, medicine, and medical devices to Iran by non-U.S. persons not otherwise subject to the ITSR, which is not generally sanctionable so long as the transaction does not involve persons designated in connection with Iran's support for international terrorism or Iran's proliferation of weapons of mass destruction (WMD) or WMD delivery systems. Therefore, transactions for the export of food, agricultural commodities, medicine, and medical devices to Iran generally may be processed pursuant to pre-existing exceptions and are not required to be processed through the new mechanism.

In addition, please see Section VII below, which describes the exercise of certain waiver authorities relevant to the activities and transactions described in this section.

VII. Waivers

To enable the implementation during the Extended JPOA Period of the sanctions relief outlined in the JPOA and described in detail in sections I through VI of this guidance, the USG has renewed, as needed, limited waivers of sanctions under: Section 1245(d)(1) of the National Defense Authorization Act for Fiscal Year 2012 (NDAA) in connection with exports of crude oil from Iran to China, India, Japan, the Republic of Korea, Taiwan, and Turkey and for transactions related to the release in installments of an agreed amount of revenues to Iran for receipt at participating foreign financial institutions in selected jurisdictions and the establishment of the financial channel provided for in the JPOA; section 302(a) of the Iran Threat Reduction and Syria Human Rights Act

[7] *See* footnote 1 above for additional information regarding associated insurance payments.

[8] For the purposes of the sanctions relief with respect to Iran's exports of crude oil described in this section, the term ''associated insurance and transportation services'' means insurance and transportation services ordinarily incident to the underlying activity covered by the JPOA, provided, however, such services may not involve persons on the SDN List other than NIOC, NITC, or any Iranian depository institutions listed solely pursuant to E.O. 13599.

[9] *See* footnote 1 above for additional information regarding associated insurance payments.

[10] *See* footnote 1 above for additional information regarding associated insurance payments.

of 2012 with respect to certain transactions involving NIOC; section 5(A)(7) of the Iran Sanctions Act of 1996 with respect to certain transactions involving NIOC and NITC; and the following sub-sections of the Iran Freedom and Counter-Proliferation Act of 2012:

1. 1244(c)(1)—to the extent required for transactions by non-U.S. persons (and, in the case of the civil aviation activities described in section IV, U.S. persons): (i) For Iran's export of crude oil to China, India, Japan, the Republic of Korea, Taiwan, and Turkey, excluding any transactions involving persons on the SDN List other than NIOC and NITC; (ii) for the export from Iran of petrochemical products, excluding any transactions involving persons on the SDN List other than the petrochemical companies listed in the Annex to this guidance; (iii) for the sale of precious metals to or from Iran, excluding any transactions involving persons on the SDN List other than any political subdivision, agency, or instrumentality of the Government of Iran listed solely pursuant to E.O. 13599; and (iv) for the supply and installation of spare parts necessary for the safety of Iranian civil aviation flights and for safety-related inspections and repairs in Iran, excluding any transactions involving persons on the SDN List other than Iran Air.

2. 1244(d)—to the extent required for transactions by non-U.S. persons related to Iran's export of crude oil to China, India, Japan, the Republic of Korea, Taiwan, and Turkey, excluding any transactions involving persons on the SDN List other than NIOC and NITC.

3. 1245(a)(1)(A) and 1245(c)—to the extent required for transactions by non-U.S. persons for the sale, supply, or transfer of precious metals to or from Iran, provided that such transactions do not involve persons on the SDN List other than any political subdivision, agency, or instrumentality of the Government of Iran listed solely pursuant to E.O. 13599 or any Iranian depository institutions listed solely pursuant to E.O. 13599, and further provided that such transactions do not involve funds credited to an account located outside Iran pursuant to section 1245(d)(4)(D)(ii)(II) of NDAA.

4. 1246(a)—to the extent required for transactions by non-U.S. persons (and, in the case of the civil aviation activities described in section IV, U.S. persons) for: (i) Iran's exports of crude oil to China, India, Japan, the Republic of Korea, Taiwan, and Turkey, excluding any transactions involving persons on the SDN List other than NIOC and NITC; (ii) the export from Iran of petrochemical products, excluding any transactions involving persons on the SDN List other than the petrochemical companies listed in the Annex to this guidance; (iii) the sale of precious metals to or from Iran, excluding any transactions involving persons on the SDN List other than any political subdivision, agency, or instrumentality of the Government of Iran listed solely pursuant to E.O. 13599; (iv) the sale, supply, or transfer to Iran of goods and services used in connection with the automotive sector of Iran, excluding any transactions involving persons on the SDN List; and (v) the supply and installation of spare parts necessary for the safety of Iranian civil aviation flights and for safety-related inspections and repairs in Iran, excluding any transactions involving persons on the SDN List other than Iran Air.

5. 1247(a)—to the extent required for transactions by foreign financial institutions on behalf of: (i) NIOC and NITC related to Iran's exports of crude oil to China, India, Japan, the Republic of Korea, Taiwan, and Turkey; (ii) the entities listed in the Annex to this guidance for the export of petrochemical products from Iran; (iii) any political subdivision, agency, or instrumentality of the Government of Iran on the SDN List solely pursuant to E.O. 13599 for the sale of precious metals to or from Iran; and (iv) Iran Air for the supply and installation of spare parts necessary for the safety of Iranian civil aviation flights and for safety-related inspections and repairs in Iran.

Annex

1. Bandar Imam Petrochemical Company;
2. Bou Ali Sina Petrochemical Company;
3. Ghaed Bassir Petrochemical Products Company;
4. Iran Petrochemical Commercial Company;
5. Jam Petrochemical Company;
6. Marjan Petrochemical Company;
7. Mobin Petrochemical Company;
8. National Petrochemical Company;
9. Nouri Petrochemical Company;
10. Pars Petrochemical Company;
11. Sadaf Petrochemical Assaluyeh Company;
12. Shahid Tondgooyan; Petrochemical Company;
13. Shazand Petrochemical Company; and
14. Tabriz Petrochemical Company.

Issued: July 21, 2014.

Dated: July 29, 2014.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

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BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2002–23

AGENCY: Internal Revenue Service (IRS), Treasury.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2002–23, Taxation of Canadian Retirement Plans Under U.S.-Canada Income Tax Treaty.

DATES: Written comments should be received on or before October 3, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to LaNita Van Dyke, Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Taxation of Canadian Retirement Plans Under U.S.-Canada Income Tax Treaty.

OMB Number: 1545–1773.

Revenue Procedure Number: Revenue Procedure 2002–23.

Abstract: Revenue Procedure 2002–23 provides guidance for the application by U.S. citizens and residents of the U.S.-Canada Income Tax Treaty, as amended by the 1995 protocol, in order to defer U.S. Income taxes on income accrued in certain Canadian retirement plans.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 20,000.

Estimated Average Time per Respondent: 30 minutes.

Estimated Total Annual Reporting Hours: 10,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 19, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–18399 Filed 8–1–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Electronic Filing of Form W–4.

DATES: Written comments should be received on or before October 3, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to, LaNita Van Dyke, or at Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *LanitaVanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Electronic Filing of Form W–4.

OMB Number: 1545–1435.

Regulation Project Number: T.D. 8706.

Abstract: Information is required by the Internal Revenue Service to verify compliance with regulation section 31.3402(f)(2)–1(g)(1), which requires submission to the Service of certain withholding exemption certificates. The affected respondents are employers that choose to make electronic filing of Forms W–4 available to their employees.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 2,000.

Estimated Time per Respondent: 20 hours.

Estimated Total Annual Burden Hours: 40,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–18324 Filed 8–1–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning information collection requirements related to Passive Foreign Investment Companies.

DATES: Written comments should be received on or before October 3, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke,at Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Passive Foreign Investment Companies.

OMB Number: 1545–1028.

Regulation Project Number: (TD 8178).

Abstract: These temporary regulations specify how U.S. persons who are shareholders of passive foreign investment companies (PFICs) make elections with respect to their PFIC stock.

Current Actions: There are no changes being made to the regulation at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 275,000.

Estimated Time per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 112,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 15, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–18327 Filed 8–1–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning carryover of passive activity losses and credits and at-risk losses to bankruptcy estates of individuals.

DATES: Written comments should be received on or before October 3, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to LaNita Van Dyke, Internal Revenue Service, Room 6517, 1111 Constitution Ave. NW., Washington, DC 20224, or through the internet at *LanitaVanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Carryover of Passive Activity Losses and Credits and At Risk Losses to Bankruptcy Estates for Individuals.

OMB Number: 1545–1375.

Regulation Project Number: T.D. 8537.

Abstract: These regulations relate to the application of carryover of passive activity losses and credits and at risk losses to the bankruptcy estates of individuals. The final regulations affect individual taxpayers who file bankruptcy petitions under chapter 7 or chapter 11 of title 11 of the United States Code and have passive activity losses and credits under section 469 or losses under section 465.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 12 Minutes.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–18323 Filed 8–1–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council

Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C., App. 2, that the National Research Advisory Council will hold a meeting on Wednesday, September 10, 2014, in conference room 23, at 131 M St NE., Washington, DC. The meeting will convene at 9:00 a.m. and end at 4:00 p.m., and is open to the public. Anyone attending must show a valid photo ID to building security and be escorted to the meeting. Please allow 15 minutes before the meeting begins for this process.

The agenda will include an overview of the research programs of the Office of Research and Development (ORD) (10P9), a clinical presentation, and presentations on special research programs.

No time will be allocated at this meeting for receiving oral presentations from the public. Members of the public wanting to attend, or needing further information, may contact Pauline Cilladi-Rehrer, Designated Federal Officer, ORD (10P9), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 443–5607, or by email at *pauline.cilladi-rehrer@va.gov* at least 5 days prior to the meeting date.

Dated: July 30, 2014.

Rebecca Schiller,

Advisory Committee Management Officer.

[FR Doc. 2014–18307 Filed 8–1–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Advisory Committee on Disability Compensation (Committee) will meet on August 25–27, 2014, at the U.S. Department of Veterans Affairs, Board of Veterans' Appeals, 425 I Street NW., Washington, DC 20001, in Conference Room 5E.100 on the Fifth Floor. The sessions will begin at 8:30 a.m. and end at 4:30 p.m. on all three days. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities. The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising during service in the Armed Forces, provide an ongoing assessment of the effectiveness of the rating schedule, and give advice on the most appropriate means of responding to the needs of Veterans relating to disability compensation.

The Committee will receive briefings on issues related to compensation for Veterans with service-connected disabilities and other VA benefits programs. Time will be allocated for receiving public comments. Public comments will be limited to three minutes each. Individuals wishing to make oral statements before the Committee will be accommodated on a first-come, first-served basis. Individuals who speak are invited to submit 1–2 page summaries of their comments at the time of the meeting for inclusion in the official meeting record.

The public may submit written statements for the Committee's review to Nancy Copeland, Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration, Compensation Service, Regulation Staff (211D), 810 Vermont Avenue NW., Washington, DC 20420 or by email at *nancy.copeland@va.gov.*

Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the clearance process. Therefore, you should allow an additional 15 minutes before the meeting begins. Any member of the public wishing to attend the meeting or seeking additional information should email Mrs. Copeland or contact her at (202) 461–9685 or email Mr. Brendan Sheedy at *brendan.sheedy@va.gov* or call him at (202) 461–9297.

Dated: July 30, 2014.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2014–18308 Filed 8–1–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 79 Monday,
No. 149 August 4, 2014

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Sharpnose Shiner and Smalleye Shiner; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2013–0008; 4500030113]

RIN 1018–AZ34

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Sharpnose Shiner and Smalleye Shiner

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, designate critical habitat for the sharpnose shiner (*Notropis oxyrhynchus*) and smalleye shiner (*N. buccula*) under the Endangered Species Act. In total, approximately 1,002 river kilometers (623 river miles) of river segments occupied by the species in Baylor, Crosby, Fisher, Garza, Haskell, Kent, King, Knox, Stonewall, Throckmorton, and Young Counties, in the upper Brazos River basin of Texas, fall within the boundaries of the critical habitat designation. The effect of this regulation is to designate critical habitat for sharpnose shiner and smalleye shiner under the Endangered Species Act.

DATES: This rule becomes effective on September 3, 2014.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* and *http://www.fws.gov/southwest/es/ArlingtonTexas*. Comments and materials we received, as well as some supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov*. All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Arlington, Texas Ecological Services Field Office, 2005 NE Green Oaks Blvd., Suite 140, Arlington, TX 76006; by telephone 817–277–1100; or by facsimile 817–277–1129.

The coordinates or plot points or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2013–0008, and at the Arlington, Texas Ecological Services Field Office (*http://www.fws.gov/southwest/es/ArlingtonTexas*) (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we developed for this critical habitat designation will also be available at the Fish and Wildlife Service Web site and Field Office set out above, and may also be included in the preamble and at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Debra Bills, Field Supervisor, U.S. Fish and Wildlife Service, Arlington, Texas Ecological Services Field Office, 2005 NE Green Oaks Blvd., Suite 140, Arlington, TX 76006; by telephone 817–277–1100; or by facsimile 817–277–1129. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. This is a final rule to designate critical habitat for the sharpnose shiner and smalleye shiner. Under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), any species that is determined to be an endangered or threatened species requires critical habitat to be designated, to the maximum extent prudent and determinable. Designations and revisions of critical habitat can only be completed by issuing a rule.

Elsewhere in today's **Federal Register** we, the U.S. Fish and Wildlife Service (Service), listed the sharpnose shiner and smalleye shiner as endangered species. On August 6, 2013, we published in the **Federal Register** a proposed critical habitat designation for sharpnose shiner and smalleye shiner (78 FR 47612). Section 4(b)(2) of the Act states that the Secretary shall designate critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat.

The critical habitat areas we are designating in this rule constitute our current best assessment of the areas that meet the definition of critical habitat for sharpnose shiner and smalleye shiner. We are designating approximately 1,002 river kilometers (km) (623 miles (mi)) of the upper Brazos River basin and the upland areas extending beyond the bankfull river channel by 30 meters (m) (98 feet (ft)) on each side as critical habitat for the species.

This rule consists of a final rule to designate critical habitat for the sharpnose shiner and smalleye shiner.

We have prepared an economic analysis of the designation of critical habitat. In order to consider economic impacts, we have prepared an analysis of the economic impacts of the critical habitat designations and related factors. We announced the availability of the draft economic analysis (DEA) in the **Federal Register** on March 4, 2014 (79 FR 12138), allowing the public to provide comments on our analysis. We have incorporated the comments and have completed the final economic analysis (FEA) for this final determination.

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data and analyses. We obtained opinions from three knowledgeable individuals with scientific expertise to review our technical assumptions, analysis, and whether or not we had used the best available information. These peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve this final rule. Information we received from peer review is incorporated in this final revised designation and the Species Status Assessment (SSA) Report. We also considered all comments and information received from the public during the comment period.

Previous Federal Actions

On August 6, 2013 (78 FR 47582; 78 FR 47612), we proposed to list the sharpnose shiner and smalleye shiner as endangered species and proposed to designate critical habitat under the Act. We held a public hearing on September 4, 2013, in Abilene, Texas. On March 4, 2014 (79 FR 12138), we published a notice of availability that requested comments on the draft economic analysis of critical habitat, as well as the proposed critical habitat designation. This comment period closed on April 3, 2014 (79 FR 12138).

All previous Federal actions are described in the August 6, 2013, proposed rule (78 FR 47612) and the final rule listing the sharpnose shiner and smalleye shiner as endangered species under the Act, which is published elsewhere in today's **Federal Register**.

Summary of Comments and Recommendations

We requested written comments from the public on the proposed designation of critical habitat for the sharpnose shiner and smalleye shiner during two comment periods. The first comment

period associated with the publication of the proposed rules (78 FR 47612; 78 FR 47582) opened on August 6, 2013, and closed on October 7, 2013. We also requested comments on the proposed critical habitat designation and associated draft economic analysis during a comment period that opened March 4, 2014, and closed on April 3, 2014 (79 FR 12138). We received requests for additional public hearings after we held a public hearing on September 4, 2013. We also contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule and draft economic analysis during these comment periods.

During the first comment period, we received 72 comment letters directly addressing the proposed critical habitat designation. During the second comment period, we received 34 additional comment letters addressing the proposed critical habitat designation or the draft economic analysis. During the September 4, 2013, public hearing, nine individuals or organizations made comments, although not all specifically on the designation of critical habitat for the sharpnose shiner or smalleye shiner. All substantive information provided during comment periods has either been incorporated directly into this final rule, incorporated in the SSA Report, or addressed below. Comments received regarding critical habitat are addressed in the following summary and incorporated into the final rule as appropriate. Comments regarding the SSA Report are incorporated in Appendix B of the SSA Report.

Peer Reviewers

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from four knowledgeable individuals with scientific expertise that included familiarity with the sharpnose and smalleye shiners or their habitats, biological needs, threats, general fish biology, and aquatic ecology. We received responses from three of the peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding critical habitat for the sharpnose and smalleye shiner. The peer reviewers generally concurred with our methods and our assessment of the current status of these species. They provided additional information, clarifications, and suggestions to improve the SSA Report. Peer reviewer comments were all specific to the SSA Report and are addressed in Appendix B of the SSA Report. Although changes were made to the SSA Report, generally the peer reviewers further supported our science and analysis.

Comments From Federal Agencies

(1) *Comment:* The U.S. Department of Agriculture's Natural Resources Conservation Service works with landowners on a voluntary basis to apply conservation measures, some of which may benefit sharpnose and smalleye shiners, and the Natural Resources Conservation Service welcomes the opportunity to consult with the Service to determine the effects of their actions on the habitat of these two species.

Our Response: The Service appreciates the work of the Natural Resources Conservation Service and looks forward to working with them as conservation partners regarding sharpnose and smalleye shiner habitat.

Comments From States

Section 4(i) of the Act states, "the Secretary shall submit to the State agency a written justification for his failure to adopt regulations consistent with the agency's comments or petition." Comments received from the State regarding the proposal to designate critical habitat for the sharpnose shiner and smalleye shiner are addressed below.

(2) *Comment:* The Service received one request from a State agency and multiple requests from the public for more public hearings in addition to the one held September 4, 2013, in Abilene, Texas. Several requests contended the Service provided inadequate notification, that having a hearing for the proposed listing rule and proposed critical habitat rule at the same time did not follow the requirements outlined in the Act, and that the meeting was not located close to proposed critical habitat.

Our Response: Section 4(b)(5) of the Act states that the Service shall promptly hold one public hearing on the proposed regulation if any person files a request for such a hearing within 45 days after the date of the publication of the general notices. The Service received a request for a public hearing, and one was held on September 4, 2013, in Abilene, Texas.

The notification of the public hearing was clearly stated in both the proposed rule to list the sharpnose shiner and smalleye shiner as endangered species and in the proposed rule to designate critical habitat for these species on August 6, 2013 (78 FR 47582; 78 FR 47612). A notification of the public hearing was also published in the Lubbock Avalanche on Sunday, August 18th; the Abilene Reporter News on Sunday, August 18th; the Waco Tribune Herald on Sunday, August 25th; and the Baylor County Banner from August 15th through the 22nd. These newspapers have relatively large distributions with one located immediately upstream of designated critical habitat, one downstream of designated critical habitat, and two having distributions in or around designated critical habitat.

The Service mailed letters, which included information regarding the public hearing, to over 100 recipients shortly after the proposed rules published on August 6, 2013. Letter recipients included Federal agencies, State agencies, city offices, county courthouses, and numerous nongovernmental organizations. Service staff also contacted approximately 56 local media outlets and posted a news release containing the public hearing announcement on both the Arlington, Texas, Ecological Services Field Office and Service's Southwest Region Web pages.

The Act does not require the Service to hold multiple public hearings in multiple locations. The Act also does not indicate a necessary proximity to proposed designated critical habitat within which to hold a public hearing. The Service chose Abilene, Texas, because it is the largest city centrally located to the proposed designated critical habitat that contained a venue of appropriate size and with reasonable access by major roads and highways. The Service also held the public hearing in the evening to provide adequate time for attendees to travel after normal work hours. To provide additional opportunity to provide comments, the Service reopened the comment period on the proposed rule to designate critical habitat for these species for 30 days to coincide with the availability of the draft economic analysis of the proposed designation of critical habitat for sharpnose and smalleye shiners on March 4, 2014 (79 FR 12138).

(3) *Comment:* The 30-m (98-ft) lateral buffer area on each side of the stream width at bankfull discharge appears to be arbitrary.

Our Response: The 30-m (98-ft) lateral buffer strips are based on the best scientific information available. Fischer and Fischenich (2000, p. 8) suggest a riparian width of 5 to 30 m (16.4 to 98.4 ft) is generally sufficient to protect the water quality of adjacent streams. The ability of riparian buffers to filter surface runoff is largely dependent on vegetation density, type, and slope, with dense, grassy vegetation and gentle slopes facilitating filtration. Due to a

lack of dense, grassy vegetation in much of the proposed critical habitat, we find that a 30-m (98-ft) buffer is most appropriate to maintain proper runoff filtration. Fischer and Fischenich (2000, p. 8) suggest a riparian width of 30 to 500 m (98 to 1,640 ft) to provide wildlife habitat. However, the riparian zone of the upper Brazos River may never have been extensively or diversely vegetated due to the aridity of the area (Busby and Schuster 1973, entire), and the terrestrial insect prey base of the shiners would likely persist at even the thinnest recommended width. A riparian width of 30 m (98 ft) beyond the bankfull width of the river should be sufficient to provide the water quality and food base required by sharpnose and smalleye shiners. This is further explained in the SSA Report in section "6.E. Conserve native Vegetation Adjacent to Occupied Habitat".

(4) *Comment:* Manmade structures and transportation rights-of-way (ROWs) should be excluded from the lateral extent of critical habitat and mapped in detail.

Our Response: When determining critical habitat boundaries within this final rule, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, existing maintained transportation rights-of-way within the lateral extent buffers, and other structures because such lands lack physical or biological features for sharpnose shiner and smalleye shiner. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the rule and are not designated as critical habitat. Therefore, a Federal action involving these lands will not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

(5) *Comment:* Critical habitat designations are not relevant to private landowners unless a Federal permit or action affects their property. The proposed designation would likely affect the development of future water supplies critical to local communities and their economic livelihood.

Our Response: It is accurate that critical habitat designation affects private landowners only if there is a Federal nexus. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with the Service. Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation. Future water supply projects in the upper Brazos River basin will likely require Federal funding or permits and will likely require consultation regardless of critical habitat designation because these species are listed as endangered throughout their range and this range is the upper Brazos River (see the final listing rule, published elsewhere in today's **Federal Register**). See *Section 7 Consultation* below in this final rule.

(6) *Comment:* Several commenters suggest there may be a discrepancy between the Service's proposed listing rule (and the SSA Report) and the incremental effects memorandum. The proposed listing rule and SSA Report suggest the threat from future impoundments and reservoir developments will continue and possibly increase in the future; however, the incremental effects memorandum suggests there are no known Federal projects certain to occur in proposed critical habitat within the next few years, and, given the nature of reservoir permitting, design, and construction, it is not reasonable to assume specific reservoir projects are probable to occur.

Our Response: The SSA Report (section 3.A. "Impoundments") and listing rule both indicate that existing impoundments are currently affecting sharpnose and smalleye shiners. Further, additional reservoir construction is likely given that there are inadequate water supplies to meet future water needs in the upper Brazos River basin. The incremental effects memorandum states that the primary threats to the species are river fragmentation by fish barriers and alterations of flow regime resulting from drought (exacerbated by climate change), groundwater withdrawal, reservoir construction, and saltcedar encroachment. While it is likely that additional reservoir projects will be implemented in the upper Brazos River basin, it is not clear when or where these reservoirs will be constructed and it is not reasonable to assume that the projects are probable to occur within the next few years. The perceived discrepancy between the projection of additional impoundments in the listing rule and the SSA Report as compared to the economic analysis is based on the different standards used in those analyses. For example, the 2012 Texas State Water Plan proposes multiple reservoirs in this basin, but the specific locations and time of construction are unclear. The SSA Report, therefore, considered these unspecified projects as likely threats to the species in the foreseeable future.

In contrast, the economic effects memo is tied to a projection of costs to specific projects that may require consultation. Only two specific potential reservoirs were identified by a Federal agency in the economic analysis process. The U.S. Army Corps of Engineers and the City of Lubbock, Texas, identified specific dam and reservoir projects in Subunit 1 (the Cedar Creek Reservoir) and Subunit 6 (Lake Alan Henry Reservoir). As such, the Service's incremental effects memorandum and listing rule are not contradictory. The economic cost associated with critical habitat consultation through section 7 of the Act will most likely be limited to additional administrative effort to consider adverse modification because all proposed critical habitat units are considered occupied. Thus, the presence of the shiner would trigger section 7 consultation with the Service even if critical habitat was not designated.

(7) *Comment:* The economic screening analysis significantly underestimates the economic impacts of the proposed critical habitat designation.

Our Response: This screening memorandum analyzes whether the designation of critical habitat would trigger project modifications to avoid adverse modification of critical habitat that would be above and beyond any modifications triggered by adverse effects to the species itself as an endangered species. As stated in the screening memorandum, any activities with a Federal nexus will be subject to section 7 consultation requirements regardless of critical habitat designation because all proposed critical habitat units are occupied by the species. Therefore, significant baseline protection exists and incremental economic impacts are expected to be limited to administrative costs associated with section 7 consultations.

We considered three primary data sources in this evaluation: (1) The historical consultation rate within the counties containing proposed shiner critical habitat, (2) information Federal agencies provided to the Service regarding specific projects that may require future consultation, and (3) public comments. As summarized in Exhibit 3 of the screening memorandum, extremely low levels of section 7 consultations have occurred in the past in counties containing proposed critical habitat. Further, the

Service considered the potential for incremental costs to occur outside of the section 7 consultation process, including triggering additional requirements or project modifications under State laws or regulations, and perceptional effects on markets. Based on this information, the total incremental impacts are expected to be minimal.

(8) *Comment:* The Service's reliance upon human population as an indicator of economic activity is unfounded.

Our Response: The economic screening memorandum states that the amount of economic activity generated in the relatively populated Young County may be larger than in less populated counties. In general, there is greater development pressure and demand for infrastructure in areas with higher populations. These activities are more likely to have a Federal nexus and are therefore subject to section 7 consultation with the Service. While economic activity such as agriculture may occur in areas of low human population, these activities are less likely to result in section 7 consultation and incremental economic impacts because they typically lack a Federal nexus. Further, the Service has not relied on human population alone. We also considered (1) the historical consultation rate within the counties containing proposed shiner critical habitat, (2) information Federal agencies provided to the Service regarding specific projects that may require future consultation, and (3) public comments.

(9) *Comment:* The economic screening analysis of the proposed critical habitat designation does not address the obstacles that are likely to be incurred at all types of river crossings, including but not limited to roads, transmission lines, and pipelines.

Our Response: Exhibit 3 of the screening memorandum summarizes the consultation history in the counties containing proposed critical habitat. As this exhibit shows, these projects include water line, sewer line, transmission, telecommunication infrastructure, and transportation projects. The Service expects that the types of projects represented in the consultation history will require consultation in the future, even absent critical habitat designation, due to the presence of the listed species. As explained in the economic screening memorandum, project modifications recommended by the Service during section 7 consultation are unlikely to change due to the designation of critical habitat for the shiners. Therefore, the incremental cost to projects that require consultation with the Service, including river crossing projects, is expected to be limited to additional administrative costs.

(10) *Comment:* The commenter asserts that because the estimated value of agricultural production in the 11-county area containing proposed critical habitat for the shiners was $344 million in 2012, and since this value exceeds $100 million, the Service should conduct a quantitative assessment of the proposed critical habitat designation.

Our Response: The Act requires the Service to designate critical habitat on the basis of the best scientific data available after taking into consideration, among other factors, the "economic impact" of specifying any particular area as critical habitat. This economic impact of designating critical habitat is different than the economic value of agricultural production in the areas proposed as critical habitat. While the economic value of agricultural production in the proposed critical habitat area is $344 million, this is not the economic impact to agricultural production as a result of proposed critical habitat. The economic screening memorandum provides information on the potential for the proposed critical habitat to result in economic impacts exceeding $100 million in a single year. As stated in the economic screening memorandum, because all proposed critical habitat units are occupied by the species, significant baseline protection exists, and incremental economic impacts are expected to be limited to administrative costs associated with section 7 consultations. The Service does not expect economic losses to agricultural production due to the designation of critical habitat for the species.

(11) *Comment:* Two commenters disagree with the economic screening memorandum's assumption that agriculture will not be affected by the stigma of critical habitat designation, stating that in the worst-case scenario businesses will let their land lie fallow in response to the regulation.

Our Response: In general, agricultural activities do not require consultation with the Service. Further, a low level of consultation is anticipated because critical habitat for these species is in areas that are remote. Incremental costs associated with section 7 consultations for the shiners are likely limited to administrative costs incurred by Federal agencies because all units are considered occupied and project modifications to avoid adverse modification are likely to be the same as those needed to avoid jeopardy. Furthermore, because current agricultural uses are likely to continue unaffected in the future, it is unlikely that the agriculture community will perceive that the final rule has had an effect on the highest and best use, and therefore market value, of designated agricultural parcels.

Public Comments

(12) *Comment:* There is no need to restrict cattle or people's access to the river by designating critical habitat. This designation will require me to travel many more miles between my facilities on either side of the river when I can travel much shorter distances now by crossing the river when it is dry. If the proposed rule would require fencing the river to keep livestock away it would impose a financial burden on landowners. If the government takes control of landowner groundwater rights it will lead to severe economic impacts to these individuals.

Our Response: Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not restrict cattle or human access, and does not affect water or property rights or land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. A critical habitat designation does not allow the government or public to access private lands. A critical habitat designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners.

The Service welcomes the opportunity to provide technical assistance to landowners on a river crossing design that would meet the needs of the landowner (structural stability and effectiveness) while also allowing for unobstructed water flow and fish passage. The Service firmly believes well-designed river crossings would benefit both landowners and sharpnose and smalleye shiners.

(13) *Comment:* The public should know who has been chosen as peer reviewers or have input in choosing who peer reviews the listing rules and species status assessment.

Our Response: Peer reviewer names can be made available to the public when their comments are officially submitted and posted on *www.regulations.gov* as with any public commenter. Release of peer reviewer names prior to the submission of their review can subject them to public and political pressures. The Service relies on peer review to provide a thorough and

expert opinion on the science used to make listing decisions, and the process should be guarded against outside influences that could affect the subjectivity of that review.

In selecting peer reviewers we followed the guidelines for Federal agencies spelled out in the Office of Management and Budget (OMB) "Final Information Quality Bulletin for Peer Review," released December 16, 2004, and the Service's "Information Quality Guidelines and Peer Review", revised June 2012. Part of the peer review process is to provide information online about how each peer review is to be conducted. Prior to publishing the proposed listing and critical habitat rules for the shiners, we posted a peer review plan on our Web site at *http://www.fws.gov/southwest/science/peerreview.html,* which included information about the process and criteria used for selecting peer reviewers.

(14) *Comment:* Given the importance of voluntary actions (primarily saltcedar control) by farmers and ranchers in the recovery of the species, lands managed for farming and ranching should be excluded from the designated critical habitat outside of the bankfull river channel. Conservation partnerships would be encouraged by such exclusions.

Our Response: Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless she determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factors to use and how much weight to give to any factor. See our response to comment (12) above. Federal cost-share saltcedar control programs often include benefits to listed species as part of their project ranking criteria; thus, the listing and designation of critical habitat for these species may facilitate participation in these programs.

(15) *Comment:* The Service has not presented a clear understanding of the population, range, reproductive requirements, and threats to the species. As a result it is not possible for the Service to delineate areas essential to the conservation of the species and that may require special considerations. The Service has not provided any evidence to show a stream length of 275 km (171 mi) is necessary for the continued existence of sharpnose and smalleye shiners, nor how an expanded 1,002-km (623-mi) area designated as critical habitat is necessary.

Our Response: The SSA Report presents the best available scientific and commercial data on sharpnose and smalleye shiners, and their historical and current range, their reproductive requirements and the threats to these species. Section "2.C.3. Stream Reach Length Requirements" of the SSA Report outlines our reasoning for a minimum stream reach length of 171 miles (275 km) to support development of the early life-history stages of sharpnose and smalleye shiners. We recognize in the SSA Report that stream length requirements may vary with flow rates, water temperature, and channel morphology. However, modeling of population status and stream reach length indicate that extirpation of eight different Great Plains broadcast-spawning minnow species occurred in fragments less than 115 km (71 mi; Perkin *et al.* 2010, p. 7) and that no extirpations were recorded in reaches greater than 275 km (171 mi). The minimum reach for successful reproduction of the sharpnose and smalleye shiners may be similar to that of the congeneric Arkansas River shiner at approximately 217 km (135 mi) (Perkin and Gido 2011, p. 374). However, until more specific information is experimentally assessed for sharpnose and smalleye shiners, a reach length of greater than 275 km (171 mi) is more appropriate for long-term survival of these species considering Perkin *et al.* (2010, p. 7) observed no extirpations of broadcast-spawning minnows in river reaches greater than this length. Further, a single 275-km (171-mi) river segment would not be sufficient in providing the redundancy and resiliency required to keep these species viable or to provide sufficient recovery and conservation. If the species were limited to a single 275-km (171-mi) stretch of river, ongoing threats such as drought could more easily lead to catastrophic extinction of these species. The designation of critical habitat is informed by the information within the SSA Report and delineates the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features essential to the conservation of the species, and which may require special management considerations or protection.

(16) *Comment:* Additional studies regarding critical habitat should be conducted prior to designation including meso-habitat studies, migration studies, fish survival studies in fragmented river reaches, reproductive success studies in response to flow conditions, groundwater-surface water interaction studies, and saltcedar control studies.

Our Response: The Service agrees that additional data in many of these areas would add to the growing body of scientific knowledge of these species and the upper Brazos River basin in general. However, the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. In addition, we sought comments from independent peer reviewers to ensure that our designation is based on scientifically sound data, assumptions, and analysis. We solicited information from the general public, nongovernmental conservation organizations, State and Federal agencies that are familiar with the species and their habitats, academic institutions, and groups and individuals who might have information that would contribute to an update of our knowledge of the species, as well as the activities and natural processes that are likely contributing to the decline of either species. While some uncertainty will always exist, the existing body of literature on sharpnose shiners, smalleye shiners, and similar broadcast-spawning minnows provides the best available information upon which to make a critical habitat desgination for these species. See the SSA Report for more detailed information about these species.

(17) *Comment:* The Service's argument that incremental section 7 benefits may accrue if a portion of critical habitat becomes unoccupied is unrealistic in riverine habitat because it is highly unlikely that a portion of contiguous river segment would become unoccupied by fish that move freely throughout the system. None of the other benefits the Service claims from critical habitat designation exists and therefore critical habitat designation is not prudent.

Our Response: The primary intended benefit of critical habitat is to support the conservation of threatened and endangered species, such as the shiners. Although there appear to be no known substantial incremental effects to designating critical habitat for

sharpnose and smalleye shiners, there are several potential benefits including: (1) Ensuring consultation under section 7 of the Act occurs by drawing attention to the occupied range of the species; (2) focusing conservation activities on the most essential features and areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to the species.

Portions of the occupied upper Brazos River basin where critical habitat has been designated periodically dry out during arid summer months. During these dry periods sections of critical habitat may be completely dry and therefore be temporarily unoccupied. The designation of critical habitat will help ensure Federal agencies consult on projects during dry seasons when fish may be temporarily absent. The Service would consider these dry areas occupied for the purpose of consultation although fish may not be physically present at all times. This process is similar to how the Service has historically treated seasonal habitat for migratory birds and other animals.

(18) *Comment:* The designation of critical habitat is taking our property.

Our Response: Designation of critical habitat does not affect land ownership, or establish any closures, or restrictions on use of or access to the designated areas. Critical habitat designation also does not establish specific land management standards or prescriptions, although Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. The promulgation of a regulation, such as a designation of critical habitat under the Act, does not take private property, unless the regulation on its face denies the property owner all economically beneficial or productive use of their land. The Service has concluded that the designation of critical habitat does not rise to the level of a taking of private property. A critical habitat designation only affects private property where there is a proposed action that would be authorized, funded, or carried out by a Federal agency. See our response to comment 12 above. Further, programs are available to private landowners for managing habitat for listed species, as well as permits that can be obtained to protect private landowners from the take prohibition when such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Private landowners may contact their local Service field office to obtain information about these programs and permits.

(19) *Comment:* In the incremental effects memorandum the Service discounted groundwater withdrawals, reasoning that a majority of private landowner withdrawals are unlikely to reach the level of take or adverse modification of critical habitat. However, the proposed listing rule indicates groundwater withdrawal is a threat to the species.

Our Response: As stated in the proposed rule, the incremental effects memorandum, and the SSA Report, groundwater withdrawal is identified as a primary threat to these species. The language in the incremental effects memo referenced by the commenter is specific to project proponents that are likely to pursue HCPs under section 10 after the designation of critical habitat. In the incremental effects memorandum we acknowledge that private landowners may withdraw groundwater for personal use; however, it is unlikely that a majority of those cases would reach the level of take or adverse modification of critical habitat, and therefore a section 10 permit would not be required. This language is specific to private actions that may need a section 10 permit. The scale of groundwater withdrawal for crop irrigation and city or regional water use is greater than that for individual private wells. Further, larger scale groundwater withdrawals close to the river or active springs may reach the level of take or adverse modification of critical habitat, and, therefore, a section 10 permit would be appropriate. The magnitude and location of groundwater withdrawal will be important factors in determining the potential for impact to the shiner species and the need for a section 10 permit. As such, the Service's incremental effects memorandum and listing rule are not contradictory. For more information on the effects of groundwater withdrawal on sharpnose and smalleye shiners, see section "3.B. Groundwater Withdrawal" of the SSA Report.

(20) *Comment:* The proposed critical habitat designation fails to provide information sufficient to analyze the designation in accordance with the statute because the Service has yet to evaluate the economic impacts of the critical habitat designation. Consequently, critical habitat is not determinable.

Our Response: The Service has conducted an analysis of the economic impacts of the critical habitat designations and related factors. We announced the availability of the draft economic analysis in the **Federal Register** on March 4, 2014 (79 FR 12138), allowing the public to provide comments on our analysis. We have incorporated the comments and have completed the final economic analysis for this final determination.

(21) *Comment:* The Service should gather additional data and conduct a quantitative analysis of economic impacts. The assumptive determinations stated in the draft economic analysis were not supported by adequate factual basis.

Our Response: Section 4(b)(2) of the Act requires the Service to use the best available scientific data, after taking into consideration, among other factors, the economic impacts of specifying any particular areas as critical habitat. To prepare the economic impacts screening memo, we relied on: (1) The proposed rule and associated geographic information systems (GIS) data layers; (2) our incremental effects memorandum; (3) the results of our outreach efforts to other Federal agencies concerning the likely effects of critical habitat; and (4) public comments submitted on the proposed rule. We considered three primary data sources in our evaluation of the magnitude of administrative costs: (1) The historical consultation rate within the counties containing proposed shiner critical habitat, (2) information Federal agencies provided to the Service regarding specific projects that may require future consultation, and (3) public comments. When data was sufficient to provide quantification of impacts or benefits, we provided this information. See Section 3 "Section 7 Costs of the Critical Habitat Rule" of the screening memo for additional information.

(22) *Comment:* Based on past experience in the region with the Rio Grande silvery minnow (*Hybognathus amarus*), the designation of critical habitat for the shiners is likely to result in significant costs associated with litigation surrounding the designation of critical habitat. As a result, the section 7 costs reported in the screening analysis are drastically understated.

Our Response: The Service's current understanding of the requirements under the Regulatory Flexibility Act, as amended, and following recent court decisions, is that Federal agencies are required to evaluate the potential incremental impacts of rulemaking only on those entities directly regulated by the rulemaking itself, and therefore, not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or

carried out by the Agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this designation.

The evaluation of the impacts of a given rulemaking such as critical habitat is based on the direct and indirect impacts that are probable or reasonably likely to occur. These generally include direct impacts to Federal action agencies consulting with the Service on actions that they undertake that may affect critical habitat. Indirect effects generally include impacts associated with project modifications, delays, and conservation recommendations that a project proponent may incur as a result of the designation. The impact analysis does not and should not evaluate the potential costs associated with third-party litigation that could result from the rulemaking or project as that litigation is too speculative. This assertion is further supported by the fact that, based on our history of designating critical habitat for more than 650 federally listed species across the nation, we have found that proportionately very few designations have been litigated or resulted in third-party litigation on projects. As a consequence, we disagree with the commenter that our impact analysis should evaluate potential litigation costs that could result from a designation as a cost of the designation itself.

(23) *Comment:* The economic screening analysis ignores the dependence and interconnection that many State and local governments and private businesses have with federally funded actions, even if they do not directly receive Federal funding. The commenter asserts that effects on non-federally funded entities of critical habitat are real and should have been considered in the analysis.

Our Response: The Service's current understanding of the requirements under the Regulatory Flexibility Act, and following recent court decisions, is that Federal agencies are required to evaluate the potential incremental impacts of a rulemaking only on directly regulated entities, and therefore, not required to evaluate the potential impacts to indirectly regulated entities. See our response to comment (22) above and *Regulatory Flexibility Act (5 U.S.C. 601 et seq.)* section, below. Further, as stated in the economic screening memorandum, incremental impacts are expected to be limited to the administrative cost of section 7 consultation to consider adverse modification during the consultation process because all proposed units are considered occupied. Therefore, entities that are not involved in section 7 consultations (i.e., those entities not proposing activity affecting the shiners and those entities lacking a Federal nexus) are unlikely to experience impacts related to the designation of critical habitat.

(24) *Comment:* The economic screening analysis does not appear to consider the upstream or downstream impacts of the regulation on the portions of the Brazos River included in the 11 counties that are part of the critical habitat area.

Our Response: Projects upstream and downstream of proposed critical habitat that have a Federal nexus and may affect the shiners will be required to consult with the Service regardless of whether critical habitat is designated. As stated in the economic screening memorandum, incremental impacts are expected to be limited to the administrative cost of section 7 consultation. Therefore, although we are unaware of any such planned projects at this time, any incremental impacts are expected to be minor.

(25) *Comment:* The economic screening analysis does not adequately analyze the economic impacts of the proposed critical habitat designations on oil and gas development.

Our Response: While oil and gas exploration and development may occur in the counties containing proposed critical habitat, we project that these activities are unlikely to result in section 7 consultation because these activities do not have an identified Federal nexus. Additionally, as all proposed critical habitat units are occupied, any impacts associated with oil and gas projects with a Federal nexus would result from the presence of the species and not from the designation of critical habitat. Therefore, the incremental cost to projects that necessitate consultation with the Service is expected to be limited to additional administrative costs.

(26) *Comment:* The commenters assert that the listing of the shiners as endangered will decrease future access to water, which will have a negative economic impact on property values, small businesses, farms, and ranches in the region.

Our Response: The Act requires the Service to make a determination of whether any species is an endangered or threatened species solely on the basis of the best scientific and commercial data available. The Act does not allow the Service to consider the economic or other impacts of "listing". However, section 4(b)(2) of the Act requires the Service to consider economic impacts prior to finalizing a "critical habitat designation". Consequently, the economic screening memorandum focuses on the incremental impacts of the proposed designation of critical habitat for the shiners, not the listing of the species as endangered. Changes in water access due to the listing of the species are considered baseline impacts. Baseline impacts are those that would occur due to the listing of the species, these are not the focus of the economic analysis. Impacts above the baseline resulting from the designation of critical habitat are incremental impacts. These incremental impacts are analysized in the economic screening memorandum. Designation of critical habitat for the species is not expected to decrease access to water. Therefore, the economic screening memorandum does not forecast costs associated with such decreases.

(27) *Comment:* The commenter provides clarification on water management projects considered in the economic analysis. In particular, the commenter notes that the Cedar Ridge Reservoir was mistakenly called the Cedar Creek Reservoir, Lake Alan Henry was completed in 1993, and the Post Reservoir project should be included in the economic analysis.

Our Response: We recognize the correction to the name of the Cedar Ridge Reservoir. This correction does not change the economic impacts estimated in the screening memorandum. In regards to the completion date of Lake Alan Henry, the economic screening analysis includes costs associated with possible consultation on continuing water management activities at Lake Alan Henry, not on the creation of this reservoir. The Service recognizes that a number of water planning projects outlined in the 2012 State Water Plan, including the Post Reservoir project, may occur within areas designated as proposed critical habitat for the shiners. However, while it is likely that additional reservoir projects will be implemented in the upper Brazos River basin, it is not clear when or where these reservoirs will be constructed, and, therefore, they were not included in the economic analysis. However, the entirety of proposed critical habitat is considered occupied by the species, and project modifications necessary to avoid a jeopardy determination will likely be sufficient to avoid adverse modification. Therefore, incremental impacts

associated with such water management actions are likely to be limited to administrative costs of consultation.

(28) *Comment:* The economic screening analysis did not conduct a rigorous analysis of the perceived effect that the proposed critical habitat will have on investment and development in the region.

Our Response: The commenter does not specify what type of investment or development. However, the proposed critical habitat for the shiners is located in remote, sparsely populated areas where development pressure is low and perceptional effects related to the value of land are likely to be minimal. In the process of developing the proposed rule, the Service requested information from Federal agencies that may have activities within the proposed designation regarding ongoing and planned activities. No investment or development projects were identified, with the exception of two reservoirs. Further, the economic cost of implementing the rule through section 7 of the Act will most likely be limited to additional administrative effort to consider adverse modification. This finding is based on the fact that the proposed designation occurs in extremely remote areas supporting little economic activity, and all proposed units are considered occupied; thus, the presence of the shiner, when the listing is finalized, provides significant baseline protection.

(29) *Comment:* The commenter claims that the Service has identified only marginal benefit to the species from the designation of the proposed area as critical habitat, and, therefore, the Service should not designate critical habitat.

Our Response: Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is listed. Because the Service has found that the designation of critical habitat for these species is both prudent and determinable, we are required to do so. Consequently, we are not able to forego the process of designating critical habitat when doing so is prudent and critical habitat is determinable. See also our response to comment (17) where we discuss the anticipated conservation benefits of the designation of critical habitat.

(30) *Comment:* The commenter states that the shiners would gain additional benefits from the designation of critical habitat, including: The ecological value of protecting the Brazos River basin habitat; increasing public awareness of the rare species and other wildlife; greater protection of freshwater resources; and protection of the natural heritage of the State of Texas.

Our Response: We agree that the designation will increase public awareness of the shiners.

(31) *Comment:* Two commenters state that, rather than categorically determining it does not need to prepare a regulatory flexibility analysis for critical habitat determinations, the Service must evaluate whether the impact of the proposed critical habitat on small entities is significant and, if so, must prepare a regulatory flexibility analysis.

Our Response: Under the Regulatory Flexibility Act, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Regulatory Enforcement Fairness Act amended the Regulatory Flexibility Act to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. The incremental impacts of a rule must be both significant and substantial to prevent certification of the rule under the Regulatory Flexibility Act and to require the preparation of an initial regulatory flexibility analysis. If a substantial number of small entities are affected by the proposed critical habitat designation, but the per-entity economic impact is not significant, the Service may certify. Likewise, if the per-entity economic impact is likely to be significant, but the number of affected entities is not substantial, the Service may also certify. The discussion (below) in the *Regulatory Flexibility Act (5 U.S.C. 601 et seq.)* of this final rule explains our rationale.

Summary of Changes From Proposed Rule

Only minor changes and clarifications were made to this final rule designating critical habitat based on comments received. The SSA Report was updated, clarified, and expanded based on several peer review and public comments. However, these changes did not modify our assessment of the critical habitat designation.

Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or

biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features within an area, we focus on the principal biological or physical constituent elements (primary constituent elements such as roost sites, nesting grounds, seasonal wetlands, water quality, tide, soil type) that are essential to the conservation of the species. Primary constituent elements are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation. We designate critical habitat in areas outside the geographical area occupied by a species only when a designation limited to its range would be inadequate to ensure the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to insure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Physical or Biological Features

In accordance with section 3(5)(A)(i) and 4(b)(1)(A) of the Act and regulations at 50 CFR 424.12, in determining which areas within the geographical area occupied by the species at the time of listing to designate as critical habitat, we consider the physical or biological features essential to the conservation of the species and which may require special management considerations or protection. These include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of a species.

Sharpnose Shiner

We derive the specific physical or biological features essential for the sharpnose shiner from studies of this species' habitat, ecology, and life history as described in the Critical Habitat section of the proposed rule to designate critical habitat published in the **Federal Register** on August 6, 2013 (78 FR 47612), and in the information presented below. We have used the best available information, as described in the March 2014 SSA Report (Service 2014, Chapter 2). To identify the physical and biological needs of the sharpnose shiner, we have relied on conditions at currently occupied locations where the sharpnose shiner has been observed during surveys and the best information available on the species. Below, we summarize the physical and biological features needed by foraging and breeding sharpnose shiners. For a complete review of the physical and biological features required by the sharpnose shiner, see Chapter 2 of the March 2014 SSA Report (Service 2014, Chapter 2). We have determined that the following physical or biological features are essential to the sharpnose shiner.

Space for Individual and Population Growth and for Normal Behavior

Sharpnose shiners occur in fairly shallow, flowing water, often less than 0.5 m (1.6 ft) deep with sandy substrates. They broadcast spawn semi-buoyant eggs and larvae that may remain suspended in the water column for several days before they are capable of independent swimming, indicating there is a minimum river segment length necessary to support successful reproduction and survival. A comparison of minimum estimated reach length requirements for similar species and current modeling efforts for this species indicate an unobstructed reach length of greater than 275 km (171 mi) is likely required to complete the species' life history. Lengths greater

than 275 km (171 mi) would also provide migratory pathways to refugia in which sharpnose shiners may survive drought conditions.

Therefore, based on the information above and additional analysis in the March 2014 SSA Report (Service 2014, Chapter 2), we identify flowing water of sufficient unobstructed length (275 km (171 mi)) to be a physical or biological feature essential to the conservation of the sharpnose shiner.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Sharpnose shiners are generalist feeders consuming aquatic and terrestrial invertebrates (mostly insects), plant material, and detritus. The presence of terrestrial insects in its diet suggests native riparian vegetation along the stream banks where the sharpnose shiners occur is important in providing food availability. The prevalence of sand-silt in the gut contents of sharpnose shiners indicates they likely forage among the sediments when food availability is low, suggesting river segments containing sandy substrates may be preferred by this species.

Flowing water of sufficient quality (minimal pollution, lacking golden alga toxicity, and within physiological tolerances) is required for the survival of these species. Sharpnose shiners can tolerate temperatures of 39.2 degrees Celsius (°C) (102.6 degrees Fahrenheit (°F)) only briefly and generally require oxygen concentrations above 2.66 milligrams per liter (mg/L) (2.66 parts per million (ppm)). Sharpnose shiners experience significant mortality at salinities greater than 25 millisiemens per centimeter (mS/cm) (15 parts per thousand (ppt)). The susceptibility of sharpnose shiners to environmental pollutants is not well understood; however, it has been observed that petroleum contamination, and possibly other pollutants, are capable of killing this species. Although the effects of golden alga on sharpnose shiners have not been documented, toxic blooms in occupied habitat are certain to cause mortality.

Native riparian vegetation adjacent to the river channel where the sharpnose shiner occurs is important as a source of food (terrestrial insects) and in maintaining physical habitat conditions in the stream channel. Riparian areas are essential for energy and nutrient cycling, filtering runoff, absorbing and gradually releasing floodwaters, recharging groundwater, and maintaining stream flows. Healthy riparian corridors help ensure aquatic resources maintain the ecological integrity essential to stream fishes, including the sharpnose shiner. A riparian width of 30 m (98 ft) is generally sufficient to protect the water quality of adjacent streams and is expected to provide the necessary prey base for sharpnose shiners (Service 2014, Chapter 6).

Therefore, based on the information above and additional analysis in the March 2014 SSA Report (Service 2014, Chapter 2), we identify river segments containing flowing water of sufficient quality (i.e., within physiological tolerances, low in toxic pollutants, and lacking toxic golden alga blooms) with sandy substrates, and their associated native riparian vegetation, to be physical or biological features essential to the conservation of the sharpnose shiner.

Cover or Shelter

Specific cover or sheltering requirements for sharpnose shiners within the aquatic ecosystem have not been identified and may not be pertinent to their conservation because these fish mostly occur in open water. Therefore, we have not identified any specific cover or shelter habitat requirements to be physical or biological features essential to the conservation of the sharpnose shiner.

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

Successful reproduction by sharpnose shiners requires minimum levels of flowing water through the summer breeding season. Cyprinid eggs spawned into the pelagic zone (open water not near the river bottom) become semi-buoyant within 10 to 30 minutes, allowing them to drift through the water column for approximately 1 or 2 days prior to hatching. Larval stages (before fish reach the free-swimming juvenile stage) may drift in the water column for an additional 2 to 3 days post-hatching.

Spawning occurs from April through September asynchronously (fish not spawning at the same time) during periods of no and low flow, and synchronously (many fish spawning at the same time) during elevated streamflow events. Successful recruitment (survival to the juvenile fish stage) does not occur during periods completely lacking flow. This is because in no-flow conditions, the floating eggs, zygotes, and larval fish of broadcast spawners sink and suffocate in the anoxic sediments and are more susceptible to predation. Modeling studies have estimated minimum mean summer discharge of 2.61 cubic meters per second (m^3s^{-1}) (92 cubic feet per second (cfs)) is necessary to sustain a population of sharpnose shiners.

Therefore, based on the information above and additional analysis in the March 2014 SSA Report (Service 2014, Chapter 2), we identify river segments with a minimum mean summer discharge of approximately 2.61 m^3s^{-1} (92 cfs) to be physical or biological features essential to the conservation of the sharpnose shiner.

Habitats That Are Protected From Disturbance or Are Representative of the Historic, Geographical, and Ecological Distributions of a Species

Sharpnose shiner habitat is subject to dynamic changes resulting from flooding and drying of occupied waterways. Consequently, fluctuating water levels create circumstances in which the extent of the sharpnose shiner's range varies over time, and may be periodically contracted or expanded depending on water availability. Worsening drought conditions are increasing the intensity and duration of river drying in the upper Brazos River basin. As a result of these dynamic changes, particularly during intense droughts, sharpnose shiners require unobstructed river segments through which they can migrate to find refuge from river drying. These fish can later emigrate from these refugia (spring-fed pools, isolated pools, and reservoirs) and recolonize normally occupied areas when suitable conditions return.

Therefore, based on the information above and additional analysis in the March 2014 SSA Report (Service 2014, Chapter 2), we identify unobstructed river segments of at least 275 km (171 mi) to be a physical or biological feature essential to the conservation of the sharpnose shiner because these unobstructed river segments will allow this species to recolonize previously occupied areas following river drying. If arid climate fish refugia are separated from one another by fish migration barriers recolonization of the currently occupied range of the species will not be possible following severe drought.

Smalleye Shiner

We derive the specific physical or biological features essential for the smalleye shiner from studies of this species' habitat, ecology, and life history as described in the Critical Habitat section of the proposed rule to designate critical habitat published in the **Federal Register** on August 6, 2013 (78 FR 47612), and in the information presented below. We have used the best available information, as described in the March 2014 SSA Report (Service 2014, Chapter 2). To identify the

physical and biological needs of the smalleye shiner, we have relied on conditions at currently occupied locations where the shiner has been observed during surveys and the best information available on the species. Below, we summarize the physical and biological features needed by foraging and breeding smalleye shiners. For a complete review of the physical and biological features required by the smalleye shiner, see Chapter 2 of the March 2014 SSA Report (Service 2014, Chapter 2). We have determined that the following physical or biological features are essential to the smalleye shiner.

Space for Individual and Population Growth and for Normal Behavior

Smalleye shiners occur in fairly shallow, flowing water, often less than 0.5 m (1.6 ft) deep with sandy substrates. They broadcast spawn semi-buoyant eggs and larvae that may remain suspended in the water column for several days before larval fish are capable of independent swimming, indicating there is a minimum stream reach length necessary to support successful reproduction and survival. A comparison of minimum estimated reach length requirements for similar species and current modeling efforts for this species indicate that an unobstructed reach length of greater than 275 km (171 mi) is likely required to complete the species' life history. Lengths greater than 275 km (171 mi) would also provide migratory pathways to refugia in which smalleye shiners may survive drought conditions.

Therefore, based on the information above and additional analysis in the March 2014 SSA Report (Service 2014, Chapter 2), we identify flowing water of sufficient unobstructed length (275 km (171 mi)) to be a physical or biological feature essential to the conservation of the smalleye shiner.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Smalleye shiners are generalist feeders consuming aquatic and terrestrial invertebrates (mostly insects), plant material, and detritus. The presence of terrestrial insects in the smalleye shiner's diet suggests native riparian vegetation along the banks of inhabited rivers is important in providing food availability, as well as the general health of the aquatic riverine ecosystem. The prevalence of sand-silt in the gut contents of smalleye shiners indicate they likely forage among the sediments when food availability is low, suggesting river segments containing sandy substrates may be preferred by this species.

Water of sufficient quality (minimal pollution, lacking golden alga toxicity, and within physiological tolerances) is required for the survival of these species. Smalleye shiners can tolerate temperatures of 40.6 °C (105.1 °F) only briefly and generally require oxygen concentrations above 2.11 mg/L (2.11 ppm). Smalleye shiners experience significant mortality at salinities greater than 30 mS/cm (18 ppt). The susceptibility of smalleye shiners to environmental pollutants is not well understood; however, it has been observed that petroleum contamination, and possibly other pollutants, are capable of killing this species. Although the effects of golden alga on smalleye shiners have not been documented, blooms in occupied habitat are certain to cause mortality in this species.

Native riparian vegetation adjacent to the river channel where the smalleye shiner occurs is important as a source of food (terrestrial insects) and in maintaining physical habitat conditions in the stream channel. Riparian areas are essential for energy and nutrient cycling, filtering runoff, absorbing and gradually releasing floodwaters, recharging groundwater, and maintaining stream flows. Healthy riparian corridors help ensure aquatic resources maintain the ecological integrity essential to stream fishes, including the smalleye shiner. A riparian width of 30 m (98 ft) is generally sufficient to protect the water quality of adjacent streams and is expected to provide the necessary prey base for smalleye shiners (Service 2014, Chapter 6).

Therefore, based on the information above and additional analysis in the March 2014 SSA Report (Service 2014, Chapter 2), we identify sandy-bottomed river segments containing flowing water of sufficient quality (i.e., within physiological tolerance, low in toxic pollutants, and lacking toxic golden algal blooms), and their associated native riparian vegetation, to be physical or biological features essential to the conservation of the smalleye shiner.

Cover or Shelter

Specific cover or sheltering requirements for smalleye shiners within the aquatic ecosystem have not been identified and may not be pertinent to their conservation because these fish mostly occur in open water. Therefore, we have not identified any specific cover or shelter habitat requirements to be physical or biological features essential to the conservation of the smalleye shiner.

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

Successful reproduction by smalleye shiners requires minimum levels of flowing water through the summer breeding season. Cyprinid eggs spawned into the pelagic zone (open water not near the river bottom) become semi-buoyant within 10 to 30 minutes, allowing them to drift through the water column for approximately 1 or 2 days prior to hatching. Larval stages may drift in the water column for an additional 2 to 3 days post-hatching.

Spawning occurs from April through September asynchronously during periods of no and low flow, and synchronously during elevated streamflow events. Successful recruitment (survival to the juvenile fish stage) does not occur during periods completely lacking flow. This is because in no-flow conditions, the floating eggs, zygotes, and larval fish of broadcast spawners sink and suffocate in the anoxic sediments and are more susceptible to predation. Modeling studies have estimated minimum mean summer discharge of 6.43 m^3s^{-1} (227 cfs) is necessary to sustain a population of the smalleye shiner.

Therefore, based on the information above and additional analysis in the March 2014 SSA Report (Service 2014, Chapter 2), we identify river segments with a minimum mean summer discharge of approximately 6.43 m^3s^{-1} (227 cfs) to be physical or biological features essential to the conservation of the smalleye shiner.

Habitats That Are Protected From Disturbance or Are Representative of the Historic, Geographical, and Ecological Distributions of a Species

Smalleye shiner habitat is subject to dynamic changes resulting from flooding and drying of occupied waterways. Consequently, fluctuating water levels create circumstances in which the extent of the sharpnose and smalleye shiner's range vary over time, and may be periodically contracted or expanded depending on water availability. Worsening drought conditions are increasing the intensity and duration of river drying in the upper Brazos River basin. As a result of these dynamic changes, particularly during intense droughts, smalleye shiners require unobstructed river segments through which they can migrate to find refuge from river drying. These fish can later emigrate from these refugia (spring-fed pools, isolated pools, and reservoirs) and recolonize normally

occupied areas when suitable conditions return.

Therefore, based on the information above and additional analysis in the March 2014 SSA Report (Service 2014, Chapter 2), we identify unobstructed river segments of at least 275 km (171 mi) to be a physical or biological feature essential to the conservation of the sharpnose shiner because these unobstructed river segments will allow this species to recolonize previously occupied areas following river drying. If arid climate fish refugia are separated from one another by fish migration barriers, recolonization of the currently occupied range of the species will not be possible following severe drought.

Summary of Physical or Biological Features

In summary, the sharpnose shiner and smalleye shiner need specific vital resources for survival and completion of their life histories. One of the most important aspects of their life histories is that their broadcast-spawn eggs and developing larvae require flowing water of sufficient length within which they develop into free-swimming juvenile fish. In addition, sharpnose shiners and smalleye shiners typically live for no more than two breeding seasons. As a result, if resources are not available in a single spawning season, their populations would be greatly impacted, and if resources are not available through two consecutive breeding seasons, the impacts would be catastrophic.

The sharpnose shiner and smalleye shiner have exceptionally specialized habitat requirements to support these life-history needs and maintain adequate population sizes. Habitat requirements are characterized by river segments of greater than 275 km (171 mi) with estimated average spawning season flows greater than 2.61 m^3s^{-1} (92 cfs) for the sharpnose shiner and of 6.43 m^3s^{-1} (227 cfs) for the smalleye shiner. River segment lengths of 275 km (171 mi) or greater also aid in providing sharpnose and smalleye shiners refugia from river drying during severe drought. In addition, individual shiners also need sandy substrates to support foraging, water quality within their physiological and toxicological tolerances, and intact upland vegetation capable of supporting their prey base. Intact upland vegetation is also important in providing adequate filtration of surface water runoff to maintain a healthy aquatic ecosystem.

Populations of sharpnose shiners and smalleye shiners with a high likelihood of long-term viability require contiguous river segments containing the physical and biological features that are essential to the conservation of these species. This contiguous suitable habitat is necessary to retain the reproductive success of these species in the face of natural and manmade seasonal fluctuations of water availability. Sharpnose shiner and smalleye shiner habitat is subject to dynamic changes resulting from flooding and drying of occupied waterways. Consequently, fluctuating water levels create circumstances in which the extent of the sharpnose and smalleye shiner's range varies over time, and may be periodically contracted or expanded depending on water availability.

Primary Constituent Elements for Sharpnose Shiner and Smalleye Shiner

Under the Act and its implementing regulations, we are required to identify the physical or biological features essential to the conservation of sharpnose shiner and smalleye shiner in areas occupied at the time of listing, focusing on the features' primary constituent elements. Primary constituent elements are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Sharpnose Shiner

Based on our current knowledge of the physical or biological features and habitat characteristics required to sustain the species' life-history processes (Service 2014, Chapter 2), we determine that the primary constituent element (PCE) specific to the sharpnose shiner consists of a riverine system with habitat to support all life stages of sharpnose shiners, which includes:

(1) Unobstructed, sandy-bottomed river segments greater than 275 km (171 mi) in length.

(2) Flowing water of greater than approximately 2.61 m^3s^{-1} (92 cfs) averaged over the shiner spawning season (April through September).

(3) Water of sufficient quality to support survival and reproduction, characterized by:

a. Temperatures generally less than 39.2 °C (102.6 °F);

b. Dissolved oxygen concentrations generally greater than 2.66 mg/L (2.66 ppm);

c. Salinities generally less than 25 mS/cm (15 ppt); and

d. Sufficiently low petroleum and other pollutant concentrations such that mortality does not occur.

(4) Native riparian vegetation capable of maintaining river water quality, providing a terrestrial prey base, and maintaining a healthy riparian ecosystem.

Smalleye Shiner

Based on our current knowledge of the physical or biological features and habitat characteristics required to sustain the species' life-history processes (Service 2014, Chapter 2), we determine that the primary constituent element (PCEs) specific to the smalleye shiner consists of a riverine system with habitat to support all life-history stages of smalleye shiners, which includes:

(1) Unobstructed, sandy-bottomed river segments greater than 275 km (171 mi) in length.

(2) Flowing water of greater than approximately 6.43 m^3s^{-1} (227 cfs) averaged over the shiner spawning season (April through September).

(3) Water of sufficient quality to support survival and reproduction, characterized by:

a. Temperatures generally less than 40.6 °C (105.1 °F);

b. Dissolved oxygen concentrations generally greater than 2.11 mg/L;

c. Salinities less than 30 mS/cm (18 ppt); and

d. Sufficiently low petroleum and other pollutant concentrations such that mortality does not occur.

(4) Native riparian vegetation capable of maintaining river water quality, providing a terrestrial prey base, and maintaining a healthy riparian ecosystem.

Special Management Considerations or Protections

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species and which may require special management considerations or protection. The features essential to the conservation of these species may require special management considerations or protection to reduce the following threats: Habitat loss and modification from fragmentation of river segments; alteration to natural flow regimes by impoundment, groundwater withdrawal, and drought; water quality degradation; and invasive saltcedar encroachment.

River fragmentation decreases the unobstructed river length required for successful reproduction in these species. Impoundments, groundwater withdrawal, saltcedar encroachment, and drought have the potential to reduce river flow below the minimum requirement to keep the eggs and larvae of these species afloat and ultimately for

sustainment of sharpnose and smalleye shiner populations. Water quality degradation resulting from pollution sources; lack of flows maintaining adequate temperatures, oxygen concentrations, and salinities; and the destruction of adjacent riparian vegetation's run-off filtering abilities may result in water quality parameters beyond which sharpnose and smalleye shiners are capable of surviving. As such, the features essential to the conservation of these species may require special management from these threats.

For sharpnose shiners and smalleye shiners, special management considerations or protection may be needed to address threats. Management activities that could ameliorate threats include, but are not limited to: (1) Removing or modifying existing minor fish barriers to allow fish passage; (2) managing existing reservoirs to allow sufficient river flow to support shiner reproduction and population growth; (3) protecting groundwater, surface water, and spring flow quantity; (4) protecting water quality by implementing comprehensive programs to control and reduce point sources and non-point sources of pollution; and (5) protecting and managing native riparian vegetation. A more complete discussion of the threats to the sharpnose shiner and smalleye shiner and their habitats can be found in the March 2014 SSA Report (Service 2014, Chapter 3).

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. For this rule, we rely heavily on the analysis of biological information reviewed in the March 2014 SSA Report (Service 2014). In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify occupied areas at the time of listing that contain the features essential to the conservation of the species. If, after identifying currently occupied areas, we determine that those areas are inadequate to ensure conservation of the species, in accordance with the Act and our implementing regulations at 50 CFR 424.12(e) we then consider whether designating additional areas—outside those currently occupied—are essential for the conservation of the species. We are not designating any areas outside the geographical area occupied by the species because occupied areas are sufficient for the conservation of the species.

Areas Occupied at the Time of Listing

For the purpose of designating critical habitat for the sharpnose and smalleye shiners, we defined occupancy based on several criteria. First, we defined occupancy to include areas with confirmed persistence of both species within the Brazos River basin of Texas upstream of Possum Kingdom Lake in the Brazos River main stem, Salt Fork of the Brazos River, Double Mountain Fork of the Brazos River, and North Fork Double Mountain Fork of the Brazos River (Service 2014, Chapter 4) based on survey results since 2008. We chose to use survey results since 2008 because these data are relatively consistent from year to year and represent the best available information for what areas should be considered occupied at the time of listing. Second, we defined occupancy to include tributaries once known to be historically occupied by one or both species that lack sufficient fish sampling but are contiguous (i.e., lacking fish migration barriers) with areas in the upper Brazos River confirmed to be occupied by both species. The sharpnose and smalleye shiner are similar in their biology, and they are both capable of colonizing river segments when conditions are favorable. Therefore, we considered tributary streams to be occupied at the time of listing if they were previously occupied by either species. Third, tributaries for which we had no information that either species recently or historically occurred were not considered occupied, even if they were contiguous with areas that are currently occupied.

Segments considered to be occupied at the time of listing were then assessed to determine if they contained the physical or biological features for the species and whether they may require special management considerations or protection. River segments not exceeding 275 km (171 mi) upstream of the lentic waters of Possum Kingdom Lake were not included because they lack the necessary physical or biological features for successful reproduction. Segments that do not typically maintain suitable water quality conditions (i.e., within physiological tolerances, minimal pollution, lacking regular golden alga blooms) were not included because they would not likely support a viable population of shiners. Segments not likely to maintain minimum mean spawning season flows capable of sustaining populations of either species, even during favorable climatic conditions, were also not included because they would not support successful reproduction.

The lower Brazos River, where shiners were released in 2012, is considered unoccupied for the purposes of determining critical habitat because prior to their 2012 release, both species had become extirpated or were functionally extirpated from this area as no fish had been collected since 2006. The release effort in 2012 was likely insufficient to restart a population of these species in the lower Brazos River. Therefore, given the old age, small number of fish released in 2012, and the inability to detect these species in subsequent surveys, it is likely they are extirpated from this reach of the Brazos River (Service 2014, Chapter 4).

Areas Unoccupied at the Time of Listing

To determine if any areas not considered occupied at the time of listing are essential for the conservation of the species, we considered: (1) Whether the area was historically occupied; (2) the potential contribution of the area to the conservation of each species based on our March 2014 SSA Report (Service 2014, Chapter 2); (3) whether the area could be restored to contain the habitat conditions needed to support the species; and (4) whether a viable population of the species could be reestablished at the site. We recognize that both species likely need additional areas beyond those currently occupied in order to have sufficient redundancy and resiliency for long-term viability. However, our review of the areas within the historical range found that none of them have all four of these necessary characteristics to be considered essential for the conservation of either species.

We considered but did not include four areas that were historically occupied by one or both species as possible critical habitat: The Colorado River, Wichita River, middle Brazos River (between Possum Kingdom Lake and the low water crossing near the City of Marlin, Falls County, Texas), and lower Brazos River (downstream of Marlin to the Gulf of Mexico). The smalleye shiner is not known to have naturally occurred outside of the Brazos River basin, so neither the Colorado nor Wichita Rivers were considered essential for the conservation of that species. For the sharpnose shiner, our review found that neither the Colorado nor Wichita Rivers were considered necessary to maintain viability of either species because of the limited abundance and distribution of this shiner historically in these rivers. In addition, both of these rivers have extensive impoundments such that the unfragmented stream length needed for reproduction by these species is lacking.

These impoundments are expected to continue to exist into the future with no apparent potential for their removal, thereby eliminating the ability of the Colorado or Wichita Rivers to contain the necessary habitat conditions to support either species. Therefore, the Colorado and Wichita Rivers were not proposed as critical habitat for either species because of limited importance to the conservation of the species and the inability for the necessary habitat conditions for the species to be restored.

The middle Brazos River also lacks the necessary unimpounded river length required to support sharpnose and smalleye shiner reproduction (Service 2014, Chapter 4). Existing impoundments are expected to exist into the future with no apparent potential for their removal. As a result, these areas cannot be restored to contain the necessary habitat conditions to support the species. Therefore, since this area of the middle Brazos River cannot be restored to appropriate habitat conditions, we find it is not essential for the conservation of either species, and we did not propose it as critical habitat.

The lower Brazos River was also found likely to have limited importance to the overall viability for both species (Service 2014, Chapter 2). The lower Brazos River does contain an unimpounded stream length long enough to support reproduction of sharpnose and smalleye shiners; however, their populations in this segment have already declined to the point that we presume they are extirpated from this reach. We expect the extirpation was the result of poor habitat conditions. Both the flow regime and river channel morphology of the lower Brazos River are considerably different (higher flow and deeper, wider channel) than the upper Brazos River, so this segment may never have supported populations of either species independent of the upper Brazos River populations. As a result, it is unlikely that sharpnose and smalleye shiners are capable of sustaining populations in the lower Brazos River without constant emigration (downstream dispersal) from the upstream source population in the upper Brazos River, which is now isolated by impoundments in the middle Brazos River. Therefore, with limited importance and the inability to support populations, we find the lower Brazos River is not essential for the conservation of either species, and we did not propose this area for critical habitat.

In conclusion, based on the best available information, we conclude that the areas within the historical range of one or both species, but not occupied by either species at the time of listing, are not essential for the conservation of either species. The Colorado and Wichita Rivers do not contribute substantially to the conservation of the sharpnose shiner and are unlikely to be restored to contain the necessary habitat conditions to support either species. The middle Brazos River cannot be restored to contain the necessary habitat conditions to support either species. The lower Brazos River may not be important for the conservation of either species and is not likely able to support a viable population of either species. Therefore, we have not desginated any areas as critical habitat beyond what is occupied at the time of listing.

Lateral Extent

In determining the lateral extent (overbank areas adjacent to the river channel) of critical habitat along proposed riverine segments, we considered the definition of critical habitat under the Act. Under the Act, critical habitat must contain the physical or biological features essential to a species' conservation and which may require special management considerations or protection. Conservation of the river channel alone is not sufficient to conserve sharpnose and smalleye shiners because the nearby native riparian vegetation areas adjacent to the river channel where the shiners occur are important components of the critical habitat for the shiners as a source of food (terrestrial insects) and to maintain physical habitat conditions in the stream channel. Riparian areas are essential for energy and nutrient cycling, filtering runoff, absorbing and gradually releasing floodwaters, recharging groundwater, and maintaining stream flows. Healthy riparian corridors help ensure aquatic resources maintain the ecological integrity essential to stream fishes, including the sharpnose shiner and smalleye shiner.

A riparian width of 5 to 30 m (16 to 98 ft) on each side of the stream is generally sufficient to protect the water quality of adjacent streams (Fischer and Fischenich 2000, p. 8). The ability of riparian buffers to filter surface runoff is largely dependent on vegetation density, type, and slope, with dense, grassy vegetation and gentle slopes facilitating filtration. A riparian buffer width of 30 to 500 m (98 to 1,640 ft) should be sufficient to provide wildlife habitat; however, the riparian zone of the upper Brazos River may never have been extensive due to the aridity of the area, and the terrestrial insect prey base of the shiners would likely persist at even the thinnest recommended width. A riparian width of 30 m (98 ft) beyond the bankfull width of the river should be sufficient to maintain proper runoff filtration and provide the water quality and food base required by sharpnose and smalleye shiners (Service 2014, Chapter 6). As such, the final critical habitat includes the stream and river segments identified below and an area extending 30 m (98 ft) on each side perpendicularly to the stream channel beyond bankfull width. The bankfull width is the width of the stream or river at bankfull discharge and often corresponds to the edge of the riparian vegetation. Bankfull discharge is significant because it is the flow at which water begins to leave the active channel and move into the floodplain and serves to identify the point at which the active channel ceases and the floodplain begins.

Mapping

For each species, we are desginating one critical habitat unit, divided into six subunits. These subunits are derived from the most recent USGS high-resolution National Hydrological Flowline Dataset. Although river channels migrate naturally, it is assumed the segment lengths and locations will remain reasonably accurate over an extended period of time. All mapping was performed using ArcMap version 10 (Environmental Systems Research Institute, Inc.), a computer Geographic Information System (GIS) program.

We set the limits of each critical habitat subunit by identifying landmarks (reservoirs and dams) that clearly act as barriers to fish migration. Partial barriers to fish migration that impede fish movement only during low river flow are not used to identify segment endpoints because it is presumed fish may occasionally be capable of traversing these impediments. Stream confluences are also used to delineate the boundaries of subunits contiguous with other critical habitat subunits because they are logical and recognizable termini.

When determining critical habitat boundaries within this final rule, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, existing maintained transportation rights-of-way within the lateral extent buffers, and other structures because such lands lack physical or biological features for sharpnose shiner and smalleye shiner. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands

inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the rule and are not designated as critical habitat. Therefore, a Federal action involving these lands will not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document in the rule portion. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on *http://www.regulations.gov* at Docket No. FWS–R2–ES–2013–0008, on our Internet sites *http://www.fws.gov/southwest/es/ArlingtonTexas*, and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT** above).

We are designating as critical habitat lands that we have determined are occupied at the time of listing and contain sufficient physical or biological features to support life-history processes essential for the conservation of the species.

Subunits were designated based on sufficient elements of physical or biological features being present to support sharpnose shiner and smalleye shiner life processes. Some subunits contained all of the identified elements of physical or biological features and supported multiple life processes. Some segments contained only some elements of the physical or biological features necessary to support the sharpnose shiner and smalleye shiner's particular use of that habitat.

Final Critical Habitat Designation

We are designating a single critical habitat unit divided into six subunits in Texas of approximately 1,002 river km (623 mi) of the upper Brazos River basin and the upland areas extending beyond the bankfull river channel by 30 m (98 ft) on each side. The critical habitat areas described below constitute our best assessment at this time of areas that meet the definition of critical habitat. Those six subunits are: (1) Upper Brazos River main stem, (2) Salt Fork of the Brazos River, (3) White River, (4) Double Mountain Fork of the Brazos River, (5) North Fork Double Mountain Fork of the Brazos River, and (6) South Fork Double Mountain Fork of the Brazos River. Table 1 shows the occupied units.

TABLE 1—OCCUPANCY OF SHARPNOSE SHINER AND SMALLEYE SHINER BY DESIGNATED CRITICAL HABITAT UNITS

Critical habitat subunit	Occupied at time of listing?	Currently occupied?
1. Brazos River Main Stem Subunit	Y	Y
2. Salt Fork of the Brazos River Subunit	Y	Y
3. White River Subunit	Y	Y
4. Double Mountain Fork of the Brazos River Subunit	Y	Y
5. North Fork Double Mountain Fork of the Brazos River Subunit	Y	Y
6. South Fork Double Mountain Fork of the Brazos River Subunit	Y	Y

The approximate length of each critical habitat unit is shown in Table 2.

TABLE 2—DESIGNATED CRITICAL HABITAT UNITS FOR SHARPNOSE SHINER AND SMALLEYE SHINER

[Area estimates reflect all land within critical habitat unit boundaries]

Critical habitat subunit	River ownership by type	Length of subunit in river kilometers (river miles)
1. Brazos River Main Stem Subunit	State	327 (203)
2. Salt Fork of the Brazos River Subunit	State	275 (171)
3. White River Subunit	State	40 (25)
4. Double Mountain Fork of the Brazos River Subunit	State	240 (149)
5. North Fork Double Mountain Fork of the Brazos River Subunit	State	109 (68)
6. South Fork Double Mountain Fork of the Brazos River Subunit	State	11 (7)
Total		1,002 (623)

Note: Area sizes may not sum due to rounding.

The critical habitat areas include the river channels within the identified stream segments. The stream beds of navigable waters (stream beds maintaining an average width of at least 9 m (30 ft) wide from the mouth up) in Texas are generally owned by the State, in trust for the public, while the lands alongside the streams can be privately owned. Therefore, for all stream subunits included in the critical habitat, the stream beds, including the small, seasonally dry portion of the stream beds between the bankfull width where vegetation occurs, and the wetted channel are owned by the State for the purposes of this rule. To the best of our knowledge, all adjacent riparian areas are privately owned.

Unit Description

We determined the unit of the upper Brazos River basin and its subunits are occupied by both species at the time of listing (Service 2014, Chapter 4). The upper Brazos River critical habitat unit, when considered in its entirety, exhibits all four of the primary constituent elements of critical habitat for both species. Some individual subunits may

not contain all of the physical or biological features of critical habitat under all climatic conditions. For example, the elements of physical and biological features supporting the life-history processes of sharpnose and smalleye shiners are highly dependent on the naturally variable climatic conditions and river flow characteristics of the upper Brazos River basin and may not be present in all critical habitat subunits at all times (i.e., during severe droughts). However, each subunit likely contains suitable habitat during wet climatic conditions and will exhibit one or more of the essential physical or biological features that may require special management considerations or protection and are therefore included in the designation under section 3(5)(A)(i) of the Act.

Subunits are designated based on sufficient elements of physical or biological features being present to support life-history processes of the sharpnose and smalleye shiners. Some subunits contain all of the identified elements of physical or biological features and support multiple life-history processes, while other subunits contain only some elements of the physical or biological features necessary to support each species' particular use of that habitat. The following subunit descriptions briefly describe each of the proposed critical habitat subunits and the reasons why they meet the definition of critical habitat for the sharpnose shiner and smalleye shiner. The subunits are generally numbered from downstream to upstream.

Subunit 1: Upper Brazos River Main Stem

Subunit 1 is 326.8 river km (203.1 mi) long in Young, Throckmorton, Baylor, Knox, King, and Stonewall Counties. The downstream extent of the Upper Brazos River Main Stem Subunit is approximately 15 river km (9.3 mi) upstream of the eastern border of Young County where it intersects the upper portion of Possum Kingdom Lake. The upstream extent of this subunit is at the confluence of the Double Mountain Fork of the Brazos River and the Salt Fork of the Brazos River where they form the Brazos River main stem.

Subunit 1 provides an adequate length of unobstructed, sandy bottomed river (PCE 1) often with sufficient flow (PCE 2) and water quality (PCE 3) to support sharpnose and smalleye shiner survival and reproduction. However, during periods of severe drought, sufficient flow may not be maintained. Many upland areas adjacent to this subunit are encroached by saltcedar, although it generally contains the native riparian vegetation capable of maintaining river water quality and an adequate prey base for both shiner species (PCE 4).

Habitat features in this subunit are primarily threatened by groundwater withdrawal, saltcedar invasion, water quality degradation, drought, and impoundment. The South Bend Reservoir, identified as a feasible water management strategy by the Brazos G Regional Water Planning Group, would occur on this subunit if constructed, while the Throckmorton Reservoir and Millers Creek Reservoir Augmentation would occur on tributaries that discharge into this subunit (Service 2014, Chapter 3). The physical or biological features in this subunit may require special management considerations or protection to minimize impacts from these threats.

Subunit 2: Salt Fork of the Brazos River

Subunit 2 is 275.1 km (171 mi) long in Stonewall, Kent, and Garza Counties. The downstream extent of the Salt Fork of the Brazos River Subunit is at the confluence of the Double Mountain Fork of the Brazos River and the Salt Fork of the Brazos River where they form the Brazos River main stem. The upstream extent of this subunit is on the Salt Fork of the Brazos River at the McDonald Road crossing in Garza County, which acts as a barrier to fish passage.

Subunit 2 provides an adequate length of unobstructed, sandy bottomed river (PCE 1) often with sufficient flow (PCE 2) and water quality (PCE 3) to support sharpnose and smalleye shiner survival and reproduction. However, during periods of severe drought, sufficient flow may not be maintained, and naturally occurring salt plumes may occasionally result in inadequate water quality. Many upland areas adjacent to this subunit are encroached by saltcedar, although it generally contains the native riparian vegetation capable of maintaining river water quality and an adequate prey base for both shiner species (PCE 4).

Habitat features in this subunit are primarily threatened by groundwater withdrawal, saltcedar invasion, desalination projects, water quality degradation, and drought. Several of these threats have the potential to decrease surface water volume available for fish use. The threat of reservoir impoundment is minimized because the highly saline water of this subunit is generally of little use for industrial, agricultural, and municipal needs. The physical or biological features in this subunit may require special management considerations or protection to minimize impacts from these threats.

Subunit 3: White River

Subunit 3 is 40.3 km (25.1 mi) long in Kent, Garza, and Crosby Counties. The downstream extent of the White River Subunit is at the confluence of the White River with the Salt Fork of the Brazos River. The upstream extent is immediately downstream of the White River Lake impoundment on the White River.

Given the lack of adequate sampling from this area, records of the smalleye shiner from the White River are old and rare, and sharpnose shiners have never been recorded from this subunit (Service 2014, Chapter 2). However, records of both species have been documented within the last 5 years from the Salt Fork of the Brazos River less than 1 km (0.6 mi) downstream of the confluence of this subunit. Therefore, the White River Subunit is contiguous with areas currently occupied by both species, and there are no fish barriers to prevent them from migrating into this area. Given the information above and the biological similarity between these species, we consider this subunit within the geographic range occupied by both species. Furthermore, the White River provides surface water flow of relatively low salinity into the Salt Fork of the Brazos River, which may be important in maintaining the water quality of this downstream subunit.

Subunit 3 provides an adequate length of unobstructed, sandy bottomed river (PCE 1) when considered as part of the contiguous critical habitat unit as a whole. This subunit likely contains only sufficient flow (PCE 2) and water quality (PCE 3) to support sharpnose and smalleye shiner survival and reproduction under wet climatic conditions or when water is being released from upstream impoundments. During periods of severe drought, sufficient flow may not be maintained. Upland areas adjacent to this subunit are likely encroached by saltcedar, although it generally contains the native riparian vegetation capable of maintaining river water quality and an adequate prey base for both shiner species (PCE 4).

Habitat features in this subunit are primarily threatened by groundwater withdrawal, saltcedar invasion, water quality degradation, drought, and impoundment. Flow is normally available in this subunit only as a result of water release from White River Lake upstream of this subunit. Therefore, the physical or biological features in this subunit may require special management considerations or

protection to minimize impacts from these threats.

Subunit 4: Double Mountain Fork of the Brazos River

Subunit 4 is 239.8 km (149 mi) long in Stonewall, Haskell, Fisher, and Kent Counties. The downstream extent of the Double Mountain Fork of the Brazos River Subunit is at the confluence of the Double Mountain Fork of the Brazos River and the Salt Fork of the Brazos River where they form the Brazos River main stem. The upstream extent of this subunit is at the confluence of the South Fork Double Mountain Fork of the Brazos River and the North Fork Double Mountain Fork of the Brazos River where they form the Double Mountain Fork of the Brazos River.

Subunit 4 provides an adequate length of unobstructed, sandy bottomed river (PCE 1) when considered as part of the contiguous critical habitat unit as a whole. This subunit likely contains sufficient flow (PCE 2) and water quality (PCE 3) to support sharpnose and smalleye shiner survival and reproduction most of the time although during periods of severe drought, sufficient flow may not be maintained. Upland areas adjacent to this subunit are likely encroached by saltcedar, but it generally contains the native riparian vegetation capable of maintaining river water quality and an adequate prey base for both shiner species (PCE 4).

Habitat features in this subunit are primarily threatened by groundwater withdrawal, saltcedar invasion, water quality degradation, drought, and impoundment. The Double Mountain Fork East and West Reservoirs, identified as feasible water management strategies by the Brazos G Regional Water Planning Group, would occur in this subunit if constructed (Service 2014, Chapter 3). Therefore, the physical or biological features in this subunit may require special management considerations or protection to minimize impacts from these threats.

Subunit 5: North Fork Double Mountain Fork of the Brazos River

Subunit 5 is 108.6 km (67.5 mi) long in Kent, Garza, and Crosby Counties. The downstream extent of the North Fork Double Mountain Fork Subunit is at the confluence of the South Fork Double Mountain Fork of the Brazos River and the North Fork Double Mountain Fork of the Brazos River where they form the Double Mountain Fork of the Brazos River. The upstream extent of this subunit is the earthen impoundment near Janes-Prentice Lake in Crosby County, Texas.

Subunit 5 provides an adequate length of unobstructed, sandy bottomed river (PCE 1) when considered as part of the contiguous critical habitat unit as a whole. This subunit likely contains sufficient flow (PCE 2) and water quality (PCE 3) to support sharpnose and smalleye shiner survival and reproduction much of the time, but during periods of severe drought, sufficient flow may not be maintained. Upland areas adjacent to this subunit are likely encroached by saltcedar, although it generally contains the native riparian vegetation capable of maintaining river water quality and an adequate prey base for both shiner species (PCE 4).

Habitat features in this subunit are primarily threatened by groundwater withdrawal, saltcedar invasion, water quality degradation, drought, and impoundment. Post Reservoir and the North Fork Diversion Reservoir, identified as feasible water management strategies by the Brazos G Regional Water Planning Group, would occur in this subunit if constructed (Service 2014, Chapter 3). Therefore, the physical or biological features in this subunit may require special management considerations or protection to minimize impacts from these threats.

Subunit 6: South Fork Double Mountain Fork of the Brazos River

Subunit 6 is 11.1 km (6.9 mi) long in Kent and Garza Counties. The downstream extent of the South Fork Double Mountain Fork Subunit is at the confluence of the South Fork Double Mountain Fork of the Brazos River and the North Fork Double Mountain Fork of the Brazos River where they form the Double Mountain Fork of the Brazos River. The upstream extent of this subunit is immediately downstream of the John T. Montford Dam of Lake Alan Henry. Although there is a lack of recent records (smalleye shiner last observed in 1992) in this subunit, it is contiguous with areas currently occupied by both species, and there are no known fish barriers to prevent them from migrating into this area. The subunit does not have public access, and researchers have few opportunities to survey for fish in this river segment. However, given the information above and the biological similarity between these species, we consider this subunit within the geographic range occupied by both sharpnose and smalleye shiners.

Subunit 6 provides an adequate length of unobstructed, sandy bottomed river (PCE 1) when considered as part of the contiguous critical habitat unit as a whole. This subunit likely contains only sufficient flow (PCE 2) and water quality (PCE 3) to support sharpnose and smalleye shiner survival and reproduction under wet climatic conditions or when water is being actively released from upstream impoundments. During periods of severe drought, sufficient flow may not be maintained. Upland areas adjacent to this subunit may be encroached by saltcedar, although it generally contains the native riparian vegetation capable of maintaining river water quality and an adequate prey base for both shiner species (PCE 4).

Habitat features in this subunit are primarily threatened by drought and impoundment. Flow is normally present in this subunit only as a result of water released from Lake Alan Henry. Flow from this subunit directly affects surface water volume in the Double Mountain Fork of the Brazos River Subunit available for fish use. Therefore, the physical or biological features in this subunit may require special management considerations or protection to minimize impacts from these threats.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

Decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our regulatory definition of "destruction or adverse modification" (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F. 3d 1059 (9th Cir. 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.,* 245 F.3d 434, 434 (5th Cir. 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve

its intended conservation role for the species.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define "reasonable and prudent alternatives" (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Application of the "Adverse Modification" Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that alter the physical or biological features to an extent that appreciably reduces the conservation value of critical habitat for the sharpnose shiner and smalleye shiner. As discussed above, the role of critical habitat is to support life-history needs of the species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for the sharpnose shiner and smalleye shiner. These activities include, but are not limited to:

(1) Activities physically disturbing the riverine habitat upon which these shiner species depend, particularly by decreasing surface water flows or altering channel morphology. Such activities could include, but are not limited to, impoundment, in-stream mining, channelization, and dewatering. These activities could result in the physical destruction of habitat or the modification of habitat such that it no longer supports the reproduction of these species.

(2) Activities increasing the concentration of pollutants in surface water within areas designated as critical habitat. Such activities could include, but are not limited to, increases in impervious cover in the surface watershed, destruction of the adjacent upland areas by land uses incompatible with maintaining a healthy riverine system, and release of pollutants into the surface water or connected groundwater. These activities could alter water conditions to levels that are beyond the tolerances of the shiner species and result in direct or cumulative adverse effects to these individuals and their life cycles.

(3) Activities depleting the underlying groundwater or otherwise diverting water to an extent that decreases or stops the flow of surface waters within areas designated as critical habitat. Such activities could include, but are not limited to, excessive water withdrawals from aquifers and diversion of natural discharge features. These activities could dewater habitat or reduce water quality to levels that are beyond the tolerances of the sharpnose and smalleye shiner, and result in direct or cumulative adverse effects to these individuals and their life cycles.

(4) Activities leading to the introduction, expansion, or increased density of a nonnative plant or animal species that is detrimental to the sharpnose shiner or smalleye shiner or their habitat.

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: "The Secretary shall not designate as critical habitat any lands or other geographic areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan [INRMP] prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation." There are no Department of Defense lands within the critical habitat designation.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic

impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless she determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factors to use and how much weight to give to any factor.

Consideration of Economic Impacts

Under section 4(b)(2) of the Act, we consider the economic impacts of specifying any particular area as critical habitat. In order to consider economic impacts, we prepared an incremental effects memorandum (IEM) and screening analysis, which, together with our narrative and interpretation of effects, we consider our draft economic analysis of the proposed critical habitat designation and related factors (IEc 2014a, entire). The analysis, dated January 23, 2014, was made available for public review from March 4, 2014, through April 3, 2014 (79 FR 12138). Following the close of the comment period, we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Additional information relevant to the probable incremental economic impacts of critical habitat designation for the sharpnose shiner and smalleye shiner is summarized below and available in the screening analysis for the sharpnose shiner and smalleye shiner (IEc 2014b, entire), available at *http://www.regulations.gov.*

Review of the Service's incremental effects memorandum and discussion within the Service identified the following economic activities that may affect the shiners and their habitat: (1) Water management, including flood control and drought protection operations; (2) in-stream projects; (3) transportation activities, including bridge construction; (4) oil and natural gas exploration and development; and (5) utilities projects, including water and sewer lines. The sharpnose shiner and smalleye shiner were not previously listed under the Act; therefore, no previous consultation history exists for these shiner species. The final economic analysis looks retrospectively at costs that may have been incurred since 2007 based on the incidence of technical assistances that have historically occurred in or near designated critical habitat since that time. As explained in our IEM, we believe 2007 presents an accurate starting point to assess the trends of section 7 consultation history in the area to be designated as critical habitat.

The economic cost of implementing the rule through section 7 of the Act will most likely be limited to additional administrative effort to consider adverse modification during consultation because: (1) Project modifications requested to avoid adverse modification are likely to be the same as those needed to avoid jeopardy in occupied habitat, and (2) all critical habitat subunits are considered occupied; thus, the presence of the shiners, when the listing is finalized, provides significant baseline protection. The additional administrative cost of addressing adverse modification during the section 7 consultation process ranges from approximately $410 to $5,000 per consultation, depending upon the type of consultation. Based on a review of the technical assistance history for the shiners, no more than 2 formal consultations, 28 informal consultations, and 16 technical assistances are expected annually. Thus, the incremental administrative burden resulting from critical habitat designation is expected to be less than $84,000 per year (in 2013 dollars). Because we use high-end estimates of consultations and technical assistances, this estimate is more likely to overstate than understate actual incremental costs.

Due to data availability limitations, we are unable to assign costs to specific subunits. Rather, we provide estimates of potential costs across the entire proposed critical habitat designation. We note that, of the 11 counties where critical habitat is located, Young County contains more than one-third of the overall human population. Thus, the amount of economic activity generated in this area may be larger than in the more remote counties. In addition, the U.S. Army Corps of Engineers and the City of Lubbock, TX, identified specific dam and reservoir projects that may affect surface flows in Subunit 1 (the Cedar Ridge Reservoir) and Subunit 6 (diversions from Lake Alan Henry Reservoir for the City of Lubbock's municipal needs).

In some cases, designation of critical habitat may provide new information to project proponents who otherwise would not have consulted with the Service, thus resulting in incremental economic impacts. We cannot predict where or when these situations may occur, but anticipate that consultations of this nature will be infrequent. The designation of critical habitat is not expected to trigger additional requirements under State or local regulations, nor is the designation expected to have perceptional effects on markets. Additional section 7 efforts to conserve the species are not predicted to result from the designation of critical habitat. Thus, it is unlikely that the critical habitat designation will result in cost exceeding $100 million in a given year.

Exclusions Based on Economic Impacts

Our economic analysis did not identify any disproportionate costs that are likely to result from the designation. There is no evidence that the potential economic benefits of exclusion outweigh the benefits of inclusion as critical habitat. Consequently, the Secretary is not exercising her discretion to exclude any areas from this designation of critical habitat for the sharpnose shiner and smalleye shiner based on economic impacts.

A copy of the IEM and screening analysis with supporting documents may be obtained by contacting the Arlington, Texas, Ecological Services Field Office (see **ADDRESSES**) or by downloading from the Internet at *http://www.regulations.gov* or *http://www.fws.gov/southwest/es/ArlingtonTexas.*

Exclusions Based on National Security Impacts

Under section 4(b)(2) of the Act, we consider whether a national or homeland security impact might exist on potential critical habitat. In preparing this final rule, we have determined that no lands within the designation of critical habitat for the sharpnose shiner or smalleye shiner are owned or managed by the Department of Defense or Department of Homeland Security, and, therefore, we anticipate no impact on national or homeland security. Consequently, the Secretary is not exercising her discretion to exclude any areas from this final designation based on impacts on national or homeland security.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts resulting from the designation of critical habitat. We consider a number of factors, including whether the landowners have developed any HCPs or other management plans for the area,

or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any tribal issues and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this final rule, we have determined that there are currently no permitted HCPs or other approved management plans for the sharpnose shiner or smalleye shiner, and the final designation does not include any tribal lands or trust resources. We anticipate no impact on tribal lands, partnerships, or HCPs from this critical habitat designation. Accordingly, the Secretary is not exercising her discretion to exclude any areas from this final designation based on other relevant impacts.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

In this final rule, we are certifying that the critical habitat designation for the sharpnose shiner and smalleye shiner will not have a significant economic impact on a substantial number of small entities. The following discussion explains our rationale.

According to the Small Business Administration, small entities include small organizations, such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts on these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule, as well as the types of project modifications that may result. In general, the term "significant economic impact" is meant to apply to a typical small business firm's business operations.

Importantly, the incremental impacts of a rule must be *both* significant and substantial to prevent certification of the rule under the RFA and to require the preparation of an initial regulatory flexibility analysis. If a substantial number of small entities are affected by the proposed critical habitat designation, but the per-entity economic impact is not significant, the Service may certify. Likewise, if the per-entity economic impact is likely to be significant, but the number of affected entities is not substantial, the Service may also certify.

The Service's current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are required to evaluate the potential incremental impacts of rulemaking only on those entities directly regulated by the rulemaking itself and, therefore, not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried by the Agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7 only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this designation. There is no requirement under RFA to evaluate the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that, if promulgated, the final critical habitat designation will not have a significant economic impact on a substantial number of small entities.

During the development of this final rule we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Based on this information, we affirm our certification that this final critical habitat designation will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute "a significant adverse effect" when compared to not taking the regulatory action under consideration.

The economic analysis finds that none of these criteria are relevant to this analysis. Thus, based on information in the economic analysis, energy-related

impacts associated with sharpnose shiner and smalleye shiner conservation activities within critical habitat are not expected. As such, the designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or tribal governments" with two exceptions. It excludes "a condition of Federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding," and the State, local, or tribal governments "lack authority" to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program."

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because the lands adjacent to the river channel designated as critical habitat are primarily owned by private landowners, which do not fit the definition of "small governmental jurisdiction." Therefore a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of designating critical habitat for the sharpnose shiner and smalleye shiner in a takings implications assessment. Based on the best available information, the takings implications assessment concludes that this designation of critical habitat for the sharpnose shiner and smalleye shiner does not pose significant takings implications.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this proposed critical habitat designation with, appropriate State resource agencies in Texas. We received comments from the Texas Department of Transportation and the Texas Comptroller of Public Accounts and have addressed them in the Summary of Comments and Recommendations section of the rule. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the rule does not have substantial direct effects either on the States, or on the relationship between the Federal Government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical and biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the applicable standards set forth in sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, the rule identifies the elements of physical or biological features essential to the conservation of the sharpnose shiner and smalleye shiner. The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will 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.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations With Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. We determined that there are no tribal lands occupied by the sharpnose shiner or smalleye shiner at the time of listing that contain the physical or biological features essential to conservation of the species, and no tribal lands unoccupied by the sharpnose shiner or smalleye shiner that are essential for the conservation of the species. Therefore, we are not designating critical habitat for the sharpnose shiner or smalleye shiner on tribal lands.

References Cited

A complete list of all references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Arlington, Texas, Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this rulemaking are the staff members of the Arlington, Texas, Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

■ 2. In § 17.95, amend paragraph (e) by adding entries for "Sharpnose Shiner *(Notropis oxyrhynchus)*" and "Smalleye Shiner *(Notropis buccula)*" in alphabetical order after the entry for "Pecos Bluntnose Shiner *(Notropis simus pecosensis)*" to read as follows:

§ 17.95 Critical habitat—fish and wildlife

* * * * *

(e) *Fishes.*

* * * * *

Sharpnose Shiner (*Notropis oxyrhynchus*)

(1) Critical habitat units are depicted for Baylor, Crosby, Fisher, Garza, Haskell, Kent, King, Knox, Stonewall, Throckmorton, and Young Counties, Texas, on the maps below.

(2) Critical habitat includes the bankfull width of the river channel within the identified river segments indicated on the maps below, and includes a lateral distance of 30 meters (98 feet) on each side of the stream width at bankfull discharge. Bankfull discharge is the flow at which water begins to leave the channel and move into the floodplain, and generally occurs every 1 to 2 years.

(3) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of the sharpnose shiner consist of a riverine system with habitat to support all life-history stages of the sharpnose shiner, which includes:

(i) Unobstructed, sandy-bottomed river segments greater than 275 kilometers (171 miles) in length.

(ii) Flowing water of greater than 2.61 cubic meters per second (m^3s^{-1}) (92 cubic feet per second (cfs)) averaged over the shiner spawning season (April through September).

(iii) Water of sufficient quality to support survival and reproduction, characterized by:

(A) Temperatures generally less than 39.2 °C (102.6 °F);

(B) Dissolved oxygen concentrations generally greater than 2.66 milligrams per liter (mg/L);

(C) Salinities generally less than 15 parts per thousand (ppt) (25 millisiemens per centimeter (mS/cm)); and

(D) Sufficiently low petroleum and other pollutant concentrations such that mortality does not occur.

(iv) Native riparian vegetation capable of maintaining river water quality, providing a terrestrial prey base, and maintaining a healthy riparian ecosystem.

(4) Critical habitat does not include manmade structures (such as buildings, railroads, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on September 3, 2014.

(5) *Critical habitat map units.* Data layers defining map units were created using the U.S. Geological Survey National Hydrography Dataset's flowline data in ArcMap (Environmental Systems Research Institute, Inc.), a computer geographic information system program. The 30-meter (98-feet) lateral extent adjacent to each segment's active channel is not displayed in the included figures because it is not appropriate at these map scales. Segments were mapped using the NAD 1983 UTM Zone 14 projection. Endpoints of stream segments for each critical habitat subunit are reported as latitude, longitude in decimal degrees. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's Internet site (*http://www.fws.gov/southwest/es/ArlingtonTexas/*), at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2013–0008, and at the Arlington, Texas, Ecological Services Field Office. You may obtain field office location information by contacting one of the Service regional offices, the

addresses of which are listed at 50 CFR 2.2.

(6) Index map of critical habitat for the sharpnose shiner and smalleye shiner follows:

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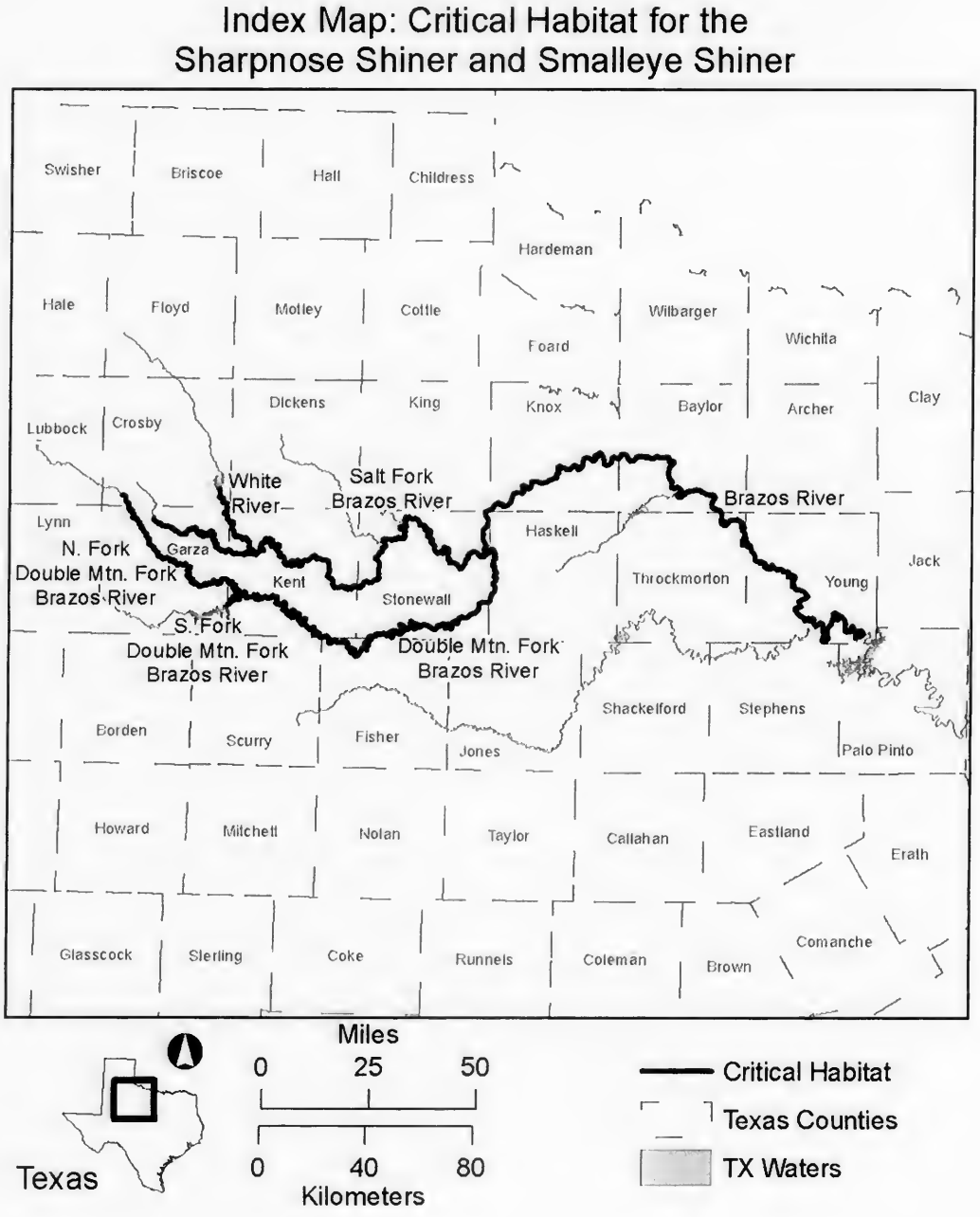
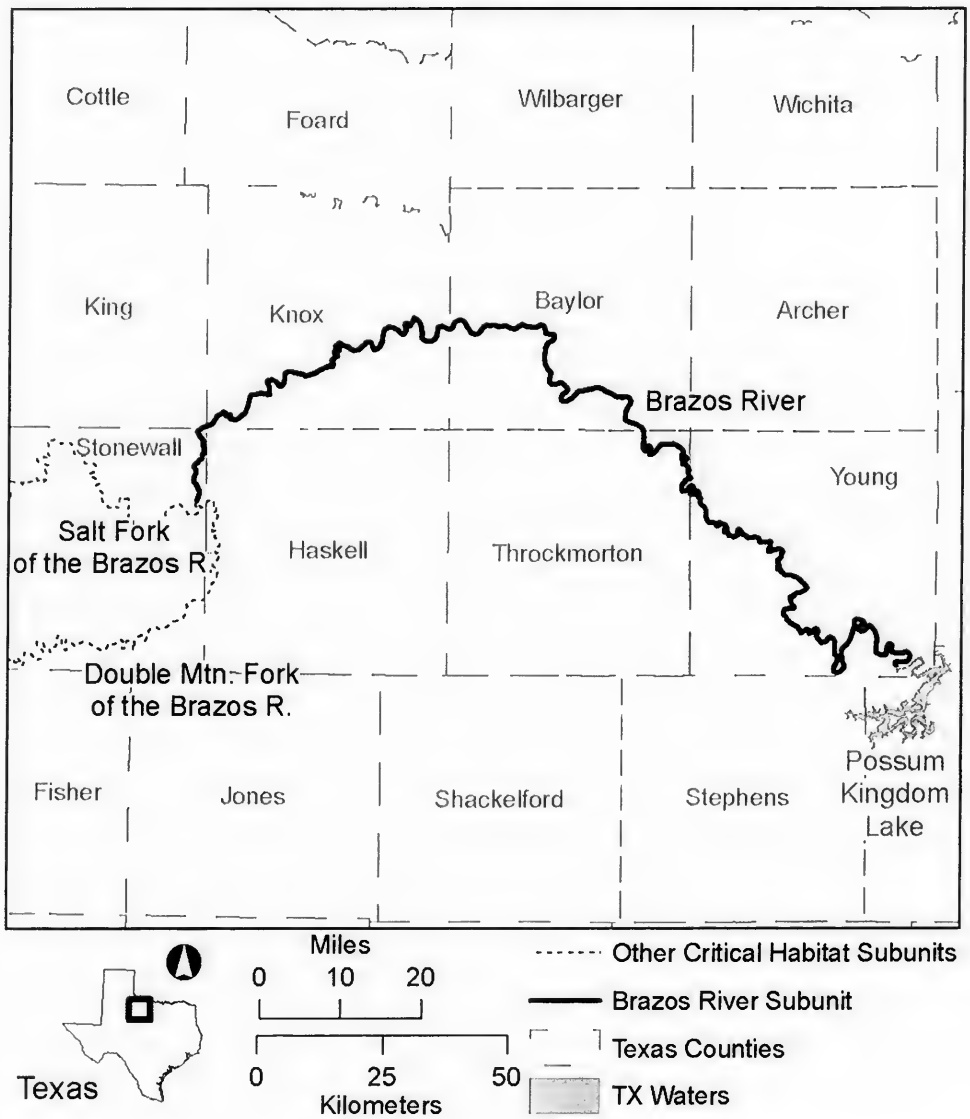


(7) Subunit 1: Brazos River Main Stem; Baylor, King, Knox, Stonewall, Throckmorton, and Young Counties, Texas.

(i) Brazos River Main Stem from approximately 15 river km (9.3 miles) upstream of the eastern border of Young County where it intersects the upper portion of Possum Kingdom Lake (32.974302, −98.509880) upstream to the confluence of the Double Mountain Fork of the Brazos River and the Salt Fork of the Brazos River where they form the Brazos River main stem (33.268404, −100.010209)

(ii) Note: Map of Subunit 1, Brazos River Main Stem, follows:

Critical Habitat for Sharpnose and Smalleye Shiners: Brazos River Main Stem Subunit

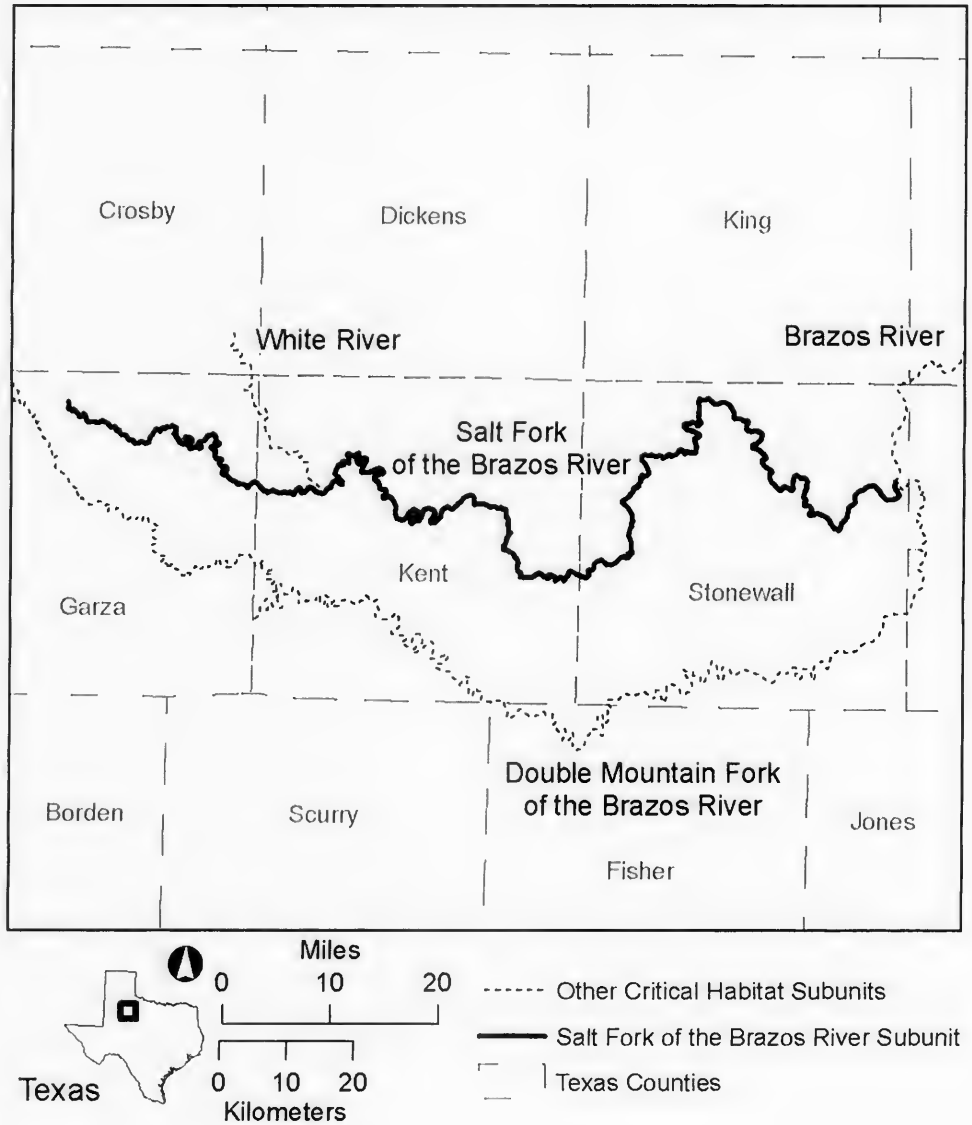


(8) Subunit 2: Salt Fork of the Brazos River; Garza, Kent, and Stonewall Counties, Texas.

(i) Salt Fork of the Brazos River from its confluence with the Double Mountain Fork of the Brazos River (33.268404, −100.010209) upstream to the McDonald Road crossing (33.356258, −101.345890).

(ii) Note: Map of Subunit 2, Salt Fork of the Brazos River, follows:

Critical Habitat for Sharpnose and Smalleye Shiners: Salt Fork of the Brazos River Subunit

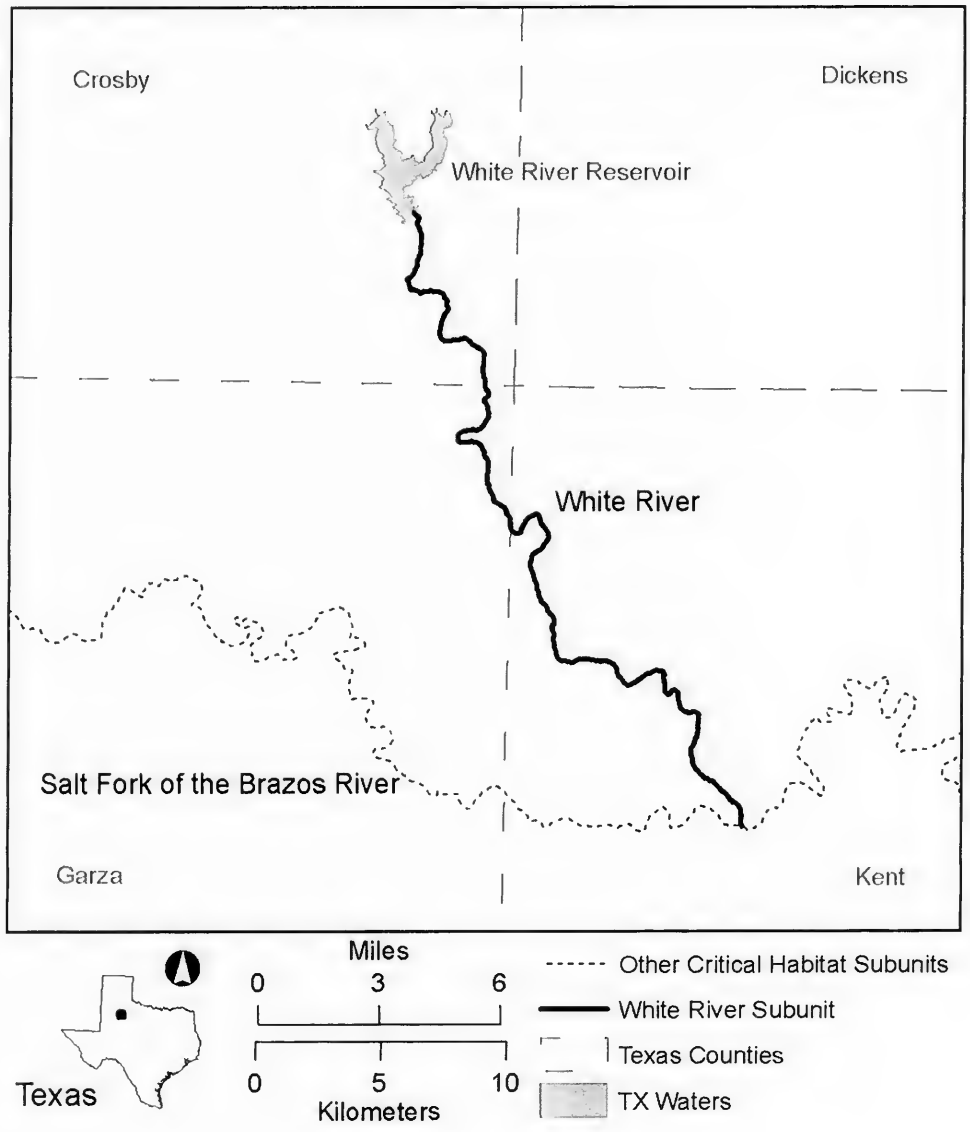


(9) Subunit 3: White River; Crosby, Garza, and Kent Counties, Texas.

(i) White River from its confluence with the Salt Fork of the Brazos River (33.241172, −100.936181) upstream to the White River Lake impoundment (33.457240, −101.084546).

(ii) Note: Map of Subunit 3, White River, follows:

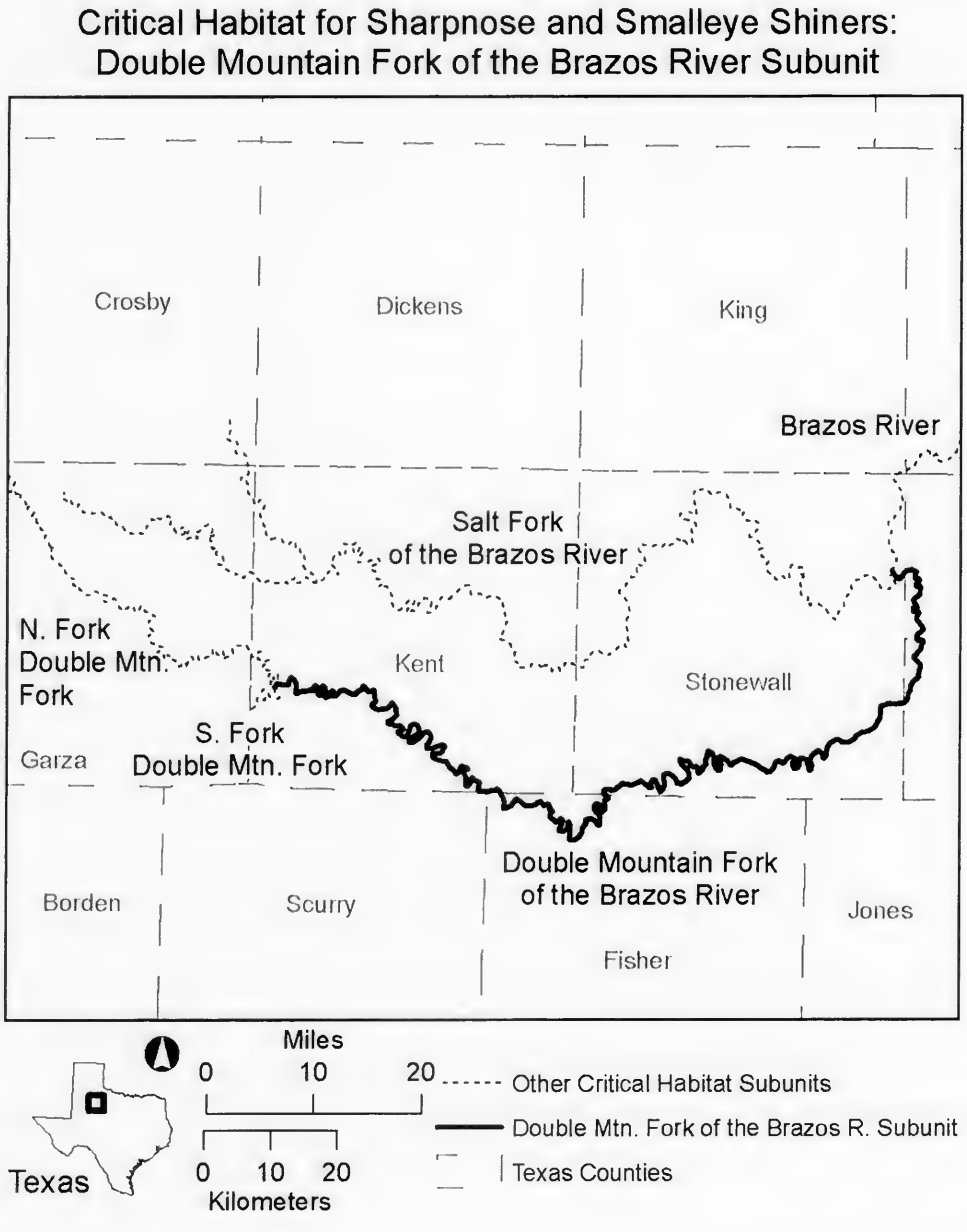
Critical Habitat for Sharpnose and Smalleye Shiners: White River Subunit



(10) Subunit 4: Double Mountain Fork of the Brazos River; Fisher, Haskell, Kent, and Stonewall Counties, Texas.

(i) Double Mountain Fork of the Brazos River from its confluence with the Salt Fork of the Brazos River (33.268404, −100.010209) upstream to the confluence of the South Fork Double Mountain Fork of the Brazos River and the North Fork Double Mountain Fork of the Brazos River where they form the Double Mountain Fork of the Brazos River (33.100269, −100.999803).

(ii) Note: Map of Subunit 4, Double Mountain Fork of the Brazos River, follows:

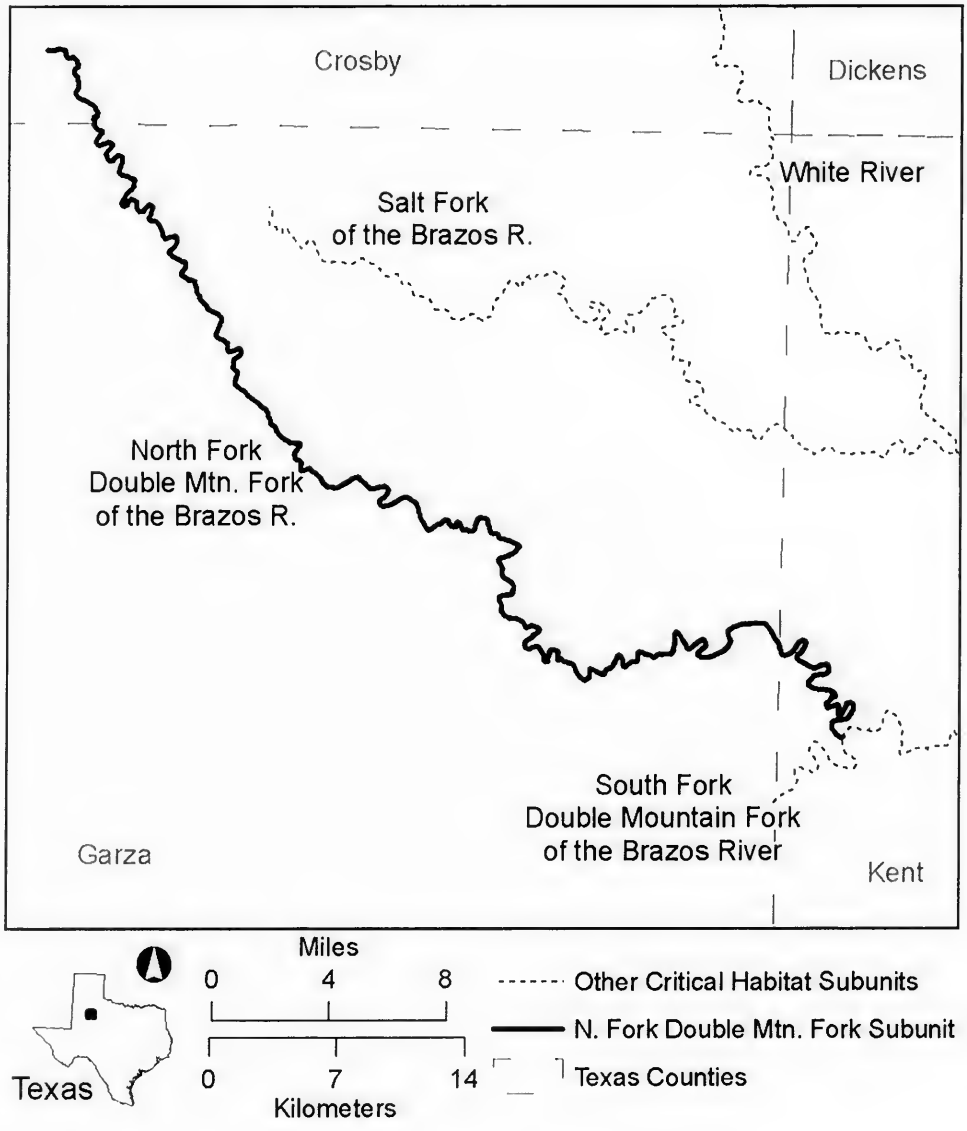


(11) Subunit 5: North Fork Double Mountain Fork of the Brazos River; Crosby, Garza, and Kent Counties, Texas.

(i) North Fork Double Mountain Fork of the Brazos River from its confluence with the South Fork Double Mountain Fork of the Brazos River (33.100269, −100.999803) upstream to the earthen impoundment near Janes-Prentice Lake (33.431515, −101.479610).

(ii) Note: Map of Subunit 5, North Fork Double Mountain Fork of the Brazos River, follows:

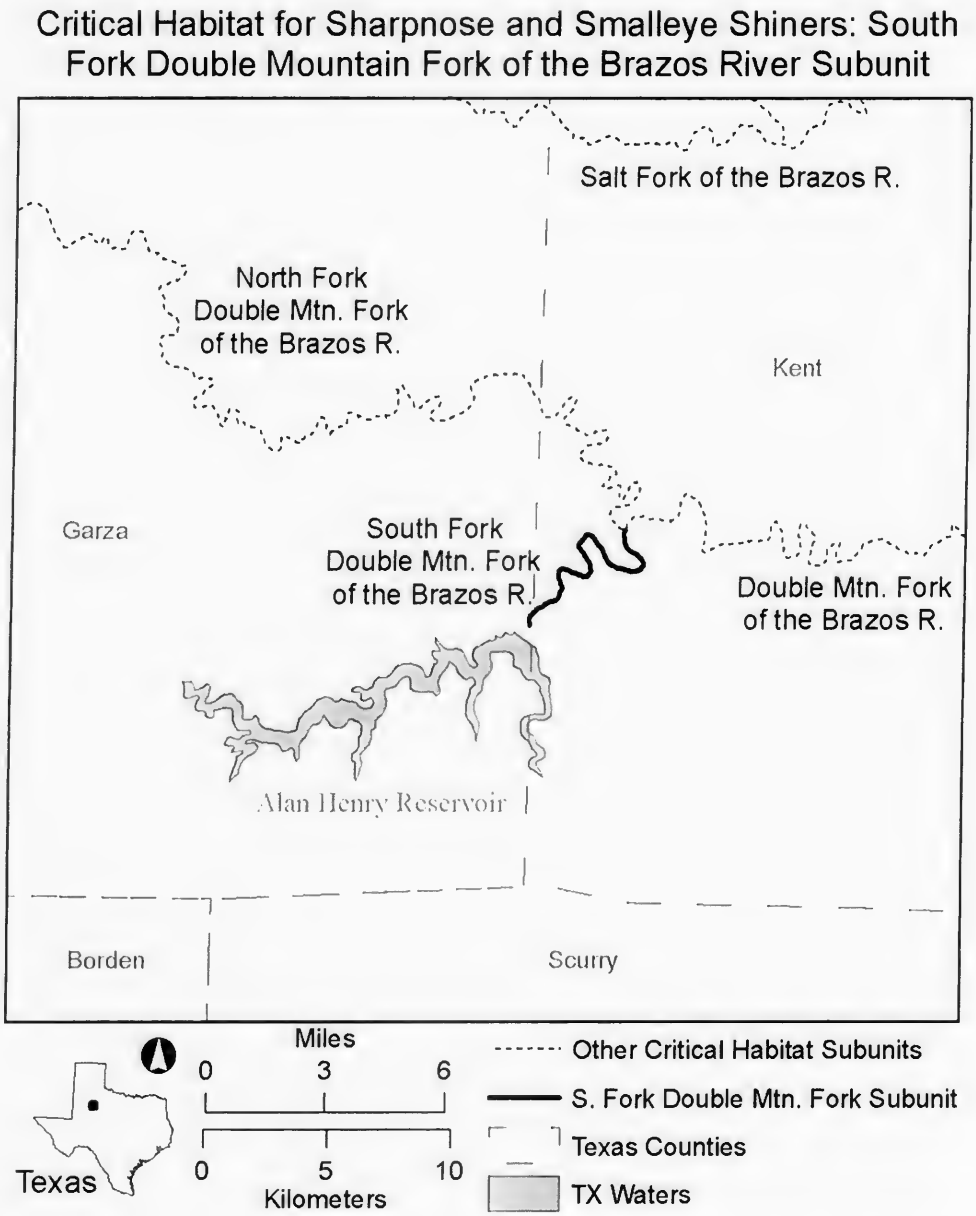
Critical Habitat for Sharpnose and Smalleye Shiners: North Fork Double Mountain Fork of the Brazos River Subunit



(12) Subunit 6: South Fork Double Mountain Fork of the Brazos River; Garza and Kent Counties, Texas.

(i) South Fork Double Mountain Fork of the Brazos River from its confluence with the North Fork Double Mountain Fork of the Brazos River (33.100269, −100.999803) upstream to the John T. Montford Dam of Lake Alan Henry (33.065008, −101.039780).

(ii) Note: Map of Subunit 6, South Fork Double Mountain Fork of the Brazos River, follows:



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Smalleye Shiner (*Notropis buccula*)

(1) Critical habitat units are depicted for Baylor, Crosby, Fisher, Garza, Haskell, Kent, King, Knox, Stonewall, Throckmorton, and Young Counties, Texas, on the maps.

(2) Critical habitat includes the bankfull width of the river channel within the identified river segments indicated on the maps, and includes a lateral distance of 30 meters (98 feet) on each side of the stream width at bankfull discharge. Bankfull discharge is the flow at which water begins to leave the channel and move into the floodplain and generally occurs every 1 to 2 years.

(3) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of the smalleye shiner consist of a riverine system with habitat to support all life-history stages of the smalleye shiner, which includes:

(i) Unobstructed, sandy-bottomed river segments greater than 275 kilometers (171 miles) in length.

(ii) Flowing water of greater than 6.43 cubic meters per second (m^3s^{-1}) (227 cubic feet per second (cfs)) averaged over the shiner spawning season (April through September).

(iii) Water of sufficient quality to support survival and reproduction, characterized by:

(A) Temperatures generally less than 40.6 °C (105.1 °F);

(B) Dissolved oxygen concentrations generally greater than 2.11 milligrams per liter (mg/L);

(C) Salinities generally less than 18 parts per thousand (ppt) (30 millisiemens per centimeter (mS/cm)); and

(D) Sufficiently low petroleum and other pollutant concentrations such that mortality does not occur.

(iv) Native riparian vegetation capable of maintaining river water quality, providing a terrestrial prey base, and maintaining a healthy riparian ecosystem.

(4) Critical habitat does not include manmade structures (such as buildings, railroads, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on the effective date of this rule.

(5) *Critical habitat map units.* Data layers defining map units were created using the USGS National Hydrography Dataset's flowline data in ArcMap (Environmental Systems Research Institute, Inc.), a computer geographic information system program. The 30-m (98-ft) lateral extent adjacent to each segment's active channel is not displayed in the figures because it is not appropriate at these map scales. Segments were mapped using the NAD 1983 UTM Zone 14 projection. Endpoints of stream segments for each critical habitat subunit are reported as latitude, longitude in decimal degrees. The maps, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's Internet site (*http://www.fws.gov/southwest/es/ArlingtonTexas/*), at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2013–0008, and at the Arlington, Texas, Ecological Services Field Office. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(6) Index map of critical habitat units for the smalleye shiner is provided at paragraph (6) of the entry for the sharpnose shiner in this paragraph (e).

(7) Subunit 1: Brazos River Main Stem from approximately 15 river km (9.3 miles) upstream of the eastern border of Young County where it intersects the upper portion of Possum Kingdom Lake (32.974302, −98.509880) upstream to the confluence of the Double Mountain Fork of the Brazos River and the Salt Fork of the Brazos River where they form the Brazos River main stem (33.268404, −100.010209); Baylor, King, Knox, Stonewall, Throckmorton, and Young Counties, Texas. Map of Upper Brazos River Main Stem Subunit is provided at paragraph (7) of the entry for the sharpnose shiner in this paragraph (e).

(8) Subunit 2: Salt Fork of the Brazos River from its confluence with the Double Mountain Fork of the Brazos River (33.268404, −100.010209) upstream to the McDonald Road crossing (33.356258, −101.345890); Garza, Kent, and Stonewall Counties, Texas. Map of Salt Fork of the Brazos River Subunit is provided at paragraph (8) of the entry for the sharpnose shiner in this paragraph (e).

(9) Subunit 3: White River from its confluence with the Salt Fork of the Brazos River (33.241172, −100.936181) upstream to the White River Lake impoundment (33.457240, −101.084546); Crosby, Garza, and Kent Counties, Texas. Map of White River Subunit is provided at paragraph (9) of the entry for the sharpnose shiner in this paragraph (e).

(10) Subunit 4: Double Mountain Fork of the Brazos River from its confluence with the Salt Fork of the Brazos River (33.268404, −100.010209) upstream to the confluence of the South Fork Double Mountain Fork of the Brazos River and the North Fork Double Mountain Fork of the Brazos River where they form the Double Mountain Fork of the Brazos River (33.100269, −100.999803); Fisher, Haskell, Kent, and Stonewall Counties, Texas. Map of Double Mountain Fork of the Brazos River Subunit is provided at paragraph (10) of the entry for the sharpnose shiner in this paragraph (e).

(11) Subunit 5: North Fork Double Mountain Fork of the Brazos River from its confluence with the South Fork Double Mountain Fork of the Brazos River (33.100269, −100.999803) upstream to the earthen impoundment near Janes-Prentice Lake (33.431515, −101.479610); Crosby, Garza, and Kent Counties, Texas. Map of North Fork Double Mountain Fork of the Brazos River Subunit is provided at paragraph (11) of the entry for the sharpnose shiner in this paragraph (e).

(12) Subunit 6: South Fork Double Mountain Fork of the Brazos River from its confluence with the North Fork Double Mountain Fork of the Brazos River (33.100269, −100.999803) upstream to the John T. Montford Dam of Lake Alan Henry (33.065008, −101.039780); Garza and Kent Counties, Texas. Map of South Fork Double Mountain Fork of the Brazos River Subunit is provided at paragraph (12) of the entry for the sharpnose shiner in this paragraph (e).

* * * * *

Dated: July 21, 2014.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–17694 Filed 8–1–14; 8:45 am]

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FEDERAL REGISTER

Vol. 79 Monday,
No. 149 August 4, 2014

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17
Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Sharpnose Shiner and Smalleye Shiner; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2013–0083;4500030113]

RIN 1018–AY55

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Sharpnose Shiner and Smalleye Shiner

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, determine endangered species status under the Endangered Species Act of 1973, as amended, for the sharpnose shiner (*Notropis oxyrhynchus*) and smalleye shiner (*N. buccula*), two fish species from Texas. The effect of this regulation will be to add these species to the List of Endangered and Threatened Wildlife. We have also determined that critical habitat for the sharpnose shiner and smalleye shiner is prudent and determinable. Elsewhere in today's **Federal Register**, we designate critical habitat for the sharpnose shiner and smalleye shiner under the Act.

DATES: This rule becomes effective September 3, 2014.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* and at *http://www.fws.gov/southwest/es/ArlingtonTexas.* Comments and materials received, as well as supporting documentation used in the preparation of this rule, are available for public inspection at *http://www.regulations.gov.* All of the comments, materials, and documentation that we considered in this rulemaking are available for public inspection, by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Arlington, Texas, Ecological Services Field Office, 2005 NE Green Oaks Blvd., Suite 140, Arlington, TX 76006; by telephone 817–277–1100; or by facsimile 817–277–1129.

FOR FURTHER INFORMATION CONTACT: Debra Bills, Field Supervisor, Arlington, Texas, Ecological Services Field Office, (see **ADDRESSES**). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act (Act), a species or subspecies may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule. On August 6, 2013 (78 FR 47582; 78 FR 47612), we proposed to list the sharpnose shiner and smalleye shiner as endangered species and proposed to designate critical habitat under the Act. Elsewhere in today's **Federal Register**, we finalize designation of critical habitat for the sharpnose shiner and smalleye shiner under the Act.

This rule will finalize the listing of the sharpnose shiner and smalleye shiner as endangered species.

The basis for our action. Under the Act, a species may be determined to be an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence. We have determined that the sharpnose and smalleye shiners meet the definition of an endangered species primarily because of the present or threatened destruction, modification, or curtailment of its habitat or range resulting mainly from impoundments and alterations of natural stream flow.

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. We also considered all comments and information received during the public comment period.

Previous Federal Actions

On June 13, 2002 (67 FR 40657), the sharpnose shiner and smalleye shiner were made candidates for listing under the Act. On May 11, 2004, we received a petition to list the sharpnose shiner and smalleye shiner. We published our petition finding on May 11, 2005 (70 FR 24899). Because the sharpnose shiner and smalleye shiner were previously identified through our candidate assessment process, the species had already received the equivalent of a substantial 90-day finding and a warranted, but precluded, 12-month finding (67 FR 40657, June 13, 2002). Through the annual candidate review process (69 FR 24876, May 4, 2004; 70 FR 24870, May 11, 2005; 71 FR 53756, September 12, 2006; 72 FR 69034, December 6, 2007; 73 FR 75176, December 10, 2008; 74 FR 57804, November 9, 2009; 75 FR 69222, November 10, 2010; 76 FR 66370, October 26, 2011; 77 FR 69994, November 21, 2012), the U.S. Fish and Wildlife Service (Service) continued to solicit information from the public regarding these species.

On August 6, 2013 (78 FR 47582; 78 FR 47612), we proposed to list the sharpnose shiner and smalleye shiner under the Act as endangered species and proposed to designate critical habitat. We held a public hearing on September 4, 2013, in Abilene, Texas. On March 4, 2014 (79 FR 12138), we requested comments on the draft economic analysis of critical habitat designation for the shiners, as well as the proposed rule to designate critical habitat. This comment period closed on April 3, 2014 (79 FR 12138).

Background

Species Information

The April 2014 Species Status Assessment Report (SSA Report) (Service 2014, entire), available online at *www.regulations.gov* under Docket Number FWS–R2–ES–2013–0083, provides a thorough assessment of sharpnose shiner and smalleye shiner biology and natural history, and assesses demographic risks, threats, and limiting factors in the context of determining viability and risk of extinction for the species. The SSA Report has been updated since the August 6, 2013, publication of the proposed rules with data received during the peer review and public comment processes. In the SSA Report, we compile biological data and a description of past, present, and likely future threats (causes and effects) facing the sharpnose shiner and smalleye shiner. Because data in these areas of science are limited, some uncertainties are associated with this assessment. Where we have substantial uncertainty, we have attempted to make our necessary assumptions explicit in the SSA Report. We base our assumptions in these areas on the best available scientific and commercial data. Importantly, the SSA Report does not represent a decision by the Service on whether these taxa should be listed as endangered or threatened species under the Act. The SSA Report does, however, provide the scientific basis that informs

our decisions (see *Summary of Biological Status and Threats* in this final rule), which involve the further application of standards within the Act and its regulations and policies (see Determination) in this final rule).

Summary of Biological Status and Threats

Our SSA Report documents the results of the comprehensive biological status review for the sharpnose and smalleye shiners and provides a thorough account of the species' overall viability and, conversely, extinction risk (Service 2014, entire). The SSA Report contains the data on which this final rule is based. The following is a summary of the results and conclusions from the SSA Report.

The sharpnose shiner and smalleye shiner are small minnows native to arid prairie streams of Texas originating from the Brazos River. The naturally occurring historical distribution of the sharpnose shiner included the Brazos River, Colorado River, and Wichita River in Texas, while the naturally occurring historical distribution of the smalleye shiner included only the Brazos River.

In conducting our status assessment, we first considered what the two shiners need to ensure viability. We generally define viability as the ability of the species to persist over the long term and, conversely, to avoid extinction. We then evaluated whether those needs currently exist and the repercussions to the species when those needs are missing, diminished, or inaccessible. We next considered the factors that are causing the species to lack what they need, including historical, current, and future factors. Finally, considering the information reviewed, we evaluated the current status and future viability of the species in terms of resiliency, redundancy, and representation.

Resiliency is the ability of a species to withstand stochastic events and, in the case of the shiners, is best measured by the extent of suitable habitat in terms of stream length. Redundancy is the ability of a species to withstand catastrophic events by spreading the risk and can be measured through the duplication and distribution of resilient populations across the species' range. Representation is the ability of a species to adapt to changing environmental conditions and can be measured by the breadth of genetic diversity within and among populations and the ecological diversity of populations across the species' range. In the case of the shiners, we evaluate representation based on the extent of the geographical range and the variability of habitat characteristics within their range as indicators of genetic and ecological diversity.

Our assessment found that both species of shiners have an overall low viability (or low probability of persistence) in the near term (over about the next 10 years) and a decreasing viability (increasing risk of extinction) in the long-term future (over the next 11 to 50 years). For the shiners to be considered viable, individual fish need specific vital resources for survival and completion of their life cycles. Both species need wide, shallow, flowing waters generally less than 0.5 meters (m) (1.6 feet (ft)) deep with sandy substrates, which are found in mainstem rivers in the arid prairie region of Texas. Both species broadcast-spawn eggs and sperm into open water asynchronously (fish not spawning at the same time) during periods of low flow and synchronously (many fish spawning at the same time) during periods of elevated streamflow from April through September. Their eggs are semi-buoyant and remain suspended 1 or 2 days in flowing water as they develop into larvae. Larval fish remain suspended in the flowing water column an additional 2 to 3 days as they develop into free-swimming juvenile fish. In the absence of sufficient water velocities, suspended eggs and larvae sink into the substrate where a majority likely dies. The reproductive strategy of these species makes them particularly vulnerable to changes in the natural conditions of occupied habitat.

To sustain populations of the shiners long term, population dynamics modeling suggests estimated mean spawning season river flows of 2.61 cubic meters per second (m^3s^{-1}) (92 cubic feet per second (cfs)) and 6.43 m^3s^{-1} (227 cfs) are required for the sharpnose and smalleye shiners, respectively. It is also estimated that populations of shiners require approximately 275 kilometers (km) (171 miles (mi)) of unobstructed, flowing water during the breeding season to support a successfully reproductive population. This length of stream allows the eggs and larvae to remain suspended in the water column and survive until they mature sufficiently to swim on their own. Across their range, these species also need unobstructed river lengths to allow for upstream and downstream movements to survive seasons with poor environmental conditions in certain river reaches. Unobstructed river reaches allow some fish to survive and recolonize degraded reaches when conditions improve. In addition, these fish only naturally live for 1 or 2 years, making the populations particularly vulnerable when the necessary streamflow conditions for reproduction are lacking for more than one season.

The current conditions of both species indicate that they do not have the necessary resources for persistence in the immediate future. Both species have experienced range reduction, with both fish having lost at least half of their historical range. Both species are now restricted to one population in the upper Brazos River basin. As a result, sharpnose and smalleye shiners currently lack redundancy, which is reducing the viability of these species as a whole. In addition, streamflows within their current extant range are insufficient during some years to support successful reproduction, such as occurred in 2011. These fish have been resilient to past stressors that occur over short durations, and their populations appear capable of recovering naturally even when an entire year's reproductive effort is lost. However, without human intervention, given their short lifespan and restricted range, stressors that persist for two or more reproductive seasons (such as a severe drought) severely limit these species' current viability, placing them at a high risk of extinction now.

The two primary factors affecting the current and future conditions of these shiners are river fragmentation by impoundments and alterations of the natural streamflow regime (by impoundments, drought, groundwater withdrawal, and saltcedar encroachment) within their range. Other secondary factors, such as water quality degradation and commercial harvesting for fish bait, likely also impact these species but to a lesser degree. These multiple factors are not acting independently, but are acting together as different sources (or causes), which can result in cumulative effects to lower the overall viability of the species.

Fish barriers such as impoundments are currently restricting the upstream and downstream movement of migrating fish and prevent survival of the semi-buoyant eggs and larvae of sharpnose and smalleye shiners. This is because the eggs and larvae cannot remain suspended in the water column under non-flowing conditions in reservoirs or if streamflows cease. Of the area once occupied by one or both species in the Brazos, Colorado, and Wichita Rivers, only two contiguous river segments remain with unobstructed lengths (without dams) greater than 275 km (171 mi): The upper Brazos River (where the fish are extant) and the lower Brazos River (where the fish are either extirpated or functionally extirpated). The effects of river habitat fragmentation have occurred and

continue to occur throughout the range of both species and are expected to increase if proposed new reservoirs are constructed. River habitat fragmentation is affecting both species at the individual, population, and species levels, and puts the species at a high risk of extinction currently and increasingly so into the long-term future.

The historical ranges of both species have been severely fragmented, primarily by large reservoir impoundments, resulting in the isolation of one population of each species in the upper Brazos River basin. The construction of Possum Kingdom Reservoir in 1941, for example, eliminated the ability of these species to migrate downstream to wetter areas when the upper Brazos River experiences drought. There are also a number of existing in-channel structures (primarily pipeline crossings and low-water crossings) within the occupied range of these species, some of which are known to restrict fish passage during periods of low flow. Species extirpation has already occurred in areas where river segments have been fragmented and reduced to less than 275 km (171 mi) in length.

In addition, future fragmentation of the remaining occupied habitat of the upper Brazos River by new impoundments would decrease the contiguous, unfragmented river habitat required by these species for successful reproduction and impact the sole remaining population of each of these species. Texas does not have adequate water supplies to meet current or projected water demand in the upper Brazos River region, and additional reservoir construction is considered imminent. Possible new impoundments include the 2012 State Water Plan's proposed Post Reservoir in Garza County, the Double Mountain Fork Reservoir (East and West) in Stonewall County, and the South Bend Reservoir in Young County. Because extirpation of these species is expected to eventually occur in occupied river fragments reduced to less than 275 km (171 miles) in length, any new structures further fragmenting stream habitats increases the likelihood of extinction for both species.

The natural flow regime is considered one of the most important factors to which native riverine species, like the shiners, become adapted, and alterations to it can have severe impacts on fishes. A majority of sharpnose and smalleye shiner reproductive output occurs through synchronized spawning during periods of elevated pulse flows associated with storms, although successful reproduction is also possible during periods of low to moderate flow. When streamflows are insufficient, the fish cannot successfully spawn and reproduce. There are several environmental changes that are a source of declining streamflows within the range of the shiners. Downstream of reservoirs, streamflows are lowered and stabilized, which has reduced or, in some areas, eliminated successful reproduction in these species. In addition, groundwater withdrawal and depletion will reduce or eliminate the remaining springs and seeps of the upper Brazos River basin, which will lower river flow. Drought is another obvious source of impact that negatively affects streamflow and has severe impacts on sharpnose and smalleye shiner reproduction. Severe droughts in this region are expected to become more common as a result of ongoing climate change. Finally, saltcedar encroachment is another source of environmental change that not only is affecting streamflows but also restricts channel width and increases channel depth. These stream channel changes reduce the amount of wide channels and shallow waters preferred by sharpnose and smalleye shiners. Reduced streamflow leading to river pooling also affects the survival of adult and juvenile fishes because water quality parameters such as salinity, dissolved oxygen, and temperature may approach or exceed those tolerated by these species and food availability becomes limited. Flow reduction and an altered flow regime have occurred and continue to occur throughout the range of these species and are expected to impact both species at the individual, population, and species levels.

Within the reduced range of these species in the upper Brazos River basin, there are currently at least 13 impoundments or other structures (e.g., pipelines and low water crossings) affecting (to varying degrees) the amount of stream flow within the occupied range of these species. Upstream reservoirs serve as water supplies for various consumptive water uses and reduce downstream flows available for the fishes. Because the current impoundments restrict stream flow below the minimum levels required for both species, we expect these impoundments to impact both species at the individual, population, and species levels.

Additional future impoundments, reservoir augmentations, and water diversions are under consideration for construction within the upper Brazos River basin, which would further reduce flows and fragment remaining habitat. The construction of at least some of these structures to meet future water demand in the region is likely to occur within the next 50 years. These future impoundments, reservoir augmentations, and water diversions will further increase the likelihood of extinction for both species.

Besides impoundments and diversions of water from reservoirs, there are other sources causing reduced stream flows in the upper Brazos River basin. One such source is the projected warmer temperatures and drier conditions in the upper Brazos River basin in the future. This trend is already becoming apparent and exacerbates the risk of the species' extinction from loss of river flow. River flow reductions and river drying are also expected to increase as groundwater withdrawals negatively impact already reduced spring flows. Saltcedar encroachment also intensifies evaporative water loss along occupied river segments. There are several existing efforts addressing threats to natural flow regimes, including the Texas Environmental Flows Program, saltcedar control programs, and groundwater conservation districts. However, these programs and conservation efforts have not alleviated ongoing and future threats negatively affecting water flow in the upper Brazos River basin.

The effects of reduced stream flows on the shiners were dramatically demonstrated during the summer spawning season of 2011. During 2011, Texas experienced the worst 1-year drought on record, and the upper Brazos River went dry. Some individual fish presumably found refuge from the drying river in Possum Kingdom Lake downstream. However, the non-flowing conditions in the river made reproduction impossible, and any shiners in the lake would have faced increased predation pressure from large, lake-adapted, piscivorous fish. Fearing possible extinction of these species, State fishery and Texas Tech University biologists captured sharpnose and smalleye shiners from isolated pools in 2011, prior to their complete drying, and maintained a small population in captivity until they were released back into the lower Brazos River the following year. During the 2011 drought, no sharpnose shiner or smalleye shiner reproduction was documented. Given their short lifespan (they rarely survive through two reproductive seasons, and most typically survive long enough to reproduce only once); a similar drought in 2012 would have likely led to extinction of both species. However, 2012 fish survey results of the upper

Brazos River basin indicated drought conditions were not as intense as those in 2011, and successful recruitment of sharpnose and smalleye shiners occurred.

As remaining habitat of the shiners becomes more fragmented and drought conditions intensify, the single remaining population of sharpnose shiners and smalleye shiners will become more geographically restricted, further reducing the viability of the species into the future. Under these conditions, the severity of secondary threats, such as water quality degradation from pollution and golden algal blooms, and legally permitted commercial bait fish harvesting, will have a larger impact on the species and a single pollutant discharge, golden algal bloom, or commercial harvesting or other local event will increase the risk of extinction of both species.

The shiners currently have limited viability and increased vulnerability to extinction largely because of their stringent life-history requirement of long, wide, flowing rivers to complete their reproductive cycle. With a short lifespan allowing only one or two breeding seasons and the need for unobstructed river reaches greater than 275 km (171 mi) in length containing average flows greater than 2.61 m^3s^{-1} (92 cfs) and 6.43 m^3s^{-1} (227 cfs) (for the sharpnose and smalleye shiners, respectively) during the summer, both species are at a high risk of extirpation when rivers are fragmented by fish barriers and flows are reduced from human use and drought-enhanced water shortages. These adverse conditions have already resulted in substantial range reduction and isolation of the one remaining population of both fish into the upper Brazos River basin. The extant population of each shiner species is of adequate size, is located in a contiguous stretch of river long enough to support reproduction, and is generally considered resilient to local or short-term environmental changes. However, with only one location, the species lack any redundancy. Further, these species lack representation, meaning they lack the ability to adapt to changing environmental conditions in a timeframe that would avoid extinction.

Given the short lifespan and restricted range of these species, without human intervention, lack of adequate flows (due to drought and other stressors) persisting for two or more consecutive reproductive seasons would likely lead to the species' extinction. With human water use and ongoing regional drought, the probability of this happening in the near term (about the next 10 years) is high, putting the species at a high risk of extinction. Over the longer term (the next 11 to 50 years), these conditions will only continue to deteriorate as human water use continues, construction of new dams within the extant range is possible, and ongoing climate change exacerbates the likelihood of drought. In conclusion, both species currently experience low viability (low probability of persistence), and their viability is expected to continue to decline into the future.

Summary of Comments and Recommendations

In the proposed rule published on August 6, 2013 (78 FR 47582), we requested that all interested parties submit written comments on the proposal by October 7, 2013. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Lubbock Avalanche, Abilene Reporter News, Waco Tribune Herald, and Baylor County Banner. We received requests for a public hearing and held one on September 4, 2013, in Abilene, TX.

During the comment period for the proposed rule, we received 268 comment letters, including 3 peer review comment letters, addressing the proposed listing of sharpnose shiner and smalleye shiner. During the September 4, 2013, public hearing, nine individuals or organizations made comments on the proposed rule. Comments addressing the proposed critical habitat designation were fully addressed in a separate rulemaking action, and published elsewhere in the **Federal Register** today. All substantive information provided during the comment periods has either been incorporated directly into this final determination, the SSA Report, or addressed below.

Comment From Peer Reviewers

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from four knowledgeable individuals with scientific expertise that included familiarity with sharpnose and smalleye shiners or their habitats, biological needs, threats, general fish biology, or aquatic ecology. We received responses from three of the peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the listing of sharpnose shiners and smalleye shiners. The peer reviewers generally concurred with our methods and our assessment of the current status of these species. They provided additional information, clarifications, and suggestions to improve the SSA Report. Peer reviewer comments were all specific to the SSA Report and are incorporated into the SSA Report or responded to in Appendix B of the SSA Report.

Comments From Federal Agencies

(1) Comment: The U.S. Department of Agriculture's Natural Resources Conservation Service works with landowners on a voluntary basis to apply conservation measures, some of which may benefit sharpnose and smalleye shiners, and the Natural Resources Conservation Service welcomes the opportunity to consult with the Service to determine the effects of their actions on the habitat of these two species.

Our Response: The Service appreciates the work of the Natural Resources Conservation Service and looks forward to working with them as conservation partners regarding sharpnose and smalleye shiner habitat.

Comments From the State

(2) Comment: The term "groundwater withdrawal" is too broad and should be replaced with "depletion of shallow, groundwater flows in the Brazos River alluvium" because there is no verifiable data linking the use of the area's aquifers to reduced flow in the Brazos River. More data are needed on the role of groundwater in this region and its effect on the shiners.

Our Response: The Service considers the use of the term "groundwater withdrawal" to adequately capture the evidence provided in the SSA Report and covers both depletion of shallow groundwater flows of the alluvium as well as the removal of groundwater from deeper within the aquifers. We agree more data would be helpful in understanding the interaction between groundwater and surface water flows in the upper Brazos River basin; however, we used the best scientific and commercial data available to determine the effects of groundwater withdrawal on surface water flows and we will continue to investigate the effects of groundwater withdrawal on these species as additional data become available.

(3) Comment: The Service lists several threats to sharpnose and smalleye shiners but does not specifically acknowledge that farming and ranching activities are not threats. It should be explicitly stated that farming and ranching activities have been shown to

have no detrimental impact on these species.

Our Response: In the SSA Report, we identified sources of current threats and threats likely to occur now or in the immediate future based on the best scientific and commercial data available. These threats do not include ranching or farming. Our intent is only to identify activities that likely pose a threat to these species now or in the immediate future. At this time, the best scientific and commercial data available does not indicate that cattle grazing or current farming practices impact these species. However, beyond the immediate future, it is conceivable that large-scale farming or ranching activities could substantially reduce surface water flows in the upper Brazos River basin by extensive groundwater withdrawal or removal of surface water flows.

(4) Comment: Listing the sharpnose and smalleye shiner could affect economic growth in the Brazos River basin or could limit the development of needed water supplies and require management changes of existing water supplies in important economic centers.

Our Response: For listing actions, the Act requires that we make determinations "solely on the basis of the best available scientific and commercial data available" (16 U.S.C. 1533(b)(1)(A)). Therefore, we do not consider any potential information concerning economic or other possible impacts when making listing determinations. We will work with entities to conserve the shiners and develop workable solutions.

(5) Comment: More scientific data are needed regarding the status of the shiners and their habitat in the upper Brazos River basin. The species are surviving downstream of the upper segment of the Brazos River; drought is the most obvious factor impacting these minnows, and it does not make good sense to recreate an artificial environment for species unable to adapt to it. A decision of this magnitude that could affect vital water supplies and the economic future of communities should not be based on uncertainty.

Our Response: Imperiled species often lack an abundance of scientific data; however, the biological and habitat requirements of the sharpnose and smalleye shiners have been well studied for many years. Further, section 4 of the Act requires the Service to base its decision to list species as either threatened or endangered based solely on the best scientific and commercially available data. We interpret the "best available" standard to mean we are required to use the best scientific and commercial data available to us even though it may be limited or uncertain.

The sharpnose and smalleye shiner are currently limited to the upper Brazos River basin and are extirpated or functionally extirpated from the lower Brazos River area. The sole remaining populations of these species occur in the upper Brazos River basin. While the Service agrees drought is an important factor affecting the viability of these fish, drought is exacerbated by the impoundment of their natural habitat, which further reduces water flows and impedes fish migration to more suitable habitat during dry conditions. We are unclear as to what artificial environment the commenter is referring. However, we are not recreating an artificial environment. We are attempting to conserve a healthy, natural aquatic ecosystem in the upper Brazos River basin is important protect habitat for sharpnose and smalleye shiners and other aquatic wildlife.

We sought comments from independent peer reviewers to ensure that our determination is based on scientifically sound data, assumptions, and analysis. We solicited information from the general public, non-governmental conservation organizations, State and Federal agencies that are familiar with the species and their habitats, academic institutions, and groups and individuals that might have information that would contribute to an update of our knowledge of the species, as well as the activities and natural processes that might be contributing to the decline of either species. While some uncertainty will always exist, the existing body of literature on sharpnose shiners, smalleye shiners, and similar broadcast-spawning minnows is the best available information. See the SSA Report for more detailed information about these species.

(6) Comment: A scientifically based approach including input from affected stakeholders is under way to develop the necessary flows to balance the needs of all users in the Brazos River basin. The listing of these shiners could undermine this effort.

Our Response: The Service is aware of the Texas Environmental Flows Program, a scientifically-based approach currently being developed per Senate Bill 3 of the 2007 Texas Legislature. The Service considered this information in section "6.B. Minimize Impacts from Impoundments" of the SSA Report. The Service has concluded that the listing of these species does not undermine the Texas Environmental Flows Program. The Service looks forward to working with the State to promote ecologically sustainable water use and to provide information regarding impacts to fish and wildlife resources from environmental flow recommendations when available and applicable.

(7) Comment: The Service should discuss on-the-ground work for saltcedar (*Tamarix* spp.) control with the appropriate agencies.

Our Response: The Service has been engaged with several organizations involved in saltcedar control projects including the U.S. Department of Agriculture's Natural Resources Conservation Service, The Brazos River Authority, and our internal Partners for Fish and Wildlife program. We look forward to continuing to work with these and additional conservation partners in controlling saltcedar in the upper Brazos River basin. Despite ongoing saltcedar control efforts, these invasive plants continue to thrive in parts of the upper Brazos River basin.

Public Comments

(8) Comment: A number of public comments opposed the listing of the sharpnose shiner and smalleye shiner as federally endangered or threatened species but provided no substantive scientific or commercial evidence suggesting that listing is not warranted.

Our Response: While we appreciate the opinion of all interested parties, the Service must base its decision of whether to list the sharpnose shiner and smalleye shiner solely on the basis of the best scientific and commercial data available.

(9) Comment: Several comments opposed the involvement of the Federal Government in Texas' affairs or claimed the Texas Parks and Wildlife Department could handle protection of the sharpnose shiner and smalleye shiner.

Our Response: While the Texas Parks and Wildlife Department is a valued partner in conserving imperiled species, they do not currently list the sharpnose or smalleye shiners as endangered species, nor does Texas' endangered species law protect the habitat on which these species rely. Consequently, the threats to these species are not completely ameliorated by current Texas actions or laws. The Service looks forward to working with our State partners in the protection and conservation of these species.

(10) Comment: Efforts to contain the naturally occurring salt springs along the Salt Fork of the Brazos River would enhance water quality during low flow conditions and would help mitigate the threat from golden algae blooms.

Our Response: This is an issue that would be considered during the recovery process.

(11) Comment: Listing the sharpnose and smalleye shiners as endangered is inappropriate because there is neither a shortage of their habitat nor populations.

Our Response: The sharpnose shiner was known historically and naturally to inhabit approximately 3,417 km (2,123 mi) of river segments in the Brazos, Red, and Colorado River basins, but now the only sustainable population is restricted to approximately 1,009 km (627 mi) of the upper Brazos River basin, a greater than 70 percent reduction. The smalleye shiner was known historically and naturally to inhabit approximately 2,067 km (1,284 mi) of river segments in the Brazos River basin, but now the only sustainable population is restricted to approximately 1,009 km (627 mi) of the upper Brazos River basin, a greater than 51 percent reduction. These are the sole remaining populations of these species. A more detailed description of the species' current and historical ranges is in section "2.D. Species Rangewide Needs" of the SSA Report. The two primary factors affecting the current and future conditions of these shiners are river fragmentation by impoundments and alterations of the natural streamflow regime (by impoundments, drought, groundwater withdrawal, and saltcedar encroachment) within their range. Other secondary factors, such as water quality degradation and commercial harvesting for fish bait, likely also impact these species but to a lesser degree. These multiple factors are not acting independently, but are acting together as different sources (or causes), which can result in cumulative effects to lower the overall viability of the species.

(12) Comment: Sharpnose and smalleye shiners are sold as bait along the Brazos River in Texas, but there are laws in place that severely limit commercial harvesting of bait fish now and in the future. However, sharpnose and smalleye shiners are sold as bait along the Brazos River.

Our Response: Texas law requires commercial bait harvesters to obtain a State permit before taking nongame fish, such as the shiners, from public fresh waters of the State (Texas Administrative Code Title 31, Part 2, Chapter 57). We are aware of at least one existing State permit that provides for commercial bait harvesting in the upper Brazos River basin, where both sharpnose and smalleye shiners are known to occur. At this time, the permits issued under Texas State law do not require identification of fish collected for commercial bait at the species level, do not put limits on the number of fish collected, and do not prohibit the collection of sharpnose and smalleye shiners. Consequently, commercial bait harvesting remains a threat despite the Texas permitting system. Furthermore, upon effectiveness of this rule, the "take" (as defined by Federal law) of either species will be considered a violation of the Act, regardless of the effect of the permits issued by the State of Texas.

(13) Comment: River fragmentation by impoundments and alterations of natural stream flow is adequately regulated by current Texas State law including Senate Bill 155, which states that no person may construct or maintain a structure on land owned by the State of Texas without a permit. The Brazos River bed is owned by the State of Texas.

Our Response: We recognize that Texas State law may regulate aspects of the construction of impoundments in the Brazos River. However, as discussed in the *Final Listing Status Determination* (below), this law does not remove the threats to the species caused by existing impoundments. Further, this law does not remove the possibility of future impoundments causing further loss of unfragmented habitat.

(14) Comment: The Service should not base part of the listing rule on the unproven science surrounding climate change uncertainty in applying climate change models at the local scale.

Our Response: The Service considered numerous scientific data sources as cited in our SSA Report pertaining to climate change. The best available scientific information shows unequivocally that the Earth's climate is currently in a period of unusually rapid change, the impacts of that change are already occurring (National Fish, Wildlife, and Plants 2012, p. 9), and the region is likely to experience warmer weather, which will further strain water resources through increased water use, evaporation, and evapotranspiration.

Projections of climate change globally and for broad regions through the 21st century are based on the results of modeling efforts using state-of-the-art Atmosphere-Ocean General Circulation Models and various greenhouse gas emissions scenarios (Meehl *et al.* 2007, p. 753; Randall *et al.* 2007, pp. 596–599). However, the Service recognizes that the current climate change models are not always downscaled to a local level. Despite improvements in climate change science, climate change models still have difficulties with certain predictive capabilities. These difficulties are more pronounced at smaller spatial scales and longer time scales. Model accuracy is limited by important small-scale processes that cannot be represented explicitly in models and so must be included in approximate form as they interact with larger-scale features. This is partly due to limitations in computing power, but also results from limitations in scientific understanding or in the availability of detailed observations of some physical processes. Consequently, models continue to display a range of outcomes in response to specified initial conditions and forcing scenarios. Despite such uncertainties, models predict climate warming under greenhouse gas increases (Meehl *et al.* 2007, p. 762; Prinn *et al.* 2011, p. 527), which is likely to worsen future drought conditions in the upper Brazos River.

Drought conditions negatively impact sharpnose shiners and smalleye shiners by reducing the availability and flow rate of river water required to survive and reproduce. The frequency of spawning seasons not meeting the estimated minimum mean summer discharge requirements to support sharpnose and smalleye shiner growth appears to be increasing (Service 2014, p. 42). With increasing drought, there is a projected decrease in surface runoff up to 10 percent by the mid-21st century (Mace and Wade 2008, p. 656; Karl *et al.* 2009, p. 45). As the intensity and frequency of spawning season droughts increase and river flows decrease, shiner survival and reproduction will be reduced. The SSA Report and listing rules have been revised to more clearly recognize the uncertainty in applying climate change models to the local scale of the upper Brazos River basin.

(15) Comment: The Service received multiple requests for additional public hearings. Requests contended that the Service provided inadequate notification, that having a hearing for the proposed listing rule and proposed critical habitat rule at the same time did not follow the requirements outlined in the Act, and that the meeting was not located close to proposed critical habitat.

Our Response: Section 4(b)(5) of the Act states that the Service shall promptly hold one public hearing on the proposed regulation if any person files a request for such a hearing within 45 days after the date of the publication of the general notices. The Service did receive a request for a public hearing, and the Service held a public hearing on September 4, 2013, in Abilene, Texas.

The notification of the public hearing was clearly stated in both the proposed rule to list the sharpnose shiner and smalleye shiner as endangered and in

the proposed rule to designated critical habitat for these species on August 6, 2013 (78 FR 47582; 78 FR 47612). A notification of the public hearing was also published in the Lubbock Avalanche on Sunday, August 18th; the Abilene Reporter News on Sunday, August 18th; the Waco Tribune Herald on Sunday, August 25th; and the Baylor County Banner from August 15th through the 22nd. These newspapers have relatively large distributions with one located immediately upstream of designated critical habitat, one downstream of designated critical habitat, and two having distributions in or around designated critical habitat.

The Service mailed letters, which included information regarding the public hearing to over 100 recipients, shortly after the proposed rules published on August 6, 2013. Letter recipients included Federal agencies, State agencies, city offices, county courthouses, and numerous nongovernmental organizations. Service staff also contacted approximately 56 local media outlets and posted a news release containing the public hearing announcement on the Arlington, Texas, Ecological Services Field Office and Service's Southwest Region Web pages.

The Act does not require the Service to hold multiple public hearings in multiple locations. The Act also does not indicate a necessary proximity to proposed critical habitat within which to hold a public hearing. The Service chose Abilene, Texas, because it is the largest city centrally located to the proposed designated critical habitat that contained a venue of appropriate size and with reasonable access by major roads and highways. The Service also held the public hearing in the evening to provide adequate time for attendees to travel after normal work hours. To provide additional opportunity for the public to provide comments, the Service reopened the comment period on the proposed rule to designate critical habitat for these species for 30 days to coincide with the availability of the Draft Economic Analysis of the Proposed Designation of Critical Habitat for Sharpnose and Smalleye Shiners on March 4, 2014 (79 FR 12138).

(16) Comment: There have been droughts of this magnitude before, and the sharpnose and smalleye shiners continue to exist.

Our Response: According to available U.S. Geological Survey flow station data, the worst 1-year drought recorded in the upper Brazos River basin occurred in 2011, and the best available commercial and scientific data suggest the trend of increasing drought intensity and duration is likely to worsen in the future. Prior to U.S. Geological Survey flow monitoring and construction of Brazos River impoundments, droughts of equal intensity may have occurred, but the sharpnose and smalleye shiner were likely capable of surviving because cumulative threats, such as river fragmentation from constructed impoundments, were not present at that time. Threats to the species do not necessarily act individually but act cumulatively. These cumulative, negative impacts exceed those that would be expected from each threat individually.

Due to drought conditions and lack of streamflow in 2011 there was no observed recruitment of juvenile sharpnose or smalleye shiners during sampling efforts of the upper Brazos River during the spawning season of 2011 (Wilde 2012b, pers. comm.). Given these species at most survive for two reproductive seasons, severe drought conditions during consecutive spawning seasons may result in local extirpations or complete extinction unless recovery actions are implemented. The summer of 2011 provided an example of what happens to these species when water availability is reduced by in-channel impoundments (water withheld for municipal use in the upper Brazos River basin), continued groundwater depletion (particularly for agricultural use in the upper Brazos River basin), saltcedar encroachment (particularly in the downstream portion of the upper Brazos River), and severe drought (2011 being Texas' worst 1-year drought on record). When these factors acted together, the upper Brazos River dried up over much of its length, and a complete lack of reproduction and recruitment was observed for these species. The impoundment of Possum Kingdom Lake also exacerbated the impact of flow regime alteration to these species by blocking the downstream movement of these fish to areas with suitable conditions for survival and reproduction, as may have historically occurred during extreme circumstances. Negative effects were likely also exacerbated by increased predation pressure on adult sharpnose and smalleye shiners seeking refuge in Possum Kingdom Lake by larger, lentic-adapted piscivorous fish species.

(17) Comment: Large landowners often cannot participate in cost-share programs (such as those for saltcedar control to benefit sharpnose and smalleye shiners) because of earned income. If the government mandates saltcedar control, it will come out of their pockets.

Our Response: The Service does not have authority to mandate what private landowners do with their land and cannot require landowners to engage in conservation activities, such as saltcedar control. Many cost-share programs consider positive impacts to threatened or endangered species when deciding projects to fund; therefore, landowners who are eligible for cost-share programs and would like to implement saltcedar control on land of the upper Brazos River basin may be more likely to receive cost-share.

(18) Comment: The public should know who has been chosen as peer reviewers or have input in choosing who peer reviews the listing rules and species status assessment.

Our Response: Peer reviewer names are made available to the public when their comments are officially submitted and posted on *www.regulations.gov* as with any public commenter. Release of peer reviewer names prior to the submission of their review can subject them to public and political pressures. The Service relies on peer review to provide a thorough and expert opinion on the science used to make listing decisions and it should be guarded against outside influences that could affect the subjectivity of that review.

In selecting peer reviewers we followed the guidelines for Federal agencies spelled out in the Office of Management and Budget (OMB) "Final Information Quality Bulletin for Peer Review," released December 16, 2004, and the Service's "Information Quality Guidelines and Peer Review", revised June 2012. Part of the peer review process is to provide information online about how each peer review is to be conducted. Prior to publishing the proposed listing and critical habitat rule for the shiners, we posted a peer review plan on our Web site at *http://www.fws.gov/southwest/science/peerreview.html,* which included information about the process and criteria used for selecting peer reviewers.

(19) Comment: The effluent from the City of Lubbock has raised the alkali level of the Brazos River such that it is borderline for human consumption.

Our Response: The Service is unaware of any data linking alkalinity levels to City of Lubbock effluent, nor is it aware of any data suggesting the alkalinity of the upper Brazos River basin is above normal levels. The commenter did not provide any citations or documentation to support this comment.

(20) Comment: The Service justifies the proposed rule, in part, by alleging a decline in population of the species without providing an estimate of historical or current population data. A review of historical surveys or population monitoring surveys could be

implemented to determine population trends and relative distribution.

Our Response: The Service is using range restriction and intensity of threats to the species as indicators of species status. Population size and fish abundance are not perfect measures of population health for the sharpnose and smalleye shiner because numbers of fish vary widely with changing habitat conditions and because ongoing threats to the species have the ability to cause extirpation and extinction regardless of population size. Recent and ongoing survey efforts are adding to the body of knowledge for these fish. In their occupied range, both species are distributed throughout the upper Brazos River depending on habitat conditions (available surface water within tolerable physiological limits) at the time of collection. See our response to comment (11) above for additional information.

(21) Comment: The Service fails to support the designated historical and current range of either species. The Service does not present findings for a state-wide survey or comprehensive presence or absence survey within their historical ranges.

Our Response: The historical and current ranges of sharpnose and smalleye shiners are based on peer-reviewed published accounts of these species, survey results, and analysis of museum specimens collected and geographically digitized by ichthyologists. While there is not a State-wide or comprehensive survey effort within the historical range, the Service must use the best scientific and commercial data available. For the purposes of determining historical and current ranges, these sources represent the best available commercial and scientific data.

(22) Comment: The Service does not consider the possibility of future flood events or bait fish introductions that could result in transferring sharpnose or smalleye shiners from the upper Brazos River to the Colorado River or areas outside the current or native range.

Our Response: The Brazos and Colorado Rivers contain several impoundments that serve as water storage and flood control devices. Also, sharpnose and smalleye shiners are considered extirpated or functionally extirpated in the lower Brazos River where such a connection with the Colorado River would occur during a flood event. The occupied segments of the upper Brazos River basin are generally under such low-flow conditions that the basin is unlikely to experience a flood of sufficient magnitude to connect it to another river basin. Based on this information, it appears unlikely that flooding would transport shiners to the Colorado River or outside their current range.

The Service recognizes in the SSA Report that these species could be transferred as bait fish. However, a river where a fish may be transferred would need suitable habitat to establish and maintain a population, and there are limited rivers in the area that provide suitable habitat. Further, it is likely that a suitable number of individuals would need to be transferred in order to survive and establish a population. However, if such a transfer would occur, these species would be protected wherever they are found due to listing under the Act.

(23) Comment: The Service does not address the viability or importance of historical populations outside of the Brazos River basin.

Our Response: The natural historical distribution of the sharpnose shiner is considered to include the Brazos, Colorado, and Wichita River basins. However, the species is now extirpated from the Colorado and Wichita Rivers, as well as the middle and lower sections of the Brazos River. Consequently, there are no populations outside of the upper segment of the Brazos River, and, therefore, no additional populations exist to contribute to the viability of the species. In the SSA Report, the Service provides an analysis of the historical contribution of non-Brazos River populations to both shiner species as a whole in the section "2. Rangewide Needs" and clearly indicates our position on the current status of those populations.

(24) Comment: The Service provides no evidence that sharpnose shiners naturally occurred in the Colorado and Wichita River basins. Without sufficient evidence of a larger historical range, the Service cannot conclude that there has been a range reduction for this species.

Our Response: The natural occurrence of sharpnose shiners in the Colorado and Wichita Rivers is based on published literature, museum specimens, flood data, and expert opinion. These sources are the best available scientific and commercial data and provide adequate support of the determination that the sharpnose shiner is native to these Rivers. Even discounting the Colorado and Wichita River populations, the sharpnose shiner would be experiencing a range reduction of more than 50 percent due primarily to fragmentation and alteration of flows within the middle Brazos River by impoundments. See our response to comment (11) above for additional information.

(25) Comment: Genetic analyses could better elucidate the status of the sharpnose and smalleye shiners of the upper Brazos River basin.

Our Response: The Service agrees that genetic studies for these two species would be useful; however, the Service must use the best available scientific and commercial data at the time of listing. The Service is in the process of funding a study through section 6 of the Act to determine the genetic structure of the remaining populations of both species.

(26) Comment: Studies focused on determining the minimum flow rate, duration, and critical river sections for successful spawning would provide useful information to manage short-term viability and long-term survivability for these shiner species.

Our Response: The Service agrees that additional studies on the minimum flow rate required to keep the semi-buoyant life-history stages of these species afloat would be useful. However, the Service has used the best scientific and commercial data available. Based on current life-history information, population dynamics modeling estimates a mean summer water discharge of approximately 2.61 m^3s^{-1} (92 cfs) is necessary to sustain populations of sharpnose shiners (Durham 2007, p. 110), while a higher mean discharge of approximately 6.43 m^3s^{-1} (227 cfs) is necessary for smalleye shiners (Durham and Wilde 2009b, p. 670). See section "2.C.2. Streamflow Requirements" of the SSA Report for additional information.

(27) Comment: Inclusion of stream gauge data from the 1950s could be useful as a partial indicator of how the two species respond to extended drought.

Our Response: The Service has added stream gauge data going back to 1940 in its analysis of drought conditions in the upper Brazos River basin and has also added an additional stream gauge site. See section "3.D. Drought" of the SSA Report for further discussion.

(28) Comment: The listing package and SSA Report do not provide sufficient, conclusive evidence connecting stated threats to a decline in species abundance or a reduction in range, including the effects of impoundment on river fragmentation. Neither the listing package nor SSA Report demonstrates the cumulative effects of threats.

Our Response: The Causes and Effects Threat Analyses in Chapter 3 of the SSA Report discusses how the threats negatively affect sharpnose and smalleye shiners. The SSA Report also includes a section on cumulative effects

("K. Cumulative Effects"). Further, the SSA Report has been peer-reviewed by experts in the field of ichthyology and aquatic ecology, and they found the SSA Report to be a scientifically sound document.

(29) Comment: Neither the listing package nor SSA Report demonstrate how stream reach lengths of at least 275 km (171 mi) are necessary for the continued existence of either species.

Our Response: Section "2.C.3 Stream Reach Length Requirements" of the SSA Report provides a complete analysis and justification for the estimated 275-km (171-mi) requirement based on the best available scientific and commercial data. As stated in the SSA Report, the Service recognizes that the necessary stream length requirements may vary with flow rates, water temperature, and channel morphology, but the 275 km (171 mi) is based on modeling population status and reach length, which indicate extirpation of eight different Great Plains broadcast-spawning minnow species occurred in river fragments less than 115 km (71 mi; Perkin *et al.* 2010, p. 7) and that no extirpations were recorded in reaches greater than 275 km (171 mi).

(30) Comment: The Service has not made any of the scientific studies or materials upon which it relied to prepare the SSA Report or rulemaking documents available online.

Our Response: Comments and materials received, as well as supporting documentation used in the preparation of this rule, are available for public inspection, by appointment, during normal business hours at Arlington, Texas, Ecological Services Field Office, (see **ADDRESSES**). A complete literature cited is included within the SSA Report.

(31) Comment: The Service failed to properly analyze the species under the Act's five listing criteria: (1) The present or threatened destruction, modification, or curtailment of a species' habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; and (5) other natural or man-made factors affecting the species' continued existence.

Our Response: Under section 4(a)(1) of the Act, the "Secretary shall . . . determine whether any species is an endangered species or a threatened species because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or man-made factors affecting its continued existence." Neither the Act nor its implementing regulations direct the Service to evaluate the five factors in a particular format. The Service may present its evaluation of information under the five factors by discussing all of the information relevant to each factor and providing a factor-specific conclusion before moving to the next factor (an "outline" format). For this rule, we presented this information in a different format that we believe leads to greater clarity in our understanding of the science, its uncertainties, and the application of our statutory framework to that science. Therefore, while the presentation of information in this rule differs from past practice, it differs in format only. We have evaluated the same body of information that we would have evaluated under the five factors "outline" format, we are applying the same information standard, and we are applying the same statutory framework in reaching our conclusions. Our determination for the sharpnose and smalleye shiners ties each threat to one of the five factors (see Determination section).

(32) Comment: The Service failed to properly consider impacts from the inadequacy of existing regulatory mechanisms on stream flow.

Our Response: The "B. Groundwater Withdrawal" and "A. Impoundments" sections of the SSA Report discusses impacts on stream flow in detail. The Service has considered the existing State regulatory mechanisms, but these efforts do not ameliorate the threats to these species to the point that the species do not meet the definition of endangered.

(33) Comment: The Service failed to properly consider impacts from conservation measures associated with saltcedar control and a captive propagation and release program.

Our Response: The Service recognizes several ongoing saltcedar control projects including the Texas Agrilife Extension Saltcedar Biological Control Implementation Program, the U.S. Department of Agriculture Natural Resources Conservation Service's saltcedar cost-share control program, the Brazos River Authority's saltcedar control program, and the Service's saltcedar cost-share programs. However, participation in these programs is mostly voluntary, and even, when implemented, these programs have not been fully successful in eradicating saltcedar from the upper Brazos River basin.

The Texas Parks and Wildlife Department and Texas Tech University's release of fish into the lower Brazos River was a response to intense drought during the summer of 2011 and is not part of a formal reintroduction plan. While Texas Tech University maintains a small stock of sharpnose and smalleye shiners in the laboratory, they are primarily used for research purposes. They do not have a captive propagation program in place to breed and release fish into the wild on a large-scale basis. Based on the best scientific and commercial data available, it is presumed that the fish released into the lower Brazos River are either extirpated or functionally extirpated. The Service has considered these conservation measures, but these efforts do not ameliorate the threats to these species to the point that the species do not meet the definition of endangered.

(34) Comment: The listing of a species under the Act based principally or exclusively on climate change impacts necessarily involves policy questions that are assigned by the Constitution to Congress. The Act is not an appropriate mechanism to regulate climate change and greenhouse gas emissions.

Our Response: Our decision to list the species was based on river fragmentation, alterations of the natural flow regime, water quality degradation, and commercial bait harvesting; and not principally on climate change. We acknowledged in our rule that the projected impacts of climate change could exacerbate these threats that the species are facing in the future.

Furthermore, we are not attempting, through this rule, to use the Act to regulate climate change or greenhouse gases. We are making a decision as to whether the species meet the definition of endangered or threatened. To do so, the Act requires the Service to evaluate five factors, individually and in combination, including natural or man-made factors that are affecting the species' continued existence. This necessarily includes assessing potential impacts to a species or its habitat caused by global climate change.

(35) Comment: The Service has not thoroughly reviewed the local groundwater conservation districts' rights and responsibilities as dictated by Chapter 36 of the Texas Water Code. Local districts can help alleviate the groundwater issues identified by the Service.

Our Response: Local groundwater conservation districts provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater. While many actions that the conservation districts enforce likely reduce groundwater consumption, these

actions are not entirely consistent with the protection of surface water flows for sharpnose and smalleye shiners. Section 36.103 of the Texas Water Code permits groundwater conservation districts to erect dams; drain lakes, draws, depressions, and creeks; and install pumps to recharge groundwater reservoirs. The protection of groundwater supplies at the expense of damming and depleting surface water would be detrimental to these species. Insofar as groundwater conservation districts reduce the number of wells by land parcel size and support general water conservation measures, they are benefiting the sharpnose and smalleye shiners and the upper Brazos River basin ecosystem in general. However, groundwater conservation districts do not explicitly conserve groundwater to support surface water flows to maintain a healthy riverine environment for fish and other aquatic species. Conservation districts also do not cover all areas of the upper Brazos River basin. Further, the Texas State Water Plan estimates increased groundwater withdrawals in the future. These efforts do not ameliorate the threats to sharpnose and smalleye shiners or their habitat to the point that the species do not meet the definition of endangered.

(36) Comment: Why are smalleye and sharpnose shiners not listed as endangered in the Clear Fork of the Brazos River?

Our Response: We are listing the shiners wherever they are found. However, the best available scientific and commercial information does not indicate that the sharpnose and smalleye shiners have ever been collected from the Clear Fork of the Brazos River; therefore, the Service has no basis to assume they once existed there historically or exist there currently. The Donnell Mill Dam on the Clear Fork of the Brazos River located approximately 21.5 km (13.3 mi) upstream of its confluence with the Brazos River mainstem has acted as a fish migration barrier since the late 1870s and may be partially responsible for the lack of records of these species from this river.

(37) Comment: After the devastating drought of 2011 in the upper Brazos River basin, smalleye and sharpnose shiners recovered in 2012 and survived without the Service's help.

Our Response: Rainfall, and hence surface water flows, was greater in 2012 than during 2011. If a similar or worse drought had occurred in 2012 these fish may now be extinct. During 2011, the spring-fed isolated pools in the upper Brazos River and Possum Kingdom Lake provided refuge for adult sharpnose and smalleye shiners. Surviving adults were able to later recolonize the river channel and reproduce when river water levels rose. Given their short lifespan and restricted range, stressors that persist for two or more reproductive seasons (such as a severe drought) severely limit these species' current viability, placing them at a high risk of extinction now.

(38) Comment: If the proposed rule would require fencing the river to keep livestock away, it would impose a financial burden on landowners.

Our Response: The best available scientific and commercial information does not indicate that cattle pose a threat to sharpnose or smalleye shiners, and anecdotal data indicate that cattle may be beneficial in maintaining a wide, shallow river channel. See our response to comments (4) and (17) above for additional information.

Summary of Changes From Proposed Rule

Only minor changes and clarifications were made to the listing rule based on comments received. The SSA Report was updated, clarified, and expanded based on several peer review and public comments. These minor changes did not alter our previous assessment of these species from the proposed rule to the final rule.

Determination

Standard for Review

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, the Secretary is to make threatened or endangered determinations required by subsection 4(a)(1) solely on the basis of the best scientific and commercial data available to her after conducting a review of the status of the species and after taking into account conservation efforts by States or foreign nations. The standards for determining whether a species is threatened or endangered are provided in section 3 of the Act. An endangered species is any species that is "in danger of extinction throughout all or a significant portion of its range." A threatened species is any species that is "likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." Per section 4(a)(1) of the Act, in reviewing the status of the species to determine if it meets the definitions of threatened or endangered, we determine whether any species is an endangered species or a threatened species because of any of the following five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

Until recently, the Service has presented its evaluation of information under the five listing factors in an outline format, discussing all of the information relevant to any given factor and providing a factor-specific conclusion before moving to the next factor. However, the Act does not require findings under each of the factors, only an overall determination as to status (e.g., threatened, endangered, not warranted). Ongoing efforts to improve the efficiency and efficacy of the Service's implementation of the Act have led us to present this information in a different format that we believe leads to greater clarity in our understanding of the science, its uncertainties, and the application of our statutory framework to that science. Therefore, while the presentation of information in this rule differs from past practice, it differs in format only. We have evaluated the same body of information that we would have evaluated under the five listing factors outline format, we are applying the same information standard, and we are applying the same statutory framework in reaching our conclusions.

Final Listing Status Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the sharpnose shiner and smalleye shiner. Based on our review of the best available scientific and commercial information, we conclude that the sharpnose shiner and smalleye shiner are currently in danger of extinction throughout all of their range and, therefore, each meets the definition of an endangered species. This finding, explained below, is based on our conclusions that these species exhibit low viability, as characterized by not having the resiliency to overcome persistent threats and insufficient population redundancy to overcome catastrophic events. We found the sharpnose shiner and smalleye shiner are at an elevated risk of extinction now and no data indicate that the situation will improve without significant conservation intervention. We, therefore, find that the sharpnose shiner

and smalleye shiner warrant endangered species listing status determination.

On the basis of our biological review documented in the March 2014 SSA Report, we found that the sharpnose shiner and smalleye shiner are vulnerable to extinction due to their reduced ranges and their highly specific reproductive strategies. These species are currently restricted to the upper Brazos River and its major tributaries, which represents a greater than 70 percent reduction in range for the sharpnose shiner and a greater than 50 percent range reduction for the smalleye shiner. The occupied river segments of the upper Brazos River currently retain the necessary length (greater than 275 km (171 mi)) to support successful broadcast-spawning reproduction in these species. However, these river segments have naturally occurring periods of low flow, periods completely lacking flow, and periods of complete drying (Factor A)—often during the dry summer months, which is also when these species spawn. The eggs and larvae of these species require flowing water of sufficient velocity to keep their eggs and larvae afloat and alive. During periods of insufficient river flow, reproduction is not successful and no young are produced (Factor A).

Our review found the primary factors leading to a high risk of extinction for these fishes include habitat loss and modification due to river fragmentation and decreased river flow, resulting mainly from reservoir impoundments (Factor A). Drought, exacerbated by climate change (Factor E), and groundwater withdrawals also act as sources to reduce stream flows and modify stream habitats (Factor A). Fragmentation due to reservoir construction has resulted in a substantially reduced range with only one isolated population of each species in the upper Brazos River. With only one isolated population remaining, these species have no redundancy, reduced resiliency due to the inability to disperse downstream, and limited representation. This situation puts the species in danger of extinction from only one adverse event (such as insufficient flow rates for 2 consecutive years). Secondary causes of habitat modifications include water quality degradation and saltcedar encroachment that alters stream channels (Factor A). As population sizes decrease, localized concerns, such as commercial harvesting of individuals, also increases the risk of extinction (Factors B).

We evaluated whether the sharpnose shiner and smalleye shiner are in danger of extinction now (i.e., an endangered species) or are likely to become in danger of extinction in the foreseeable future (i.e., a threatened species). The foreseeable future refers to the extent to which the Secretary can reasonably rely on predictions about the future in making determinations about the conservation status of the species. A key statutory difference between an endangered species and a threatened species is the timing of when a species may be in danger of extinction, either now (endangered species) or in the foreseeable future (threatened species). Because of the fact-specific nature of listing determinations, there is no single metric for determining if a species is presently "in danger of extinction." In the case of the sharpnose shiner and smalleye shiner, the best available information indicates the severe range reduction and isolation of these species to a single population in the upper Brazos River basin places these species in danger of extinction now, and the situation is exacerbated by the ongoing and intensifying effects of river fragmentation (Factor A), drought (Factor A), saltcedar encroachment (Factor A), water quality degradation (Factor A), and commercial bait harvesting (Factor B). The current threats affecting these species are expected to continue (or even increase without substantial conservation efforts), causing both species to be in danger of extinction now. Therefore, because these species have been reduced to less than half of their previously occupied range and because both species are restricted to a single, non-resilient population at a high risk of extinction from a variety of unabated threats, we find both species are in danger of extinction now and meet the definition of an endangered species (i.e., in danger of extinction), in accordance with sections 3(6) and 4(a)(1) of the Act.

Under the Act and our implementing regulations, a species may warrant listing if it is threatened or endangered throughout all or a significant portion of its range. The threats to the survival of these species occur throughout their range and are not restricted to any particular significant portion of their range. Accordingly, our assessments and determinations apply to these species throughout their entire range.

In conclusion, as described above, after a review of the best available scientific and commercial information as it relates to the status of the species and the five listing factors, we find the sharpnose shiner and smalleye shiner are in danger of extinction now. Therefore, we are listing the sharpnose shiner and smalleye shiner as endangered species in accordance with section 3(6) of the Act. We find that a threatened species status is not appropriate for the sharpnose or smalleye shiner because the overall risk of extinction is high at this time and the existing populations are not sufficiently resilient to support viable populations.

Available Conservation Measures

Regulations at 50 CFR 424.18 require final rules to include a description of conservation measures available under the rule. Following is an explanation of the measures that may be implemented for the conservation of the shiners under this final rule.

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation by Federal, State, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection measures required of Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed, preparation of a draft and final recovery plan, and revisions to the plan as significant new information becomes available. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. The recovery plan identifies site-specific management actions that will achieve recovery of the species, measurable criteria that determine when a species may be downlisted or delisted, and methods for monitoring recovery

progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (comprising species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our Arlington, Texas, Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, tribal, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may not occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Because these species are listed as endangered, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Texas would be eligible for Federal funds to implement management actions that promote the protection and recovery of the sharpnose and smalleye shiners. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants*.

Please let us know if you are interested in participating in recovery efforts for these species. Additionally, we invite you to submit any new information on these species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include but are not limited to: permitting of interbasin water transfers, permitting of large groundwater withdrawal projects, permitting of in-channel mining and dredging, issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers, and construction and maintenance of roads or highways by the Federal Highway Administration.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. The prohibitions, codified at 50 CFR 17.21 for endangered wildlife, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import, export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 for endangered species, and at 17.32 for threatened species. With regard to endangered wildlife, a permit must be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities.

Our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), is to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of species proposed for listing. The following activities could potentially result in a violation of section 9 of the Act; this list is not comprehensive:

(1) Unauthorized collecting, handling, possessing, selling, in interstate commerce, delivering, carrying, or transporting of the species, including import or export across State lines and international boundaries, except for properly documented antique specimens of these taxa at least 100 years old, as defined by section 10(h)(1) of the Act.

(2) Unauthorized destruction or alteration of sharpnose and smalleye shiner habitats (e.g., unpermitted in-stream dredging, impoundment, or construction; water diversion or withdrawal; channelization; discharge of fill material) that impairs essential behaviors such as breeding, feeding, or sheltering, or results in killing or injuring sharpnose or smalleye shiners. Such activities could include, but are not limited to, the destruction of upland riparian areas in a manner that negatively impacts the river ecosystem.

(3) Capture, survey, or collection of specimens of these taxa without a permit from the Service under section 10(a)(1)(A) of the Act.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Arlington, Texas, Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994

(Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. There are no tribes within the current or historical range of the species.

References Cited

A complete list of all references cited in this rule is available on the Internet at *http://www.regulations.gov* within the SSA Report (Service 2014, Literature Cited) or upon request from the Arlington, Texas, Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Author(s)

The primary authors of this document are the staff members of the Arlington, Texas, Ecological Services Field Office (see **ADDRESSES**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

■ 2. Amend § 17.11(h) by adding the following entries to the List of Endangered and Threatened Wildlife in alphabetical order under FISHES:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
Fishes							
*	*	*	*	*	*		*
Shiner, sharpnose	*Notropis oxyrhynchus*	U.S.A. (TX)	Entire	E	840	17.95(e)	NA
Shiner, smalleye	*Notropis buccula*	U.S.A. (TX)	Entire	E	840	17.95(e)	NA
*	*	*	*	*	*		*

Dated: July 18, 2014.

Betsy Hildebrandt,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–17692 Filed 8–1–14; 8:45 am]

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Part IV

Department of Commerce

Bureau of Industry and Security

15 CFR Parts 734, 738, 740 et al.
Wassenaar Arrangement 2013 Plenary Agreements Implementation: Commerce Control List, Definitions, and Reports; and Extension of Fly-by-Wire Technology and Software Controls; Final Rule

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734, 738, 740, 743, 772, and 774

[Docket No. 131224999–3999–01]

RIN 0694–AG05

Wassenaar Arrangement 2013 Plenary Agreements Implementation: Commerce Control List, Definitions, and Reports; and Extension of Fly-by-Wire Technology and Software Controls

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) maintains, as part of its Export Administration Regulations (EAR), the Commerce Control List (CCL), which identifies certain of the items subject to Department of Commerce jurisdiction. This final rule revises the CCL to implement changes made to the Wassenaar Arrangement's List of Dual-Use Goods and Technologies (Wassenaar List) maintained and agreed to by governments participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement, or WA) at the December 2013 WA Plenary Meeting (the Plenary). The Wassenaar Arrangement advocates implementation of effective export controls on strategic items with the objective of improving regional and international security and stability. This rule harmonizes the CCL with the changes made to the WA List at the Plenary by revising Export Control Classification Numbers (ECCNs) controlled for national security reasons in each category of the CCL, as well as amending the General Technology Note, WA reporting requirements, and definitions section in the EAR. However, BIS intends to publish a separate rule in September setting forth changes to the CCL resulting from the WA agreements for cybersecurity. These changes agreed to at the Plenary include raising the Adjusted Peak Performance (APP) for digital computers in ECCN 4A003. The President's report for High Performance Computers was sent to Congress on July 1, 2014 to set forth the new APP in accordance with the National Defense Authorization Act (NDAA) for FY1998. This rule also makes corresponding revisions to the *de minimis* rule, and post shipment verification reporting requirements in the Export Administration Regulations. This rule also extends the controls on specified fly-by-wire source code software and technology until June 20, 2015, as BIS continues to negotiate for multilateral controls for this software and technology. This rule also revises the license requirements for Mexico on the Commerce Country Chart, because of its recent membership in multiple multilateral export control regimes. In addition, this rule makes changes to the EAR resulting from previous rules issued as part of BIS's export control reform initiative and makes minor editorial corrections to the CCL.

DATES: This rule is effective August 4, 2014, except the amendments to parts 734, 743, and ECCN 4A003 (amendatory instructions: 2, 9, and 28), which are effective on August 30, 2014.

FOR FURTHER INFORMATION CONTACT: For general questions contact Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce at 202–482–2440 or by email: *Sharron.Cook@bis.doc.gov.*

For technical questions contact:

Categories 0, 1 & 2: Michael Rithmire at 202–482–6105

Category 3: Brian Baker at 202–482–5534

Categories 4 & 5: ITCD staff 202–482–0707

Category 6 (optics): Chris Costanzo at 202–482–0718

Category 6 (lasers): Mark Jaso at 202–482–0987

Category 6 (sensors and cameras): John Varesi 202–482–1114

Category 7: Jaymi Love 202–482–6581

Category 8: Darrell Spires 202–482–1954

Category 9: Daniel Squire 202–482–3710

SUPPLEMENTARY INFORMATION:

Background

The Wassenaar Arrangement (WA) on Export Controls for Conventional Arms and Dual-Use Goods and Technologies is a group of 41 like-minded states committed to promoting responsibility and transparency in the global arms trade, and preventing destabilizing accumulations of arms. As a Participating State, the United States has committed to controlling for export all items on the WA control lists. The lists were first established in 1996 and have been revised annually thereafter. Proposals for changes to the WA control lists that achieve consensus are approved by Participating States at annual December Plenary meetings. Participating States are charged with implementing the agreed list changes as soon as possible after approval. Implementation of WA list changes ensures U.S. companies have a level playing field with their competitors in other WA member states.

Unless otherwise indicated, the changes to the EAR described below are made in order to implement changes to the WA control lists approved at the December 2013 Plenary meeting.

Revisions to the Commerce Control List

Category 0—Nuclear Materials, Facilities, and Equipment [And Miscellaneous Items]

0A018 Items on the Wassenaar Munitions List

In paragraph 0A018.b, the text that previously stated that an item is subject to the license authority of the U.S. Department of State, Directorate of Defense Trade Controls was universally changed to "subject to the ITAR" in the Export Control Reform revisions (78 FR 61874, October 4, 2013). Therefore the new language is inserted here.

A Note is added to paragraph 0A018.b that states that 0A018.b does not apply to: "components" for ammunition crimped without a projectile (blank star); dummy ammunition with a pierced powder chamber; or other blank and dummy ammunition not incorporating components designed for live ammunition. These components do not pose a threat to national security and are now designated EAR99.

Category 1—Special Materials and Related Equipment, Chemicals, "Microorganisms," and "Toxins"

1A004 (Protective and detection equipment and "components," not "specially designed" for military use)

ECCN 1A004 is amended by adding Technical Notes after the Note following the introductory text to paragraph 1A004.a in the items paragraph of the List of Items Controlled section to clarify that filter canisters include filter cartridges.

1B001 (Equipment for the production or inspection of "composite" structures or laminates controlled by 1A002 or "fibrous or filamentary materials" controlled by 1C010 . . .)

ECCN 1B001 is amended by revising the text of 1B001.b ('Tape-laying machines') and 1B001.g ('Tow-placement machines') to remove ambiguity with the current controls, which may result in a double coverage in controls or no control at all. A Technical Note is added to 1B001.b to explain the abilities of 'tape-laying machines.' A Technical Note is added to 1B001.g to explain the abilities of 'tow-placement machines.' The Technical Notes establish 25 mm as the break

point between tape-laying and tow-placement machines, with the intent to distinguish both the tape-laying and tow-placement machines from the filament winding machines specified in 1B001.a. In addition, the existing Technical Note regarding 'primary servo positioning' axes control is now Technical Note 1 and a Technical Note 2 is added to define 'filament band.'

1C008 (Non-fluorinated polymeric substances)

ECCN 1C008 is amended by revising paragraphs a.3 and .f in the Items paragraph of the List of Items Controlled section to relax the controls on aromatic polyimides in 1C008.a.3 based on the foreign availability of this material. The current validation procedures are limited in accuracy to very small samples. Removal of these validation procedures and reference to national standards in the 1C008 Technical Notes provides a simpler and cleaner text. In order to accommodate the newly referenced testing method, Technical Note 1 is revised and a new Technical Note 2 is added to the existing 1C008 Technical Note. These changes do not affect the scope of the other paragraphs in 1C008.

1C010 ("Fibrous or filamentary materials")

ECCN 1C010 is amended by removing the Technical Note after paragraph b.2 and adding Technical Notes after the Note following paragraph c.2 in the Items paragraph of the List of Items Controlled section. These changes are made to remove ambiguity regarding the determination of the specific tensile strength and modulus that are specified in various 1C010 entries, especially when the 1C010 tensile properties metrics are applied to various forms of multi-axial materials (woven fabrics, random mats and braids).

Also, a comma is added after the word "pitch" in paragraph e.2.a to correct the punctuation.

Annex to Category 1 "List of Explosives"

The List of Explosives is amended by revising paragraphs 32.d and 43, removing and reserving paragraph 34 and adding paragraphs 44 through 48. Paragraph 32 is amended by changing the square brackets to parentheses to read "BDNTA ([bis-dinitrotriazole] amine); ((bis-dinitrotriazole) amine);" to be consistent with the International Union of Pure and Applied Chemistry (IUPAC) conventions. The deletion of paragraph 34 is a result of a class of energetics that has short-term high temperature capability, which is no longer in demand. Paragraph 43 is amended by changing the semi-colon to a period at the end of the entry to accommodate the addition of paragraphs to follow. Paragraphs 44 through 48 are added to address the trend towards 'Insensitive Munitions.' Insensitive munitions are chemically stable enough to withstand mechanical shock, fire, and impact by shrapnel, but can still explode as intended to destroy their targets.

Category 2—Materials Processing

"Technical Notes for 2B001 to 2B009, 2B201, 2B290 and 2B991 to 2B999"

"Technical Notes for 2B001 to 2B009, 2B201, 2B290 and 2B991 to 2B999" is amended by revising paragraph .f of the Note to paragraph 5 in order to update the thresholds to ensure the rules regarding stated accuracy remain consistent in Category 2.

2B006 (Dimensional inspection or measuring systems, equipment, and "electronic assemblies")

ECCN 2B006 is amended by revising paragraphs b.1.b., b.1.c.2.b, and the introductory text of paragraph b.2 in the Items paragraph of the List of Items Controlled section. 2B006.b.1.b is revised to clarify the controls of certain displacement measuring instruments (Linear Variable Differential Transformer—LVDT). 2B006.b.2 is amended to delete the current definition for "angular position deviation" and to add the word "accuracy" in this entry. The definition refers to a standard that not only is out of date, but no longer published. WA decided that the definition of "accuracy" could be useful to clarify the assessment of accuracy of angular displacement measuring instruments for this entry.

2D002 ("Software" for electronic devices, even when residing in an electronic device or system, enabling such devices or systems to function as a "numerical control" unit, capable of coordinating simultaneously more than 4 axes for "contouring control".)

The term "machine tools" is replaced with "items" in Notes 1 and 3 to clarify the scope of control on software for electronic devices or systems capable of controlling 5 or more axes.

Category 3—Electronics

3A001 (Electronic components and "specially designed" "components" therefor)

ECCN 3A001 is amended by removing Notes 3 and 4 from the Related Control Notes paragraph in the List of Items Controlled section, because they refer to ECCN 3A982, which is removed by this rule.

ECCN 3A001 is amended by revising Note 2 to paragraph 3A001.a, paragraphs a.5.a.1, a.7.b, b.2., b.3, and b.4; adding a Technical Note after the introductory text to paragraph 3A001.b; and revising Note 3 to paragraph 3A001.h.

"Three dimensional integrated circuits" are added to Note 2 to paragraph 3A001.a, because a new approach to improve the functionality and performance of integrated circuits is using a 3D integrated circuit (3D–IC).

Paragraph 3A001.a.5.a.1 (High Performance Analog-to-Digital Integrated Circuits) is amended by replacing the output rate of "greater than 500 million words per second" to "greater than 1 billion words per second" to update the Analog-to-Digital Converter (ADC) control thresholds for the 8 and 9 bit resolution ADCs to reflect the advances in technology used in the commercial cellular communications and oscilloscope applications.

Paragraph 3A001.a.7.b is amended by replacing "or" with "of" to make a correction submitted by a Technical Advisory Committee member.

A Technical Note is added to 3A001.b to set forth alternative terms for "peak saturated power output" that may appear on product data sheets.

This rule makes a series of changes regarding microwave or millimeter wave components specified by entries 3A001.b.2 (Microwave Monolithic Integrated Circuits—MMIC), 3A001.b.3 (Discrete microwave transistors) and 3A001.b.4 (Microwave solid state amplifiers). The changes are intended to add a frequency bandwidth (2.7–3.2 GHz) to each of the existing entries 3A001.b.2, b.3 and b.4. The changes also aim at modernizing the control text over the entire controlled spectrum by replacing the current control parameter *'average power'* with *'peak saturated power.'*

A comma is added to Note 3 to paragraph 3A001.h to correct the punctuation. The addition of the comma makes the modifying phrase (incorporated into equipment designed for civil automobile, civil railway, or "civil aircraft" applications) apply to all three nouns (switches, diodes, and modules).

3A002 (General purpose electronic)

ECCN 3A002 is amended by revising the Heading; revising License Exception GBS and CIV paragraphs; revising the introductory text to paragraph .a; removing and reserving paragraphs a.1 through a.4; revising paragraph a.6;

adding paragraph a.7; revising the introductory text to paragraph d.1.; and revising Technical Note 2 that appears after paragraph d.5.

The Heading is amended by removing the phrase "and accessories therefor." The only accessories enumerated in 3A002 are test tapes in 3A002.a, which are test tapes for instruments described in 3A002.a.1 through 3A002.a.4. As 3A002.a.1 through 3A002.a.4 are removed and reserved by this rule, the reference to "accessories" is no longer needed.

Paragraphs 3A002.a.1 through a.4 are removed and reserved because magnetic instrumentation tape recorders are obsolete technology. The replacement technology is magnetic disk storage, for which instruments remain controlled in 3A002.a.6.

Paragraph 3A002.a.6 (Digital instrumentation data recorders) is revised to address a potential loophole for digital instrumentation recorders that do not digitize data but rather receive digitized data from external digitizers.

This rule adds new entry 3A002.a.7 to control very high-speed oscilloscopes that are used to develop and test military radars, communications systems, and electronic warfare systems. The values used in this new control are intended to separate the highest performing oscilloscopes from those used for more routine commercial applications. Consequential changes are also made in the introductory text to 3A002.a with the addition of 'and oscilloscopes.'

Paragraph 3A002.d.1 is amended by replacing "pulses" with "pulse-modulated signals" to clarify that "pulses" more accurately refers to signals that are pulse modulated.

Technical Note 2 that appears after paragraph 3A002.d.5 is amended to introduce the industrial norm of 'pulse duration' and its measurement.

3A982, 3D982 and 3E982 (Microwave or millimeter wave components)

ECCNs 3A982 and associated software (3D982) and technology (3E982) are removed from the Commerce Control List (CCL). These ECCNs are removed because the microwave and millimeter wave components identified in this entry were discussed and agreed for inclusion in the WA 2013 Plenary updates to 3A001.b.2 and 3A001.b.3. Software "specially designed" for the development or production of equipment controlled by 3A001.b is controlled under ECCN 3D001. Technology for the development or production of 3A001.b is controlled under ECCN 3E001. Because the items of concern are now controlled in these new entries, the need for ECCNs 3A982, 3D982 and 3E982 is eliminated.

3A991 (Electronic devices, and "components" not controlled by 3A001)

ECCN 3A991 is amended by revising paragraph .d (field programmable logic devices) in the items paragraph of the List of Items Controlled section. The parameters are changed from "gate count" and "toggle frequency" to "maximum number of single-ended digital input/outputs." The control level is set at "200 or greater and less than 500." This is to align 3A991 parameters with 3A001.a.7.a parameters for these types of devices.

3C005 (Silicon carbide (SiC), gallium nitride (GaN), aluminum nitride (AlN) . . .) is amended by adding "semiconductor" to the Heading to clarify the scope of this entry, because the goods that should be controlled by this entry are substrates of semiconductor materials, which are generally referred to as wafers.

3E002 ("Technology" according to the General Technology Note other than that controlled in 3E001 for the "development" or "production" of a "microprocessor microcircuit," "microcomputer microcircuit" and microcontroller microcircuit core, having an arithmetic logic unit with an access width of 32 bits or more and any of the following features or characteristics)

ECCN 3E002.b is amended by replacing "two 64-bit or larger floating-point operation results per cycle" with "four 64-bit or larger floating-point operation results per cycle" to update the control text to maintain control of leading edge technology and decontrol that technology no longer considered state-of-the-art.

Category 4—Computers

ECCN 4A003 ("Digital computers," "electronic assemblies" and related equipment therefor)

The AT license requirement paragraph is revised to update the Adjusted Peak Performance (APP) upper limit in the range in the cross reference to ECCN 4A994 from 3.0 Weighted TeraFLOPS (WT) to 8.0 WT to harmonize with the change to 4A003.b.

The Congressional notification requirement set forth in subsections 1211(d) and (e) of the National Defense Authorization Act (NDAA) for FY 1998 (Pub. L. 105–85, November 18, 1997, 111 Stat. 1932) provide that the President must submit a report to Congress 60 days before adjusting the composite theoretical performance level above which exports of digital computers to Tier 3 countries require a license. The President sent a report to Congress on July 1, 2014 that establishes and provides justification for the 8.0 WT control level using the APP formula.

The APP in the Note in the License Requirements section is changed from 3.0 WT to 8.0 WT to harmonize with the change to 4A003.b. This paragraph explains that no license is required for computers with an APP not exceeding 8.0 WT and for electronic assemblies described in 4A003.c that are not capable of exceeding an APP exceeding 8.0 WT in aggregation, except to destinations in Country Group E:1 of Supplement No. 1 to part 740.

The APP in 4A003.b for digital computers is raised from 3.0 WT to 8.0 WT, because multi-core processor technology has continued to advance rapidly as feature size shrinks. Most high-performance computer systems use processors with four, eight, or more cores as the compute engine, and each core also has greater double-precision floating point capabilities.

4D001 ("Software" for digital computers)

List based License Exception TSR eligibility and License Exception STA conditions are amended by raising the APP from 0.5 WT to 1.0 WT to align with revision to 4D001 in the WA Sensitive List. The control parameter for software for digital computers is amended by raising the APP from 0.25 to 0.60 WT in paragraph 4D001.b.1, in order to maintain control on leading-edge software for the development or production of digital computers.

4E001 ("Technology" for the development or production of digital computers)

List based License Exception TSR eligibility and License Exception STA conditions are amended by raising the APP from 0.5 WT to 1.0 WT to align with revision to 4E001 in the WA Sensitive List. The control parameter for software for digital computers is amended by raising the APP from 0.25 to 0.60 WT in paragraph 4E001.b.1, in order to maintain control on leading-edge technology for the development or production of digital computers.

Category 5 Part 1—"Telecommunications"

5A001 (Telecommunications systems, equipment, "components" and "accessories")

A comma is added to 5A001.b.1.d to correct the punctuation and clarify the meaning of the sentence.

In 5A001.b.5.b, the term "frequency switching time" is replaced by "channel switching time" and a Technical Note is added to define 'channel switching time.' The definition for "frequency switching time" had been crafted for the purposes of defining a signal generator's characteristics more so than a radio receiver's. The change in term and definition will help clarify its interpretation for both signal generators specified under 3A002.d, as well as radio receivers specified by 5A001.b.5.

5E001 ("Technology")

ECCN 5E001.d is amended to align with the revisions made to ECCN 3A001.b. The changes are intended to add a frequency bandwidth (2.7–3.2 GHz) to 5E001.d. The changes also modernize the control text over the entire controlled spectrum in 5E001.d by replacing the current control parameter *'average power'* with *'peak saturated power.'*

Category 5 Part 2—"Information Security"

Category 5 Part 2 is amended by revising paragraph b of Note 3. 'Executable software' is added to Note 3, as well as a Technical Note to define 'executable software' as " "software" in executable form, from an existing hardware component excluded from 5A002 by the Cryptography Note." A Note is also added after the Technical Note that states, " 'Executable software' does not include complete binary images of the "software" running on an end-item." Encryption is increasingly a commonplace functionality implemented by 'mass market' Information and Communications Technology (ICT) products. Moreover, cryptographic functionality is often implemented in "software," with comparable capability found in hardware. This revision ensures that all such comparable components of 'mass market' products are given equal treatment under the Cryptography Note.

Category 5 Part 2 is amended by moving the Technical Note at the end of Note 4 to after 5A002.a.1.a. The Technical Note states, "Parity bits are not included in the key length." so that it now immediately follows the text to which it refers. Within Category 5 Part 2, the topic of 'parity bits' is only relevant to how key lengths are calculated and considered, and 5A002.a.1 is the only paragraph that involves key lengths.

5A002 ("Information security" systems, equipment "components" therefor).

An editorial correction is made to paragraph (i) of the 5A002 decontrol note to remove "or" from the end of paragraph (i). "Or" is added to paragraph (j) of the 5A002 decontrol Note, because of the addition of paragraph (k). Paragraph (k) "mobile telecommunications Radio Access Network (RAN) equipment designed for civil use . . ." is added to the 5A002 decontrol Note. Domestic small cells for use in the home offer telecommunications service providers a way to roll out their networks without the need to install expensive infrastructure. Using their customer's Internet connections, they can backhaul data from their subscribers in the immediate vicinity of a small cell. These items are designed to be simple to install by anyone, and in many cases are mass market items. However, these items are not always marketed in a way that allows the application of Note 3 in Category 5 Part 2, because in some countries the sale of some small cells is restricted to privileged customers or high value individuals, and some have restrictions on where they may be used.

This rule amends the Nota Bene after the introductory text of paragraph .a by adding the phrase, ", and for related decryption "software" and "technology" see 7D005 and 7E001." This is a consequential change to harmonize with the addition of ECCN 7D005 " "Software" specially designed to decrypt Global Navigation Satellite Systems (GNSS) ranging signals designed for government use" and related technology in ECCN 7E001, and to ensure that GNSS-related software and technology resides in Cat 7 only and is not spread across two Categories, which may be undesirable and cause confusion.

Paragraph 3 in the Technical Note to 5A001.a.1 is moved to the definition for "cryptography" in § 772.1 of the EAR, because paragraph 3 applies directly and broadly to the definition of "cryptography."

The Note to 5A002.a.1 is removed because it is redundant. 5A002.a.1 controls the implementation of "cryptography" utilizing 'digital techniques' regardless of what types of 'principles' (*i.e.*, whether 'analog' or otherwise) these 'digital techniques' are based on.

The introductory text to paragraph a.9 is amended by adding the phrase "or perform" to clarify the scope of the control. The whole text reads, "Designed or modified to use or perform 'quantum cryptography.'"

Category 6—Sensors and Lasers

6A001 (Acoustic systems, equipment and components)

Note 3 is added to the introductory paragraph a.1.c, in order to clarify that 6A001.a.1.c applies to projectors or transducers designed and manufactured using either of two high performance transduction materials: 1) lead-magnesium-niobate/lead-titanate ($Pb(Mg_{1/3}Nb_{2/3})O_3$-$PbTiO_3$, or PMN–PT), or 2) lead-indium-niobate/lead-magnesium-niobate/lead-titanate ($Pb(In_{1/2}Nb_{1/2})O_3$–$Pb(Mg_{1/3}Nb_{2/3})O_3$–$PbTiO_3$, PIN–PMN–PT). These materials are currently being used in medical ultrasound applications, but are increasingly being used in high performance military and civil projectors and transducers.

In the Technical Note below paragraph a.1.c.2, a single quotation mark is added to the beginning of the term 'acoustic power density' to add the missing single quotation mark.

Paragraph a.1.e (Active individual sonars, "specially designed" or modified to detect, locate and automatically classify swimmers or divers) is amended by adding the phrase "and "specially designed" transmitting and receiving acoustic arrays therefor," in order to control critical components of such systems.

Paragraph a.2.a.3.d (Lead-magnesium-niobate/lead-titanate (i.e., Pb(Mg1/3Nb2/3)O3-PbTiO3, or PMN–PT) piezoelectric single crystals grown from solid solution) and paragraph a.2.a.3.e (Lead-indium-niobate/lead-magnesium niobate/lead-titanate (i.e., Pb(In1/2Nb1/2)O3–Pb(Mg1/3Nb2/3)O3–PbTiO3, or PIN–PMN–PT) piezoelectric single crystals grown from solid solution) are added as parameters for hydrophone sensing elements, because PMN–PT and PIN–PMN–PT single crystals are a new generation of piezoelectric materials that exhibit superior piezoelectric properties over PZT ceramics. Hydrophones designed using PIN–PMN–PT have greater bandwidth and sensitivity, as well as lower self-noise.

Paragraph a.2.b.8 (Accelerometer-based hydro-acoustic sensors specified by 6A001.a.2.g) is added as a parameter for towed acoustic hydrophone arrays because these sensors are useful for military applications.

Paragraph a.2.e.3 (Incorporating accelerometer-based hydro-acoustic sensors specified by 6A001.a.2.g) is added as a parameter for bottom or bay-cable hydrophone arrays because these sensors are useful for military applications. Consequential editorial revisions are made to paragraphs a.2.e.1 (removing an "or") and a.2.e.2.b (adding

an "or"), because of the addition of paragraph a.2.e.3.

Paragraph a.2.g (Accelerometer-based hydro-acoustic sensors) is added under passive marine acoustic systems, equipment, and specially designed components therefor, because these sensors are useful for military applications. A Note is included to clarify that 6A001.a.2.g does not apply to particle velocity sensors or geophones. Two Technical Notes are added to inform the reader that accelerometer-based hydro-acoustic sensors are also known as vector sensors, and to include a definition for the term 'acceleration sensitivity,' which is used in the parameters for these sensors.

6A005 ("Lasers," "components" and optical equipment)

In the NP License Requirement paragraph, the existing text is replaced with "NP applies to "lasers" that exceed the parameters of 6A205." The License Requirement Note pertaining to NP controls is removed.

References to 6A005.b.6.c.2 and 6A005.b.6.c.2.b are changed to 6A005.b.6.d.2 and 6A005.b.6.d.2.b in the License Exceptions GBS and CIV eligibility paragraphs. These are consequential changes due to the revisions in 6A005.b.6.

References to 6A005.a.6.b.1 and 6A005.b.6 are added after the definition for 'wall-plug efficiency' in the Related Definitions paragraph. The definition for 'non-repetitive pulsed' is added to the Related Definitions paragraph with references to where the term is used: Note 2 of 6A005 and 6A005.d.6.

Note 2 at the beginning of the Items paragraph is revised by adding single quotes to the term 'non-repetitieve pulsed' and a Technical Note is added to Note 2 to define 'non-repetitive pulsed' to improve the understanding of Note 2.

The Technical Note that defines 'non-repetitive pulsed' is moved from 6A005.d.6 to after Note 2, where it is first used in 6A005. The definition is also added to the Related Definitions paragraph, because it is used more than once in 6A005.

Note 2 is added to 6A005.a.6.b to describe multiple transverse mode industrial "lasers" that are not controlled under 6A005.a.6.b. This Note includes a Technical Note to define 'brightness.'

The parameters in paragraph 6A005.b.4, b.5, and b.6 are revised to reset the control level below the level for which military utility can be achieved for lasers with pulse durations less than 1 picosecond. Consequential changes are made to distinguish or move paragraphs that pertain to lasers with pulse durations equal to or exceeding 1 picosecond. Here is where they were located and where they move to: b.4.a to b.4.b.1; b.4.b to b.4.b.2; b.5.a to b.5.b; b.5.b to b.5.c; b.6.a to b.6.b; b.6.b to b.6.c; and b.6.c to b.6.d. Consequential changes within ECCN 6A005 include: correcting references to these paragraphs that have moved in the NP paragraph of the License Requirements section, License Requirement paragraphs: (b) and (f), and License Exceptions GBS and CIV eligibility paragraphs. Consequential changes outside of ECCN 6A005 include revising the Related Controls Note 3 in ECCN 6A205 and the Heading of ECCN 6E201 to correct references to these paragraphs that have moved.

6A007 (Gravity meters (gravimeters) and gravity gradiometers)

Paragraph 6A007.a is amended by removing "μgal" and adding in its place "μGal" to correct the scientific abbreviation for microgal (one millionth of a gal). The gal, sometimes called galileo, (symbol Gal) is a unit of acceleration used extensively in the science of gravimetry. The gal is defined as 1 centimeter per second squared (1 cm/s^2).

Paragraphs b.1 and b.2 are amended by removing "mgal" and adding in its place "mGal" to correct the scientific abbreviation for milligal (one thousandth of a gal). The gal, sometimes called galileo, (symbol Gal) is a unit of acceleration used extensively in the science of gravimetry. The gal is defined as 1 centimeter per second squared (1 cm/s^2).

A Technical Note is added to 6A007.b to define 'time-to-steady-state registration,' which is used in 6A007.b.2, to make the control text clearer and more effective.

6A008 (Radar systems, equipment and assemblies, having any of the following (see List of Items Controlled section), and "specially designed" "components" therefor)

Paragraph 6A008.k.2 is amended by adding the adjective "compressed" and by adding a Note to decontrol two dimensional 'marine radar' or 'vessel traffic service' radar from 6A008.k.2. Solid state devices, which apply "pulse compression," are replacing magnetron devices as a component of marine radars and Vessel Traffic Safety (VTS) radars for safety navigation. This revision decontrols such radars for safety navigation incorporating solid state devices from 6A008.k.2.

The Note to 6A008.l.1 is amended by revising the phase "marine or harbor radar" to read 'marine radar,' as well as adding single quotes around the term 'marine radar.'

The Note following the paragraph l.4 is amended by revising the paragraph it applies to from 6A008.l.4 to 6A008.l, as well as changing the term "marine traffic control" to single quoted 'vessel traffic services.'

Technical Notes are added to the end of the Items paragraph of 6A008 to define 'marine radar' and 'vessel traffic service.'

6A205 ("Lasers," "laser" amplifiers and oscillators, other than those controlled by 6A005) ECCN 6A205 is amended by removing the reference to "6A005.b.6.b" and adding in its place "6A005.b.6.c" in paragraph (3) of the Related Controls paragraph of the List of Items Controlled section, to harmonize with revisions to 6A005 in this rule.

6B007 (Equipment to produce, align and calibrate land-based gravity meters with a static accuracy of better than 0.1 mgal)

The Heading is amended by replacing "mgal" with "mGal" to correct the scientific unit abbreviation for milligal (one thousandth of a gal). The gal, sometimes called galileo, (symbol Gal) is a unit of acceleration used extensively in the science of gravimetry. The gal is defined as 1 centimeter per second squared (1 cm/s^2).

6D001 (Software specially designed for the development or production of equipment controlled by 6A004, 6A005, 6A008 or 6B008)

This rule removes the Nuclear Proliferation (NP) license requirement paragraph from the License Requirements section of 6D001, because the Nuclear Suppliers Group (NSG) Annex does not list software controls for any of the equipment identified in the heading of 6D001.

6E201 (Technology for "use" of specified equipment in Category 6)

The Heading of ECCN 6E201 is amended by revising references to 6A005 to harmonize with revisions to the items paragraph of 6A005 and the NP controls of 6A005 in this rule. In order to determine NP controls on 6A005 commodities, you must analyze 6A205 to determine if the commodities meet or exceed the parameters of commodities in 6A205. If the 6A005 commodities meet or exceed the parameters of 6A205 commodities, then the 6A005 commodity is NP controlled. If the 6A005 commodity is NP controlled, then the "use" technology for it is classified in 6E201.

Category 7—Navigation and Avionics

7A002 (Gyros or angular rate sensors, having any of the following (see List of Items Controlled section) and "specially designed" "components" therefor)

The Note to 7A002.a.1.b in the Items paragraph is amended by replacing the single quotes with double quotes around the term "spinning mass gyros," as the Technical Note below this Note that defined this term is deleted and the term is now defined in § 772.1 of the EAR. Terms used in multiple locations are generally not locally defined and indicated by single quotes, but are defined in § 772.1 of the EAR and are indicated with double quotes.

Paragraph 7A002.a.2.a is amended by revising the "bias" "stability" from "less (better) than 40 degrees per hour" to "less (better) than 4 degrees per hour." Paragraph 7A002.a.2.b is amended by revising the "angle random walk" from "less (better) than or equal to 0.2 degree per square root hour" to "less (better) than or equal to 0.1 degree per square root hour." These changes are made in consideration of commercial and technological development in the area of Micro-Electro-Mechanical Systems (MEMS). The Note to 7A002.a.2.b is amended by replacing the single quotes with double quotes around the term "spinning mass gyros."

7A003 ('Inertial measurement equipment or systems')

The Heading is amended by using a more general phrase, 'inertial measurement equipment or systems' instead of 'inertial systems' to encompass the breadth of controlled products. The Heading establishes a "having any of the following" structure regarding the functionalities that follow, which is intended to better accommodate multiple-output equipment. This new text is not intended to change the scope of the entry, but to better specify the inertial equipment to facilitate easier evaluation by licensing officers.

"Specially designed components" no longer appear in the Heading or in the List of Items Controlled section. "Specially designed components" that should be controlled are specified in 7A001 (Accelerometers) and 7A002 (Gyros).

The definition for the term "Data-Based Referenced Navigation" ("DBRN") Systems is removed from the Related Definitions paragraph, because this definition is moved to § 772.1. Defined terms that are used in multiple ECCNs are placed in § 772.1 and this term is used in 7A003, 7D003 and 7E004.

A new note (Note 1) has been added at the beginning of the Items paragraph in order to help readers better understand the scope of the entry. In addition to describing the basic functionality of these products, the new note also provides a list of the most commonly used product names.

A Technical Note below 7A003.a explains how to assess the performance depending on the application that is typical for that system (air, land and sea platforms). There are different controls for different types of products and the Technical Note provides instructions on how to apply these controls, i.e., 7A003.a.1, 7A003.a.2 and 7A003.a.3 typically apply to 'inertial measurement equipment or systems' designed for "aircraft," vehicles, and vessels, respectively. Even though there is now a control specifically for navigation equipment for land vehicles, it is important to note that the control limit applied is not intended to control civilian car navigation equipment.

Space qualified systems are now specified in 7A003.d because these are systems and not components specified by 7A002. Note the reference to "spacecraft" is removed from the current text of 7A003.a, because inertial equipment for "spacecraft" does not provide position.

7D003 (Other "software," as specified)

7D003.c ("Source code" for integrated avionics or mission systems which combine sensor data and employ "expert systems") is removed and reserved, because no mission management systems employing "expert systems" could be identified. The definition for "expert systems" is also removed from § 772.1 as a consequential change. The reference to 7D003.c is removed from the STA paragraph in the Special Conditions for STA section as well.

7D004 ("Source code" incorporating "development" "technology" specified by 7E004.a.1 to a.6 or 7E004.b.)

The Heading for 7D004 is amended by revising the reference to "7E004.a" to read "7E004.a.1 to a.6" to specify only the technology relevant to flight control source code in 7D004.

7D005 ("Software" "specially designed" to decrypt Global Navigation Satellite Systems (GNSS) ranging signals designed for government use)

ECCN 7D005 is added to close a loophole in the controls which are associated with the control of receivers for Global Navigation Satellite Systems (GNSS); there is no entry which explicitly includes the software which performs the data processing of the relevant signals. It also takes into account the fact that GNSS receivers making use of encrypted signals do not actually contain the decrypt algorithms and software. The new entry will capture the software of concern irrespective of whether it is intended to reside in a receiver or elsewhere, for example a secure server. This software is controlled for NS:1 and AT:1 reasons and will require a license to all destinations, except Canada. No list-based license exceptions are available for this ECCN; however, License Exception STA may be available, as well as transaction based license exceptions as outlined in Part 740 of the EAR.

7E001 ("Technology" according to the General Technology Note for the "development" of equipment or "software," specified by 7.A., 7.B., 7D001., 7D002., or 7D003, or 7D005)

ECCN 7D005 is added to the Heading and the NS license requirement paragraph of 7E001 to control "development" "software" specified in 7D005 to close a loophole in the controls which are associated with the control of receivers for Global Navigation Satellite Systems (GNSS). This technology is controlled under NS:1 and AT:1 to all destinations, except Canada. No list-based license exceptions or License Exception STA are available for this ECCN. A Note is added to clarify that 7E001 includes key management "technology" exclusively for equipment specified in 7A005.a to capture development technology used to produce potentially controlled software, including the development of decryption algorithms.

7E004 (Other "technology" as specified)

ECCN 7E004 is amended by removing and reserving paragraph b.6 (Full authority digital flight control or multisensory mission management system, employing "expert systems") and removing the Nota Bene below it, because no such system could be identified.

Category 8—Marine

8A002 (Marine systems, equipment, "parts" and "components,")

Paragraph 8A002.i.2 in the Items paragraph of the List of Items Controlled section is amended by deleting the phrase "or by using a dedicated computer," because it has been found that remotely controlled articulated manipulators specially designed or modified for use with submersible

vehicles do not use a control method by a dedicated computer anymore, with the development of new technology.

The Technical Note below 8A002.i.2 is amended by adding the phrase "related motion" to clarify the control and by removing the phrase "or by using a dedicated computer" for reasons stated in the previous paragraph.

A Nota Bene is added below the Note that follows paragraph q.2 to reference 8A620.f for equipment and devices "specially designed" for military use.

Category 9—Aerospace and Propulsion

9A001 (Aero gas turbine engines)

The Note to 9A001.a is revised to be Note 1, in order to add Note 2.

Note 2 is added following 9A001.a to state that "9A001.a does not apply to aero gas turbine engines for Auxiliary Power Units (APUs) approved by the civil aviation authority in a Wassenaar Arrangement Participating State, see Supplement No. 1 to part 743 of the EAR."

Supplement No. 2 to Part 774 "General Technology and Software Notes"

Supplement No. 2 to part 774 "General Technology and Software Notes" is amended by removing the phrase "operation, maintenance (checking), and repair" and adding in its place "operation, maintenance (checking), or repair" in the General Technology Note. This change is made to clarify that technology meeting any one of the aspects listed is controlled and does not have to meet all of the aspects to be controlled.

Supplement No. 5 to Part 774 "Items Classified Under ECCNS 0A521, 0B521, 0C521, 0D521 and 0E521"

Supplement No. 5 to part 774 "Items Classified Under ECCNS 0A521, 0B521, 0C521, 0D521 and 0E521" is amended by extending the expiration date to June 20, 2015 for 0D521 No. 2 and 0E521 No. 6, which is "source code" for the "development" of fly-by-wire control systems and specified "technology" for fly-by-wire control systems. The extension is justified because Wassenaar proposals are being negotiated to add this source code and technology to the WA List.

Supplement No. 6 to Part 774 "Sensitive List"

Paragraphs (4)(ii) 4D001and (4)(iii) 4E001 are amended by revising the APP from 0.5 Weighted TeraFLOPS (WT) to 1.0 WT.

Paragraph (7)(iv) 7D003.c is removed and reserved to harmonize with the removal of this paragraph from the CCL.

This rule redesignates paragraphs (7)(v) and (7)(vi) to read (7)(vi) and (7)(vii), and adds new paragraph (7)(v) "7D004.a to .d and .g" to correct the oversight of dropping the Sensitive List entry when this software moved from 7D003 to 7D004.

Sec. 734.4 *"De minimis* US Content"

Previously, foreign-made computers with an APP of 3.0 WT located in a foreign country are not eligible for the application of the *de minimis* rules when they contain U.S.-origin controlled semiconductors (other than memory circuits) classified under ECCN 3A001 and are destined to a country in Computer Tier 3 of Section 740.7 of the EAR. This rule increases the APP parameter from 3.0 WT to 8.0 WT in § 734.4(a) to harmonize with the revision made to ECCN 4A003.

Supplement No. 1 to Part 738 "Commerce Country Chart"

Mexico was added as a Wassenaar Participating State in 2011. It was added as an Australia Group member in 2013. In 2013, it was also added to the Nuclear Suppliers Group. Therefore, BIS has decided to remove the "X" for Mexico under columns NS:2 and RS:2.

Sec. 740.13 License Exception TSU

Section 740.13 is amended by replacing the phrase "operation, maintenance (checking), and repair" with "operation, maintenance (checking), or repair" in the second sentence of paragraph (a)(1). The same change was made to the General Software Note of the Wassenaar List, which is the Note License Exception TSU is based upon. Instead of meeting all of four of the listed characteristics (installation, operation, maintenance (checking), and repair), now the technology would only have to meet one of the four characteristics to be considered "operation technology."

Sec. 740.20 License Exception STA

This rule removes and reserves paragraph (b)(2)(ix) that restricted the use of License Exception STA for 3A982 (Microwave or millimeter wave components that operate at frequencies below those controlled by 3A001). This change is being made because ECCN 3A982 is removed by this rule and because the microwave and millimeter wave components identified in that ECCN are now controlled under 3A001.b.2 and 3A001.b.3.

Section 743.2 "High Performance Computers: Post Shipment Verification Reporting"

This section outlines special post-shipment reporting requirements for the export of certain computers to destinations in Computer Tier 3 of License Exception APP (Section 740.7 of the EAR). The reporting requirement applies to high performance computers exported to a destination in Computer Tier 3, as well as to exports of commodities used to enhance computers previously exported or reexported to Computer Tier 3 destinations, where the "APP is greater than 3.0 Weighted TeraFLOPS (WT). This rule increases that APP level from 3.0 WT to 8.0 WT in accordance with the WA agreement to increase the APP in ECCN 4A003.

Part 772 Definitions

While the WA agreed to remove the definition for "angular position deviation" from the WA list definitions, BIS is not removing the term from § 772.1 of the EAR, because this term is still used in 2B206.b.2 and .c.

The definition for "cryptography" is amended by adding the phrase "'secret parameters' (e.g., crypto variables) and/or associated key management," as well as adding a Technical Note that defines 'secret parameters.' The 'secret parameter' phrase and Technical Note were agreed upon by WA in 2012, but were inadvertently missed in the drafting of the implementation rule. These additions occurred in the context of establishing preventative measures for reverse engineering that is occurring during analysis of failures in integrated circuits. Also, the Technical Note in 5A002.a that explains that "cryptography" does not include "fixed" data compression or coding techniques applies directly and broadly to the definition of "cryptography." Accordingly, this Technical Note is moved into the definition of "cryptography."

The definition for the term "Data-Based Referenced Navigation" ("DBRN") Systems is removed from the Related Definitions paragraph of 7A003 and added to § 772.1, because defined terms that are used in multiple ECCNs are placed in § 772.1. This term is used in 7A003, 7D003 and 7E004.

This rule removes the term "expert systems" from § 772.1 of the EAR, because the control list paragraphs where it was used are deleted by this rule (7D003.c and 7E004.b.6). See explanations for removal of these paragraphs in the respective ECCN preambles above.

The term "frequency switching time" in § 772.1 of the EAR is amended by removing the phrase "(Cat 3 and 5)" and adding in its place "(Cat 3)," because in 5A001.b.5.b, the term "frequency switching time" is replaced by "channel switching time." For more explanation, see the preamble for 5A001 above.

The definition for "measurement uncertainty" used in Category 2 is amended by removing one of the referenced standards "VDI/VDE 2617," because the VDI/VDE 2617 standard was withdrawn in mid-2005 and may not be purchased by the public. It is not appropriate to reference a standard in the control list definitions that is no longer published.

The term "space-qualified" is amended by removing the phrase "Cat 3 and 6" and adding in its place "Cat 3, 6, and 7," because "space-qualified" systems are now specified in 7A003.d.

This rule adds the term "spinning mass gyros" in alphabetic order to § 772.1 of the EAR. This term is used in decontrol Notes to 7A002.a.1.b, a.2.b, and 7A003.d.2. Because it is used in multiple locations in the CCL, the Technical Notes that defined this term are removed and the definition is added to § 772.1 of the EAR.

This rule adds the term "three dimensional integrated circuit" in alphabetic order to § 772.1 of the EAR. This term is added to Note 2 to 3A001.a to clarify that the controls in 3A001 apply to these types of integrated circuits. 3D integrated circuit design is a recent approach to improving the functionality and performance of integrated circuits.

Export Administration Act

Since August 21, 2001, the Export Administration Act of 1979, as amended, has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 8, 2013, 78 FR 49107 (August 12, 2013) has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Saving Clause

Shipments of items removed from license exception eligibility or eligibility for export without a license as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on August 4, 2014, pursuant to actual orders for export to a foreign destination, may proceed to that destination under the previous license exception eligibility or without a license so long as they have been exported from the United States before October 3, 2014. Any such items not actually exported before midnight, on October 3, 2014, require a license in accordance with this regulation.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves two collections of information subject to the PRA. One of the collections has been approved by OMB under control number 0694–0088, "Multi-Purpose Application," and carries a burden hour estimate of 58 minutes for a manual or electronic submission. The other of the collections has been approved by OMB under control number 0694–0106, "Reporting and Recordkeeping Requirements under the Wassenaar Arrangement," and carries a burden hour estimate of 21 minutes for a manual or electronic submission. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503; and to Jasmeet Seehra, OMB Desk Officer, by email at *Jasmeet_K._Seehra@omb.eop.gov* or by fax to (202) 395–7285; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 1401 Constitution Ave. NW., Room 6622, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a 30-day delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Immediate implementation of these amendments fulfills the United States' international obligation to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. The Wassenaar Arrangement contributes to international security and regional stability by promoting greater responsibility in transfers of conventional arms and dual use goods and technologies, thus preventing destabilizing accumulations of such items. The Wassenaar Arrangement consists of 41 member countries that act on a consensus basis and the changes set forth in this rule implement agreements reached at the December 2012 plenary session of the WA. Because the United States is a significant exporter of the items covered by this rule, implementation of this rule is necessary for the WA to achieve its purpose. Any delay in implementation will create a disruption in the movement of affected items globally because of disharmony between export control measures implemented by WA members, resulting in tension between member countries. Export controls work best when all countries implement the same export controls in a timely manner. If this rulemaking were delayed to allow for notice and comment and a 30-day delay in effectiveness, it would prevent the United States from fulfilling its commitment to the WA in a timely manner and would injure the credibility of the United States in this and other multilateral regimes.

Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are

not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Ave. NW., Room 2099, Washington, DC 20230.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research Science and technology.

15 CFR Parts 738 and 772

Exports.

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 743

Administrative practice and procedure, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, Parts 734, 738, 740, 743, 772 and 774 of the Export Administration Regulations (15 CFR Parts 730–774) are amended as follows:

PART 734 [AMENDED]

■ 1. The authority citation for part 734 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); Notice of August 8, 2013, 78 FR 49107 (August 12, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013).

§ 734.4 [Amended]

■ 2. Section 734.4 is amended in paragraph (a)(1) by removing the phrase "3.0 Weighted TeraFLOPS (WT)" and adding in its place "8.0 Weighted TeraFLOPS (WT)".

PART 738 [AMENDED]

■ 3. The authority citation for part 738 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 et seq.; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 et seq.; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

Supplement No. 1 to Part 738 [Amended]

■ 4. Supplement No. 1, the entry for Mexico is amended by removing the "X" for columns NS:2 and RS:2.

PART 740 [AMENDED]

■ 5. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 22 U.S.C. 7201 et seq.; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

§ 740.13 [Amended]

■ 6. Section 740.13 is amended in the second sentence in paragraph (a)(1) by removing the phrase "operation, maintenance (checking), and repair" and adding in its place "operation, maintenance (checking), or repair".

§ 740.20 [Amended]

■ 7. Section 740.20 is amended by removing and reserving paragraph (b)(2)(ix).

PART 743 [AMENDED]

■ 8. The authority citation for part 743 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); 78 FR 16129 ; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

§ 743.2 [Amended]

■ 9. Section 743.2 is amended in paragraph (b) by removing the phrase "3.0 Weighted TeraFLOPS (WT)" and adding in its place "8.0 Weighted TeraFLOPS (WT)".

PART 772 [AMENDED]

■ 10. The authority citation for part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011).

■ 11. Section 772.1 is amended by:
■ a. Revising the term "Cryptography";
■ b. Adding the term "Data-Based Referenced Navigation" ("DBRN") Systems";
■ c. Removing the term "Expert systems";
■ d. Removing the phrase "(Cat 3 and 5)" and adding in its place "(Cat 3)" in the term "Frequency switching time."; and
■ e. Revising the term "Measurement uncertainty";
■ f. Removing the phrase "Cat 3 and 6" and adding in its place "Cat 3, 6, and 7" in the term "Space-qualified"; and
■ g. Adding the terms "Spinning mass gyros" and "Three dimensional integrated circuit" in alphabetic order,.

The additions and revisions read as follows:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

* * * * *

Cryptography. (Cat 5) The discipline that embodies principles, means and methods for the transformation of data in order to hide its information content, prevent its undetected modification or prevent its unauthorized use. "Cryptography" is limited to the transformation of information using one or more 'secret parameters' (e.g., crypto variables) and/or associated key management.

Note: *"Cryptography" does not include "fixed" data compression or coding techniques.*

Technical Note: *'Secret parameter': a constant or key kept from the knowledge of others or shared only within a group.*

* * * * *

Data-Based Referenced Navigation ("DBRN") Systems. (Cat 7) Systems which use various sources of previously measured geo-mapping data integrated to provide accurate navigation information under dynamic conditions. Data sources include bathymetric maps, stellar maps, gravity maps, magnetic maps or 3–D digital terrain maps.

* * * * *

Measurement uncertainty. (Cat 2) The characteristic parameter that specifies in what range around the output value the correct value of the measurable variable lies with a confidence level of 95%. It includes the uncorrected systematic deviations, the uncorrected backlash, and the random deviations (Ref.: ISO 10360–2).

* * * * *

Spinning mass gyros. (Cat 7) "Spinning mass gyros" are gyros which use a continually rotating mass to sense angular motion.

* * * * *

Three dimensional integrated circuit. (Cat 3) A collection of semiconductor die, integrated together, and having vias passing completely through at least one

die to establish interconnections between die.

* * * * *

PART 774 [AMENDED]

■ 12. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 et seq.; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 et seq.; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011).

■ 13. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 0, ECCN 0A018 is amended by revising paragraph b., and adding a Note after paragraph b., of the items paragraph in the List of Items Controlled section to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

0A018 Items on the Wassenaar Munitions List (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

b. "Specially designed" components and parts for ammunition, except cartridge cases, powder bags, bullets, jackets, cores, shells, projectiles, boosters, fuses and components, primers, and other detonating devices and ammunition belting and linking machines (all of which are "subject to the ITAR." (See 22 CFR parts 120 through 130);

Note: *0A018.b does not apply to "components" "specially designed" for blank or dummy ammunition as follows:*

a. Ammunition crimped without a projectile (blank star);

b. Dummy ammunition with a pierced powder chamber;

c. Other blank and dummy ammunition, not incorporating components designed for live ammunition.

* * * * *

■ 14. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1, ECCN 1A004 is amended by removing the Technical Note after the Note following the introductory text to paragraph a. of the items paragraph in the List of Items Controlled section and adding in its place the Technical Notes to read as follows:

1A004 Protective and detection equipment and "components," not "specially designed" for military use, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

a. * * *

Technical Notes: *For the purpose of 1A004.a:*

1. Full face masks are also known as gas masks.

2. Filter canisters include filter cartridges.

* * * * *

■ 15. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1, ECCN 1B001 is amended by revising paragraphs b. and g., and adding Technical Notes after both paragraphs b. and g., in the items paragraph of the List of Items Controlled section to read as follows:

1B001 Equipment for the production or inspection of "composite" structures or laminates controlled by 1A002 or "fibrous or filamentary materials" controlled by 1C010, as follows (see List of Items Controlled), and "specially designed" "components" and "accessories" therefor.

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

b. 'Tape laying machines', of which the motions for positioning and laying tape are coordinated and programmed in five or more 'primary servo positioning' axes, "specially designed" for the manufacture of "composite" airframe or missile structures;

Technical Note: *For the purposes of 1B001.b, 'tape-laying machines' have the ability to lay one or more 'filament bands' limited to widths greater than 25 mm and less than or equal to 305 mm, and to cut and restart individual 'filament band' courses during the laying process.*

* * * * *

g. Tow-placement machines, of which the motions for positioning and laying tows are coordinated and programmed in two or more 'primary servo positioning' axes, "specially designed" for the manufacture of "composite" airframe or missile structures.

Technical Note to 1B001.g: *For the purposes of 1B001.g, 'tow-placement machines' have the ability to place one or more 'filament bands' having widths less than or equal to 25 mm, and to cut and restart individual 'filament band' courses during the placement process.*

Technical Notes for 1B001:

1. For the purpose of 1B001, 'primary servo positioning' axes control, under computer program direction, the position of the end effector (i.e., head) in space relative to the work piece at the correct orientation and direction to achieve the desired process.

2. For the purposes of 1B001, a 'filament band' is a single continuous width of fully or partially resin-impregnated tape, tow or fiber.

■ 16. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1, ECCN 1C008 is amended by revising paragraphs a.3. and f., and removing the Technical Note and adding two Technical Notes in its place, in the Items paragraph of the List of Items Controlled section to read as follows:

1C008 Non-fluorinated polymeric substances as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

a. * * *

a.3. Aromatic polyimides having a 'glass transition temperature (Tg)' exceeding 505 K (232° C);

* * * * *

f. Polybiphenylenethersulphone having a 'glass transition temperature (Tg)' exceeding 563 K (290° C).

Technical Notes:

1. The 'glass transition temperature (Tg)' for 1C008.a.2 thermoplastic materials and 1C008.a.4 materials is determined using the method described in ISO 11357–2 (1999) or national equivalents

2. The 'glass transition temperature (Tg)' for 1C008.a.2 thermosetting materials and 1C008.a.3 materials is determined using the 3-point bend method described in ASTM D 7028–07 or equivalent national standard. The test is to be performed using a dry test specimen which has attained a minimum of 90% degree of cure as specified by ASTM E 2160–04 or equivalent national standard, and was cured using the combination of standard- and post-cure processes that yield the highest Tg.

■ 17. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1, ECCN 1C010 is amended by:

■ a. Removing the Technical Note after the Note in paragraph b.2 in the Items paragraph of the List of Items Controlled section;

■ b. Adding Technical Notes after the Note following paragraph c.2. in the Items paragraph of the List of Items Controlled section; and

■ c. Adding a comma after the word "pitch" in paragraph e.2.a.

The additions read as follows:

1C010 "Fibrous or filamentary materials" as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

c. * * *

c.2. * * *

Note: * * *

Technical Notes:

1. For the purpose of calculoting "specific tensile strength", "specific modulus" or specific weight of "fibrous or filamentary materiols" in 1C010.a, 1C010.b or 1C010.c, the tensile strength ond modulus should be determined by using Method A described in ISO 10618 (2004) or notionol equivalents.

2. Assessing the "specific tensile strength", "specific modulus" or specific weight of non-unidirectionol "fibrous or filamentary moteriols" (e.g., fobrics, rondom mots or braids) in 1C010 is to be based on the mechonical properties of the constituent unidirectionol monofilaments (e.g., monofiloments, yorns, rovings or tows) prior to processing into the non-unidirectional "fibrous or filamentory moteriols".

* * * * *

■ 18. In Supplement No. 1 to part 774, Category 1, Annex to Category 1 "List of Explosives" is amended by:

■ a. Revising paragraphs 32.d and 43;

■ b. Removing and reserving paragraph 34; and

■ c. Adding paragraphs 44 through 48.

The revisions and additions read as follows:

ANNEX to Category 1

List of Explosives (See ECCNs 1A004 and 1A008)

* * * * *

32. * *

d. BDNTA ((bis dinitrotriozole)omine);

* * * * *

43. Nitroguonidine (NQ) (CAS 556–88–7);

44. DNAN (2,4-dinitroonisole) (CAS 119–27–7);

45. TEX (4,10-Dinitro-2,6,8,12-tetraoxo-4,10-diazoisowurtzitone);

46. GUDN (Guonylureo dinitromide) FOX–12 (CAS 217464–38–5);

47. Tetrazines as follows:

a. BTAT (Bis(2,2,2-trinitroethyl)-3,6-diaminotetrazine);

b. LAX–112 (3,6-diomino-1,2,4,5-tetrozine-1,4-dioxide);

48. Energetic ionic materials melting between 343 K (70° C) ond 373 K (100° C) ond with detonotion velocity exceeding 6,800 m/s or detonation pressure exceeding 18 GPa (180 kbor).

■ 19. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2, Product Group B, "Technical Notes for 2B001 to 2B009, 2B201, 2B290 and 2B991 to 2B999" is amended by revising paragraph f. of the Note to paragraph 5, to read as follows:

B. TEST, INSPECTION AND "PRODUCTION EQUIPMENT"

Technical Notes for 2B001 to 2B009, 2B201, 2B290 and 2B991 to 2B999:

* * * * *

5. * * *

Note to paragraph 5: * * *

f. If ony oxis of o mochine model not controlled by 2B001.o. to 2B001.c. hos o stated accurocy Ā equol to or less than the specified positioning occurocy of eoch machine tool model plus 2 μm, the builder should be required to reoffirm the occuracy level once every eighteen months.

* * * * *

■ 20. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2, ECCN 2B006 is amended by revising paragraphs b.1.b. through b.1.b.2., b.1.c.2.b., and the introductory text of paragraph b.2., and by adding a Technical Note after b.1.b.2. in the Items paragraph of the List of Items Controlled section to read as follows:

2B006 Dimensional inspection or measuring systems, equipment, and "electronic assemblies", as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

b. * * *

b.1. * * *

b.1.b. Linear Variable Differential Transformer (LVDT) systems having all of the following:

b.1.b.1. "'Having any of the following:

b.1.b.1.a. "Linearity" equal to or less (better) than 0.1% measured from 0 to the 'full operating range', for LVDTs with a 'full operating range' up to and including ± 5 mm; *or*

b.1.b.1.b. "Linearity" equal to or less (better) than 0.1% measured from 0 to 5 mm for LVDTs with a 'full operating range' greater than ± 5 mm; *and*

b.1.b.2. Drift equal to or less (better) than 0.1% per day at a standard ambient test room temperature ± 1 K;

Technical Note: *For the purposes of 2B006.b.1.b, 'full operoting range' is half of the totol possible lineor displocement of the LVDT. For exomple, LVDTs with a 'full operating ronge' up to ond including ± 5 mm can meosure o totol possible linear displocement of 10 mm.*

b.1.c. * * *

b.1.c.2. * * *

b.1.c.2.b. Capable of achieving a "measurement uncertainty" equal to or less (better) than (0.2 + L/2,000) μm (L is the measured length in mm) at any point within a measuring range, when compensated for the refractive index of air; *or*

* * * * *

b.2. Angular displacement measuring instruments having an angular position "accuracy" equal to or less (better) than 0.00025°;

* * * * *

■ 21. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2, ECCN 2D002 is amended by revising the items paragraph in the List of Items Controlled section to read as follows:

2D002 "Software" for electronic devices, even when residing in an electronic device or system, enabling such devices or systems to function as a "numerical control" unit, capable of coordinating simultaneously more than 4 axes for "contouring control".

* * * * *

List of Items Controlled

* * * * *

Items:

Note 1: *2D002 does not control "softwore" "speciolly designed" or modified for the operotion of items not specified by Category 2.*

Note 2: *2D002 does not control "softwore" for items specified by 2B002. See 2D001 and 2D003 for "softwore" for items specified by 2B002.*

Note 3: *2D002 does not apply to "software" that is exported with, and the minimum necessory for the operotion of, items not specified by Category 2.*

The list of items controlled is contained in the ECCN heading.

■ 22. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 3, ECCN 3A001 is amended by:

■ a. Removing Related Control Notes (3) and (4) in the List of Items Controlled section;

■ b. Revising Note 2 to paragraph a. in the Items paragraph of the List of Items Controlled section;

■ c. Revising paragraphs a.5.a.1. and a.7.b. in the Items paragraph of the List of Items Controlled section;

■ d. Adding a Technical Note after the introductory text to paragraph b. in the Items paragraph of the List of Items Controlled section;

■ e. Revising paragraphs b.2., b.3., and b.4.; and

■ f. Revising Note 3 to paragraph h. in the Items paragraph of the List of Items Controlled section.

The revisions and additions read as follows:

3A001 Electronic components and "specially designed" "components" therefor, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

a. * * *

Note 2: *Integroted circuits include the following types:*

—Monolithic integroted circuits;

—Hybrid integroted circuits;

—Multichip integroted circuits;

—Film type integroted circuits, including silicon-on-sopphire integrated circuits;

—Opticol integroted circuits;

—"Three dimensional integrated circuits".n

* * * * *

a.5. * * *

a.5.a. * * *

a.5.a.1. A resolution of 8 bit or more, but less than 10 bit, with an output rate greater than 1 billion words per second;

* * * * *

a.7. * * *

a.7.b. An 'aggregate one-way peak serial transceiver data rate' of 200 Gb/s or greater;

* * * * *

b. * * *

Technical Note: *For purposes of 3A001.b, the parameter peak saturated power output may also be referred to on product data sheets as output power, saturated power output, maximum power output, peak power output, or peak envelope power output.*

* * * * *

b.2. Microwave "Monolithic Integrated Circuits" (MMIC) power amplifiers that are any of the following:

b.2.a. Rated for operation at frequencies exceeding 2.7 GHz up to and including 6.8 GHz with a "fractional bandwidth" greater than 15%, and having any of the following:

b.2.a.1. A peak saturated power output greater than 75 W (48.75 dBm) at any frequency exceeding 2.7 GHz up to and including 2.9 GHz;

b.2.a.2. A peak saturated power output greater than 55 W (47.4 dBm) at any frequency exceeding 2.9 GHz up to and including 3.2 GHz;

b.2.a.3. A peak saturated power output greater than 40 W (46 dBm) at any frequency exceeding 3.2 GHz up to and including 3.7 GHz; *or*

b.2.a.4. A peak saturated power output greater than 20 W (43 dBm) at any frequency exceeding 3.7 GHz up to and including 6.8 GHz;

b.2.b. Rated for operation at frequencies exceeding 6.8 GHz up to and including 16 GHz with a "fractional bandwidth" greater than 10%, and having any of the following:

b.2.b.1. A peak saturated power output greater than 10 W (40 dBm) at any frequency exceeding 6.8 GHz up to and including 8.5 GHz; *or*

b.2.b.2. A peak saturated power output greater than 5 W (37 dBm) at any frequency exceeding 8.5 GHz up to and including 16 GHz;

b.2.c. Rated for operation with a peak saturated power output greater than 3 W (34.77 dBm) at any frequency exceeding 16 GHz up to and including 31.8 GHz, and with a "fractional bandwidth" of greater than 10%;

b.2.d. Rated for operation with a peak saturated power output greater than 0.1n W (−70 dBm) at any frequency exceeding 31.8 GHz up to and including 37 GHz;

b.2.e. Rated for operation with a peak saturated power output greater than 1 W (30 dBm) at any frequency exceeding 37 GHz up to and including 43.5 GHz, and with a "fractional bandwidth" of greater than 10%;

b.2.f. Rated for operation with a peak saturated power output greater than 31.62 mW (15 dBm) at any frequency exceeding 43.5 GHz up to and including 75 GHz, and with a "fractional bandwidth" of greater than 10%;

b.2.g. Rated for operation with a peak saturated power output greater than 10 mW (10 dBm) at any frequency exceeding 75 GHz up to and including 90 GHz, and with a "fractional bandwidth" of greater than 5%; *or*

b.2.h. Rated for operation with a peak saturated power output greater than 0.1 nW (−70 dBm) at any frequency exceeding 90 GHz;

Note 1: *[RESERVED]*

Note 2: *The control status of the MMIC whose rated operating frequency includes frequencies listed in more than one frequency range, as defined by 3A001.b.2.a through 3A001.b.2.h, is determined by the lowest peak saturated power output control threshold.*

Note 3: *Notes 1 and 2 following the Category 3 heading for product group A. Systems, Equipment, and Components mean that 3A001.b.2 does not control MMICs if they are "specially designed" for other applications, e.g., telecommunications, radar, automobiles.*

b.3. Discrete microwave transistors that are any of the following:

b.3.a. Rated for operation at frequencies exceeding 2.7 GHz up to and including 6.8 GHz and having any of the following:

b.3.a.1. A peak saturated power output greater than 400 W (56 dBm) at any frequency exceeding 2.7 GHz up to and including 2.9 GHz;

b.3.a.2. A peak saturated power output greater than 205 W (53.12 dBm) at any frequency exceeding 2.9 GHz up to and including 3.2 GHz;

b.3.a.3. A peak saturated power output greater than 115 W (50.61 dBm) at any frequency exceeding 3.2 GHz up to and including 3.7 GHz; *or*

b.3.a.4. A peak saturated power output greater than 60 W (47.78 dBm) at any frequency exceeding 3.7 GHz up to and including 6.8 GHz;

b.3.b. Rated for operation at frequencies exceeding 6.8 GHz up to and including 31.8 GHz and having any of the following:

b.3.b.1. A peak saturated power output greater than 50 W (47 dBm) at any frequency exceeding 6.8 GHz up to and including 8.5 GHz;

b.3.b.2. A peak saturated power output greater than 15 W (41.76 dBm) at any frequency exceeding 8.5 GHz up to and including 12 GHz;

b.3.b.3. A peak saturated power output greater than 40 W (46 dBm) at any frequency exceeding 12 GHz up to and including 16 GHz; *or*

b.3.b.4. A peak saturated power output greater than 7 W (38.45 dBm) at any frequency exceeding 16 GHz up to and including 31.8 GHz;

b.3.c. Rated for operation with a peak saturated power output greater than 0.5 W (27 dBm) at any frequency exceeding 31.8 GHz up to and including 37 GHz;

b.3.d. Rated for operation with a peak saturated power output greater than 1 W (30 dBm) at any frequency exceeding 37 GHz up to and including 43.5 GHz; *or*

b.3.e. Rated for operation with a peak saturated power output greater than 0.1 nW (−70 dBm) at any frequency exceeding 43.5 GHz;

Note 1: *The control status of a transistor, whose rated operating frequency includes frequencies listed in more than one frequency range, as defined by 3A001.b.3.a through 3A001.b.3.e, is determined by the lowest peak saturated power output control threshold.*

Note 2: *3A001.b.3 includes bare dice, dice mounted on carriers, or dice mounted in packages. Some discrete transistors may also be referred to as power amplifiers, but the status of these discrete transistors is determined by 3A001.b.3.*

b.4. Microwave solid state amplifiers and microwave assemblies/modules containing microwave solid state amplifiers, that are any of the following:

b.4.a. Rated for operation at frequencies exceeding 2.7 GHz up to and including 6.8 GHz with a "fractional bandwidth" greater than 15%, and having any of the following:

b.4.a.1. A peak saturated power output greater than 500 W (57 dBm) at any frequency exceeding 2.7 GHz up to and including 2.9 GHz;

b.4.a.2. A peak saturated power output greater than 270 W (54.3 dBm) at any frequency exceeding 2.9 GHz up to and including 3.2 GHz;

b.4.a.3. A peak saturated power output greater than 200 W (53 dBm) at any frequency exceeding 3.2 GHz up to and including 3.7 GHz; *or*

b.4.a.4. A peak saturated power output greater than 90 W (49.54 dBm) at any frequency exceeding 3.7 GHz up to and including 6.8 GHz;

b.4.b. Rated for operation at frequencies exceeding 6.8 GHz up to and including 31.8 GHz with a "fractional bandwidth" greater than 10%, and having any of the following:

b.4.b.1. A peak saturated power output greater than 70 W (48.54 dBm) at any frequency exceeding 6.8 GHz up to and including 8.5 GHz;

b.4.b.2. A peak saturated power output greater than 50 W (47 dBm) at any frequency exceeding 8.5 GHz up to and including 12 GHz;

b.4.b.3. A peak saturated power output greater than 30 W (44.77 dBm) at any frequency exceeding 12 GHz up to and including 16 GHz; *or*

b.4.b.4. A peak saturated power output greater than 20 W (43 dBm) at any frequency exceeding 16 GHz up to and including 31.8 GHz;

b.4.c. Rated for operation with a peak saturated power output greater than 0.5 W (27 dBm) at any frequency exceeding 31.8 GHz up to and including 37 GHz;

b.4.d. Rated for operation with a peak saturated power output greater than 2 W (33 dBm) at any frequency exceeding 37 GHz up to and including 43.5 GHz, and with a "fractional bandwidth" of greater than 10%;

b.4.e. Rated for operation at frequencies exceeding 43.5 GHz and having any of the following:

b.4.e.1. A peak saturated power output greater than 0.2 W (23 dBm) at any frequency exceeding 43.5 GHz up to and including 75 GHz, and with a "fractional bandwidth" of greater than 10%;

b.4.e.2. A peak saturated power output greater than 20 mW (13 dBm) at any frequency exceeding 75 GHz up to and

including 90 GHz, and with a "fractional bandwidth" of greater than 5%; *or*

b.4.e.3. A peak saturated power output greater than 0.1 nW (−70 dBm) at any frequency exceeding 90 GHz; *or*

b.4.f. Rated for operation at frequencies above 2.7 GHz and all of the following:

b.4.f.1. A peak saturated power output (in watts), P_{sat}, greater than 400 divided by the maximum operating frequency (in GHz) squared [$P_{sat} > 400\ W*GHz^2/f_{GHz}^2$];

b.4.f.2. A "fractional bandwidth" of 5% or greater; *and*

b.4.f.3. Any two sides perpendicular to one another with either length d (in cm) equal to or less than 15 divided by the lowest operating frequency in GHz [$d \leq 15\ cm*GHz/f_{GHz}$];

Technical Note: *2.7 GHz should be used as the lowest operating frequency (f_{GHz}) in the formula in 3A001.b.4.f.3., for amplifiers that have a rated operation range extending downward to 2.7 GHz and below [$d \leq 15cm*GHz/2.7\ GHz$].*

N.B.: MMIC power amplifiers should be evaluated against the criteria in 3A001.b.2.

Note 1: *[RESERVED]*

Note 2: *The control status of an item whose rated operating frequency includes frequencies listed in more than one frequency range, as defined by 3A001.b.4.a through 3A001.b.4.e, is determined by the lowest peak saturated power output control threshold.*

Note 3: *3A001.b.4 includes transmit/receive modules and transmit modules.*

* * * * *

h. * * *

Note 3: *3A001.h. does not apply to switches, diodes, or 'modules', incorporated into equipment designed for civil automobile, civil railway, or "civil aircraft" applications.*

■ 23. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 3, ECCN 3A002 is amended by:

■ a. Revising the heading;

■ b. Revising License Exception GBS and CIV paragraphs;

■ c. Revising the introductory text to paragraph a.;

■ d. Removing and reserving paragraphs a.1. through a.4;

■ e. Revising paragraph a.6;

■ f. Adding paragraph a.7;

■ g. Revising the introductory text to paragraph d.1.; and

■ h. Revising Technical Note 2 that appears after paragraph d.5.

The revisions and additions read as follows:

3A002 General purpose electronic equipment, as follows (see List of Items Controlled).

* * * * *.

List Based License Exceptions (See Part 740 for a description of all license exceptions)

* * * * *

GBS: N/A.

CIV: N/A.

* * * * *

List of Items Controlled

* * * * *

Items:

a. Recording equipment and oscilloscopes, as follows:

* * * * *

a.6. Digital instrumentation data recorder systems using magnetic disk storage technique and having all of the following, and "specially designed" digital recorders therefor:

a.6.a. Digitized instrumentation data rate equal to or more than 100 million samples per second and at a resolution of 8 bits or more; *and*

a.6.b. A 'continuous throughput' of 1 Gbit/s or more;

Technical Note: *Digital instrumentation data recorder systems can be configured either with a digitizer integrated within or outside the digital recorder.*

a.7. Real-time oscilloscopes having a vertical root-mean-square (rms) noise voltage of less than 2% of full-scale at the vertical scale setting that provides the lowest noise value for any input 3dB bandwidth of 60 GHz or greater per channel;

Note: *3A002.a.7 does not apply to equivalent-time sampling oscilloscopes.*

* * * * *

d. * * *

d.1. Specified to generate pulse-modulated signals having all of the following, anywhere within the synthesized frequency range exceeding 31.8 GHz but not exceeding 75 GHz:

* * * * *

d.5. * * *

Technical Notes:

1. The maximum synthesized frequency of an arbitrary waveform or function generator is calculated by dividing the sample rate, in samples/second, by a factor of 2.5.

2. For the purposes of 3A002.d.1.a, 'pulse duration' is defined as the time interval from the point on the leading edge that is 50% of the pulse amplitude to the point on the trailing edge that is 50% of the pulse amplitude.

* * * * *

■ 24. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 3, ECCNs 3A982, 3D982 and 3E982 are removed.

■ 25. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 3, ECCN 3A991 is amended by revising paragraph .d in the items paragraph of the List of Items Controlled section to read as follows:

3A991 Electronic devices, and "components" not controlled by 3A001.

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

d. Field programmable logic devices having a maximum number of single-ended digital input/outputs of 200 or greater and less than 500;

* * * * *

■ 26. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 3, ECCN 3C005 is amended by revising the heading to read as follows:

3C005 Silicon carbide (SiC), gallium nitride (GaN), aluminum nitride (AlN) or aluminum gallium nitride (AlGaN) semiconductor "substrates", or ingots, boules, or other preforms of those materials, having resistivities greater than 10,000 ohm-cm at 20 °C.

* * * * *

■ 27. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 3, ECCN 3E002 is amended by revising paragraph b. in the Items paragraph of the List of Items Controlled section to read as follows:

3E002 "Technology" according to the General Technology Note other than that controlled in 3E001 for the "development" or "production" of a "microprocessor microcircuit", "micro-computer microcircuit" and microcontroller microcircuit core, having an arithmetic logic unit with an access width of 32 bits or more and any of the following features or characteristics (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

b. Designed to perform more than four 64-bit or larger floating-point operation results per cycle; *or*

* * * * *

■ 28. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 4, ECCN 4A003 is amended by:

■ a. Revising the AT paragraph in the License Requirements section;

■ b. Revising the Note in the License Requirements section; and

■ c. Revising paragraph b. in the Items paragraph of the List of Items Controlled section.

The revisions read as follows:

4A003 "Digital computers", "electronic assemblies", and related equipment therefor, as follows (see List of Items Controlled) and "specially designed" "components" therefor.

License Requirements

* * * * *

Control(s)	*Country chart (see Supp. No. 1 to part 738)*

Control(s)	Country chart (see Supp. No. 1 to part 738)
* * * * *	
AT applies to entire entry (refer to 4A994 for controls on "digital computers" with a APP >0.0128 but ≤8.0 WT).	AT Column 1.
* * * * *	

* * * * *

Note: *For all destinations, except those countries in Country Group E:1 of Supplement No. 1 to part 740 of the EAR, no license is required (NLR) for computers with an "Adjusted Peak Performance" ("APP") not exceeding 8.0 Weighted TeraFLOPS (WT) and for "electronic assemblies" described in 4A003.c that are not capable of exceeding an "Adjusted Peak Performance" ("APP") exceeding 8.0 Weighted TeraFLOPS (WT) in aggregation, except certain transfers as set forth in § 746.3 (Iraq).*

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

b. "Digital computers" having an "Adjusted Peak Performance" ("APP") exceeding 8.0 weighted TeraFLOPS (WT);

* * * * *

■ 29. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 4, ECCN 4D001 is amended by:

■ a. Revising the TSR paragraph in the List Based License Exceptions section;

■ b. Revising the Special Conditions for STA section; and

■ c. Revising paragraph b.1. in the Items paragraph of the List of Items Controlled section.

The revisions read as follows:

4D001 "Software" as follows (see List of Items Controlled).

* * * * *

List Based License Exceptions (See Part 740 for a description of all license exceptions)

* * * * *

TSR: Yes, except for "software" for the "development" or "production" of commodities with an "Adjusted Peak Performance" ("APP") exceeding 1.0 WT.

* * * * *

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit "software" "specially designed" for the "development" or "production" of equipment specified by ECCN 4A001.a.2 or for the "development" or "production" of "digital computers" having an 'Adjusted Peak Performance' ('APP') exceeding 1.0 Weighted TeraFLOPS (WT) to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

* * * * *

Items:

* * * * *

b. * * *:

b.1. "Digital computers" having an "Adjusted Peak Performance" ("APP") exceeding 0.60 Weighted TeraFLOPS (WT);

* * * * *

■ 30. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 4, ECCN 4E001 is amended by:

■ a. Revising the TSR paragraph in the List Based License Exceptions section;

■ b. Revising the Special Conditions for STA section; and

■ c. Revising paragraph b.1. in the Items paragraph of the List of Items Controlled section.

The revisions read as follows:

4E001 "Technology" as follows (see List of Items Controlled).

* * * * *

List Based License Exceptions (See Part 740 for a description of all license exceptions)

* * * * *

TSR: Yes, except for "technology" for the "development" or "production" of commodities with an "Adjusted Peak Performance" ("APP") exceeding 1.0 WT.

* * * * *

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit "technology" according to the General Technology Note for the "development" or "production" of any of the following equipment or "software": a. Equipment specified by ECCN 4A001.a.2; b. "Digital computers" having an 'Adjusted Peak Performance' ('APP') exceeding 1.0 Weighted TeraFLOPS (WT); or c. "software" specified in the License Exception STA paragraph found in the License Exception section of ECCN 4D001 to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

* * * * *

Items:

* * * * *

b. * * *

b.1. "Digital computers" having an "Adjusted Peak Performance" ("APP") exceeding 0.60 Weighted TeraFLOPS (WT);

* * * * *

■ 31. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5, Part 1, ECCN 5A001 is amended by:

■ a. Revising paragraphs b.1.d. and b.5.b. in the Items paragraph of the List of Items Controlled section; and

■ b. Adding a Technical Note after the Note following paragraph b.5.d. in the Items paragraph of the List of Items Controlled section.

The revisions and addition read as follows:

5A001 Telecommunications systems, equipment, "components" and "accessories," as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

b. * * *

b.1 * * *

b.1.d. Using "lasers" or light-emitting diodes (LEDs), with an output wavelength greater than 400 nm and less than 700 nm, in a "local area network";

* * * * *

b.5. * * *

b.5.b. A 'channel switching time' of less than 1 ms;

* * * * *

b.5.d. * * *

Note: * * *

Technical Note: *'Channel switching time': the time (i.e., delay) to change from one receiving frequency to another, to arrive at or within ±0.05% of the final specified receiving frequency. Items having a specified frequency range of less than ±0.05% around their centre frequency are defined to be incapable of channel frequency switching.*

* * * * *

■ 32. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5, Part 1, ECCN 5E001 is amended by removing paragraph d., including all subparagraphs, Notes, and Technical Notes, and adding in its place d., including all subparagraphs, Notes, and Technical Notes, in the Items paragraph of the List of Items Controlled section to read as follows:

5E001 "Technology" as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

d. "Technology" according to the General Technology Note for the "development" or "production" of Microwave Monolithic Integrated Circuit (MMIC) power amplifiers "specially designed" for telecommunications and that are any of the following:

Technical Note: *For purposes of 5E001.d, the parameter peak saturated power output may also be referred to on product data sheets as output power, saturated power output, maximum power output, peak power output, or peak envelope power output.*

d.1. Rated for operation at frequencies exceeding 2.7 GHz up to and including 6.8 GHz with a "fractional bandwidth" greater than 15%, and having any of the following:

d.1.a. A peak saturated power output greater than 75 W (48.75 dBm) at any frequency exceeding 2.7 GHz up to and including 2.9 GHz;

d.1.b. A peak saturated power output greater than 55 W (47.4 dBm) at any frequency exceeding 2.9 GHz up to and including 3.2 GHz;

d.1.c. A peak saturated power output greater than 40 W (46 dBm) at any frequency exceeding 3.2 GHz up to and including 3.7 GHz; or

d.1.d. A peak saturated power output greater than 20 W (43 dBm) at any frequency exceeding 3.7 GHz up to and including 6.8 GHz;

d.2. Rated for operation at frequencies exceeding 6.8 GHz up to and including 16 GHz with a "fractional bandwidth" greater than 10%, and having any of the following:

d.2.a. A peak saturated power output greater than 10W (40 dBm) at any frequency exceeding 6.8 GHz up to and including 8.5 GHz; or

d.2.b. A peak saturated power output greater than 5W (37 dBm) at any frequency exceeding 8.5 GHz up to and including 16 GHz;

d.3. Rated for operation with a peak saturated power output greater than 3 W (34.77 dBm) at any frequency exceeding 16 GHz up to and including 31.8 GHz, and with a "fractional bandwidth" of greater than 10%;

d.4. Rated for operation with a peak saturated power output greater than 0.1n W (−70 dBm) at any frequency exceeding 31.8 GHz up to and including 37 GHz;

d.5. Rated for operation with a peak saturated power output greater than 1 W (30 dBm) at any frequency exceeding 37 GHz up to and including 43.5 GHz, and with a "fractional bandwidth" of greater than 10%;

d.6. Rated for operation with a peak saturated power output greater than 31.62 mW (15 dBm) at any frequency exceeding 43.5 GHz up to and including 75 GHz, and with a "fractional bandwidth" of greater than 10%;

d.7. Rated for operation with a peak saturated power output greater than 10 mW (10 dBm) at any frequency exceeding 75 GHz up to and including 90 GHz, and with a "fractional bandwidth" of greater than 5%; or

d.8. Rated for operation with a peak saturated power output greater than 0.1 nW (−70 dBm) at any frequency exceeding 90 GHz;

* * * * *

■ 33. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5, Part 2 is amended by:

■ a. Revising paragraph b. of Note 3 to read as follows; and

■ b. Removing the Technical Note at the end of Note 4 that reads "Parity bits are not included in the key length."

The revision reads as follows:

CATEGORY 5—TELECOMMUNICATIONS AND "INFORMATION SECURITY"

* * * * *

Part 2—"INFORMATION SECURITY"

* * * * *

Note 3: * * *

b. * * *

3. The feature set of the component or 'executable software' is fixed and is not designed or modified to customer specification; *and*

* * * * *

■ 34. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5, Part 2, ECCN 5A002 is amended by:

■ a. Revising paragraphs (i) and (j), and adding paragraph (k) to the Note at the beginning of the Items paragraph of the List of Items Controlled section;

■ b. Revising the Nota Bena after the introductory text of paragraph a. in the Items paragraph of the List of Items Controlled section;

■ c. Removing paragraph 3 in the Technical Note to 5A002.a.1. in the Items paragraph of the List of Items Controlled section;

■ d. Removing the Note to 5A002.a.1. in the Items paragraph of the List of Items Controlled section;

■ e. Adding a Technical Note after the introductory text of paragraph a.1.a. in the Items paragraph of the List of Items Controlled section; and

■ f. Revising the introductory text to paragraph a.9. in the Items paragraph of the List of Items Controlled section.

The revisions and addition read as follows:

5A002 "Information security" systems, equipment "components" therefor, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

Note: * * *

(i) Wireless "personal area network" equipment that implement only published or commercial cryptographic standards and where the cryptographic capability is limited to a nominal operating range not exceeding 30 meters according to the manufacturer's specifications, or not exceeding 100 meters according to the manufacturer's specifications for equipment that cannot interconnect with more than seven devices;

(j) Equipment, having no functionality specified by 5A002.a.2, 5A002.a.4, 5A002.a.7, or 5A002.a.8, where all cryptographic capability specified by 5A002.a meets any of the following:

1. It cannot be used; or

2. It can only be made useable by means of "cryptographic activation"; or

N.B.: See 5A002.a for equipment that has undergone "cryptographic activation."

(k) Mobile telecommunications Radio Access Network (RAN) equipment designed for civil use, which also meet the provisions 2. to 5. of part a. of the Cryptography Note (Note 3 in Category 5, Part 2), having an RF output power limited to 0.1W (20 dBm) or less, and supporting 16 or fewer concurrent users.

a. * * *

N.B.: For the control of Global Navigation Satellite Systems (GNSS) receiving equipment containing or employing decryption, see ECCN 7A005, and for related decryption "software" and "technology" see 7D005 and 7E001.

a.1. * * *

a.1.a. * * *

Technical Note: *Parity bits are not included in the key length.*

* * * * *

a.9. Designed or modified to use or perform 'quantum cryptography.'

* * * * *

■ 35. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6A001 is amended by:

■ a. Adding Note 3 to the introductory paragraph a.1.c. in the Items paragraph of the List of Items Controlled section;

■ b. Revising the Technical Note following a.1.c.2., the introductory text to paragraph a.1.e., a.2.a.3. through a.2.a.3.e., a.2.b.7., and a.2.e. through a.2.e.3.;

■ c. Removing and reserving paragraph a.2.b.6.

■ c. Adding paragraphs a.2.b.8 and a.2.g. through a.2.g.4., and one Note to 6A001.a.2 and two Technical Notes following the Note to 6A001.a.2.g.; and

■ d. Removing the Note after paragraph a.2.f. and adding it after new paragraph a.2.g.4. in the Items paragraph of the List of Items Controlled section.

The revisions and additions read as follows:

6A001 Acoustic systems, equipment and components, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

a. * * *

a.1. * * *

a.1.c. * * *

Note:

* * * * *

3. Piezoelectric elements specified in 6A001.a.1.c include those made from lead-magnesium-niobate/lead-titanate ($Pb(Mg_{1/3}Nb_{2/3})O_3$-$PbTiO_3$, or PMN-PT) single crystals grown from solid solution or lead-indium-niobate/lead-magnesium niobate/lead-titanate ($Pb(In_{1/2}Nb_{1/2})O_3$-$Pb(Mg_{1/3}Nb_{2/3})O_3$-$PbTiO_3$, or PIN-PMN-PT) single crystals grown from solid solution.

* * * * *

a.1.c.2. * * *

Technical Note: *'Acoustic power density' is obtained by dividing the output acoustic power by the product of the area of the radiating surface and the frequency of operation.*

* * * * *

a.1.e. Active individual sonars, "specially designed" or modified to detect, locate and

automatically classify swimmers or divers, having all of the following, and "specially designed" transmitting and receiving acoustic arrays therefor:

* * * * *

a.2. * * *

a.2.a. * * *

a.2.a.3. Having any of the following sensing elements:

a.2.a.3.a. Optical fibers;

a.2.a.3.b. 'Piezoelectric polymer films' other than polyvinylidene-fluoride (PVDF) and its co-polymers {P(VDF-TrFE) and P(VDF-TFE)};

a.2.a.3.c. 'Flexible piezoelectric composites';

a.2.a.3.d. Lead-magnesium-niobate/lead-titanate (i.e., $Pb(Mg_{1/3}Nb_{2/3})O_3$-$PbTiO_3$, or PMN-PT) piezoelectric single crystals grown from solid solution; or

a.2.a.3.e. Lead-indium-niobate/lead-magnesium niobate/lead-titanate (i.e., $Pb(In_{1/2}Nb_{1/2})O_3$-$Pb(Mg_{1/3}Nb_{2/3})O_3$-$PbTiO_3$, or PIN-PMN-PT) piezoelectric single crystals grown from solid solution;

* * * * *

a.2.b. * * *

a.2.b.6. [RESERVED];

a.2.b.7. Hydrophone characteristics controlled by 6A001.a.2.a; or

a.2.b.8. Accelerometer-based hydro-acoustic sensors specified by 6A001.a.2.g;

* * * * *

a.2.e. Bottom or bay-cable hydrophone arrays having any of the following:

a.2.e.1. Incorporating hydrophones controlled by 6A001.a.2.a;

a.2.e.2. Incorporating multiplexed hydrophone group signal modules having all of the following characteristics:

a.2.e.2.a. Designed to operate at depths exceeding 35 m or having an adjustable or removal depth sensing device in order to operate at depths exceeding 35 m; and

a.2.e.2.b. Capable of being operationally interchanged with towed acoustic hydrophone array modules; or

a.2.e.3. Incorporating accelerometer-based hydro-acoustic sensors specified by 6A001.a.2.g;

a.2.f. * * *

a.2.g. Accelerometer-based hydro-acoustic sensors having all of the following:

a.2.g.1. Composed of three accelerometers arranged along three distinct axes;

a.2.g.2. Having an overall 'acceleration sensitivity' better than 48 dB (reference 1,000 mV rms per 1g);

a.2.g.3. Designed to operate at depths greater than 35 meters; and

a.2.g.4. Operating frequency below 20 kHz;

Note: *6A001.a.2.g does not apply to particle velocity sensors or geophones.*

Note: *6A001.a.2 also applies to receiving equipment, whether or not related in normal application to separate active equipment, and "specially designed" components therefor.*

Technical Notes:

1. Accelerometer-based hydro-acoustic sensors are also known as vector sensors.

2. 'Acceleration sensitivity' is defined as twenty times the logarithm to the base 10 of the ratio of rms output voltage to a 1 V rms reference, when the hydro-acoustic sensor, without a preamplifier, is placed in a plane wave acoustic field with an rms acceleration of 1 g (i.e., 9.81 m/s²).

* * * * *

■ 36. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6A005 is amended by:

■ a. Revising the NP paragraph in the License Requirement section;

■ b. Removing the License Requirements Note;

■ c. Revising License Exception paragraphs GBS and CIV in the List Based License Exception section;

■ d. Revising the Related Definitions paragraph in the List of Items Controlled section;

■ e. Revising Note 2 and adding a Technical Note after Note 2 at the beginning of the Items paragraph in the List of Items Controlled section;

■ f. Revising the Note below paragraph a.6.b.2. to make it "Note 1" and adding Note 2 and a Technical Note;

■ g. Removing paragraphs b.4., b.5., and b.6. and adding in place b.4., b.5., and .b.6.; and

■ h. Removing the Note below paragraph d.6.b.

The revisions read as follows:

6A005 "Lasers," "components" and optical equipment, as follows (see List of Items Controlled), excluding items that are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country Chart*
NS applies to entire entry.	NS Column 2.
NP applies to "lasers" that meet or exceed the parameters of 6A205.	NP Column 1.
AT applies to entire entry.	AT Column 1.

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: N/A for NP items
$3000 for all other items

GBS: Neodymium-doped (other than glass) "lasers" controlled by 6A005.b.6.d.2 (except 6A005.b.6.d.2.b) that have an output wavelength exceeding 1,000 nm, but not exceeding 1,100 nm, and an average or CW output power not exceeding 2kW, and operate in a pulse-excited, non-"Q-switched" multiple-transverse mode, or in a continuously excited, multiple-transverse mode; Dye and Liquid Lasers controlled by 6A005.c.1, c.2 and c.3, except for a pulsed single longitudinal mode oscillator having an average output power exceeding 1 W and a repetition rate exceeding 1 kHz if the "pulse duration" is less than 100 ns; CO "lasers" controlled by 6A005.d.2 having a CW maximum rated single or multimode output power not exceeding 10 kW; CO_2 or CO/CO_2 "lasers" controlled by 6A005.d.3 having an output wavelength in the range from 9,000 to 11,000 nm and having a pulsed output not exceeding 2 J per pulse and a maximum rated average single or multimode output power not exceeding 5 kW; CO_2 "lasers" controlled by 6A005.d.3 that operate in CW multiple-transverse mode, and having a CW output power not exceeding 15kW; and 6A005.f.1.

CIV: Neodymium-doped (other than glass) "lasers" controlled by 6A005.b.6.d.2 (except 6A005.b.6.d.2.b) that have an output wavelength exceeding 1,000 nm, but not exceeding 1,100 nm, and an average or CW output power not exceeding 2kW, and operate in a pulse-excited, non-"Q-switched" multiple-transverse mode, or in a continuously excited, multiple-transverse mode; Dye and Liquid Lasers controlled by 6A005.c.1, c.2 and c.3, except for a pulsed single longitudinal mode oscillator having an average output power exceeding 1 W and a repetition rate exceeding 1 kHz if the "pulse duration" is less than 100 ns; CO "lasers" controlled by 6A005.d.2 having a CW maximum rated single or multimode output power not exceeding 10 kW; CO_2 or CO/CO_2 "lasers" controlled by 6A005.d.3 having an output wavelength in the range from 9,000 to 11,000 nm and having a pulsed output not exceeding 2 J per pulse and a maximum rated average single or multimode output power not exceeding 5 kW; CO_2 "lasers" controlled by 6A005.d.3 that operate in CW multiple-transverse mode, and having a CW output power not exceeding 15kW; and 6A005.f.1.

List of Items Controlled

Related Controls: (1) See ECCN *6D001* for "software" for items controlled under this entry. (2) See ECCNs *6E001* ("development"), *6E002* ("production"), and *6E201* ("use") for technology for items controlled under this entry. (3) Also see ECCNs *6A205* and *6A995*. (4) See ECCN 3B001 for excimer "lasers" "specially designed" for lithography equipment. (5) "Lasers" "specially designed" or prepared for use in isotope separation are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110). (6) Shared aperture optical elements, capable of operating in "super-high power laser" applications, and "lasers" specifically designed, modified, or configured for military application are "subject to the ITAR" (see 22 CFR parts 120 through 130).

Related Definitions: (1) 'Wall-plug efficiency' is defined as the ratio of "laser" output power (or "average output power") to total electrical input power required to operate the "laser", including the power supply/conditioning and thermal conditioning/heat exchanger, see 6A005.a.6.b.1 and 6A005.b.6; (2) 'Non-repetitive pulsed' refers to "lasers" that produce either a single output pulse or that have a time interval between pulses exceeding one minute, see Note 2 of 6A005 and 6A005.d.6.

Items:

* * * * *

Note 2: *Excimer, semiconductor, chemical, CO, CO_2,* and 'non-repetitive pulsed' Nd:glass "lasers" are only specified by 6A005.d.

Technical Note: *'Non-repetitive pulsed' refers to "lasers" that produce either a single output pulse or that have a time interval between pulses exceeding one minute.*

* * * * *

a. * * *

a.6. * * *

a.6.b. * * *

a.6.b.2. * * *

Note 1: *6A005.a.6.b does not control multiple transverse mode, industrial "lasers" with output power exceeding 2kW and not exceeding 6 kW with a total mass greater than 1,200 kg. For the purpose of this note, total mass includes all "components" required to operate the "laser," e.g., "laser," power supply, heat exchanger, but excludes external optics for beam conditioning and/or delivery.*

Note 2: *6A005.a.6.b does not apply to multiple transverse mode, industrial "lasers" having any of the following:*

a. Output power exceeding 500 W but not exceeding 1 kW and having all of the following:

1. Beam Parameter Product (BPP) exceeding 0.7 mm•mrad; and

2. 'Brightness' not exceeding 1024 W/(mm•mrad);[2]

b. Output power exceeding 1 kW but not exceeding 1.6 kW and having a BPP exceeding 1.25 mm•mrad;

c. Output power exceeding 1.6 kW but not exceeding 2.5 kW and having a BPP exceeding 1.7 mm•mrad;

d. Output power exceeding 2.5 kW but not exceeding 3.3 kW and having a BPP exceeding 2.5 mm•mrad;

e. Output power exceeding 3.3 kW but not exceeding 4 kW and having a BPP exceeding 3.5 mm•mrad;

f. Output power exceeding 4 kW but not exceeding 5 kW and having a BPP exceeding 5 mm•mrad;

g. Output power exceeding 5 kW but not exceeding 6 kW and having a BPP exceeding 7.2 mm•mrad;

h. Output power exceeding 6 kW but not exceeding 8 kW and having a BPP exceeding 12 mm•mrad; or

i. Output power exceeding 8 kW but not exceeding 10 kW and having a BPP exceeding 24 mm•mrad;

Technical Note: *For the purpose of 6A005.a.6.b, Note 2.a., 'brightness' is defined as the output power of the "laser" divided by the squared Beam Parameter Product (BPP), i.e., (output power)/BPP*[2].

* * * * *

b. * * *

b.4. Output wavelength exceeding 540 nm but not exceeding 800 nm and any of the following:

b.4.a. "Pulse duration" less than 1 ps and any of the following:

b.4.a.1. Output energy exceeding 0.005 J per pulse and "peak power" exceeding 5 GW; *or*

b.4.a.2. "Average output power" exceeding 20 W; or

b.4.b. "Pulse duration" equal to or exceeding 1 ps and any of the following:

b.4.b.1. Output energy exceeding 1.5 J per pulse and "peak power" exceeding 30 W; *or*

b.4.b.2. "Average output power" exceeding 30 W;

b.5. Output wavelength exceeding 800 nm but not exceeding 975 nm and any of the following:

b.5.a. "Pulse duration" less than 1ps and any of the following:

b.5.a.1. Output energy exceeding 0.005 J per pulse and "peak power" exceeding 5 GW; or

b.5.a.2. Single transverse mode output and "average output power" exceeding 20 W;

b.5.b. "Pulse duration" equal to or exceeding 1 ps and not exceeding 1 µs and any of the following:

b.5.b.1. Output energy exceeding 0.5 J per pulse and "peak power" exceeding 50 W;

b.5.b.2. Single transverse mode output and "average output power" exceeding 20 W; or

b.5.b.3. Multiple transverse mode output and "average output power" exceeding 50 W; or

b.5.c. "Pulse duration" exceeding 1 µs and any of the following:

b.5.c.1. Output energy exceeding 2 J per pulse and "peak power" exceeding 50 W;

b.5.c.2. Single transverse mode output and "average output power" exceeding 50 W; *or*

b.5.c.3. Multiple transverse mode output and "average output power" exceeding 80 W.

b.6. Output wavelength exceeding 975 nm but not exceeding 1,150 nm and any of the following:

b.6.a. "Pulse duration" of less than 1 ps, and any of the following:

b.6.a.1. Output "peak power" exceeding 2 GW per pulse;

b.6.a.2. "Average output power" exceeding 10 W; or

b.6.a.3. Output energy exceeding 0.002 J per pulse;

b.6.b. "Pulse duration" equal to or exceeding 1 ps and less than 1 ns, and any of the following:

b.6.b.1. Output "peak power" exceeding 5 GW per pulse;

b.6.b.2. "Average output power" exceeding 10 W; or

b.6.b.3. Output energy exceeding 0.1 J per pulse;

b.6.c. "Pulse duration" equal to or exceeding 1 ns but not exceeding 1 µs and any of the following:

b.6.c.1. Single transverse mode output and any of the following:

b.6.c.1.a. "Peak power" exceeding 100 MW;

b.6.c.1.b. "Average output power" exceeding 20 W limited by design to a maximum pulse repetition frequency less than or equal to 1 kHz;

b.6.c.1.c. 'Wall-plug efficiency' exceeding 12%, "average output power" exceeding 100 W and capable of operating at a pulse repetition frequency greater than 1 kHz;

b.6.c.1.d. "Average output power" exceeding 150 W and capable of operating at a pulse repetition frequency greater than 1 kHz; or

b.6.c.1.e. Output energy exceeding 2 J per pulse; *or*

b.6.c.2. Multiple transverse mode output and any of the following:

b.6.c.2.a. "Peak power" exceeding 400 MW;

b.6.c.2.b. 'Wall-plug efficiency' exceeding 18% and "average output power" exceeding 500 W;

b.6.c.2.c. "Average output power" exceeding 2 kW; or

b.6.c.2.d. Output energy exceeding 4 J per pulse; *or*

b.6.d. "Pulse duration" exceeding 1 µs and any of the following:

b.6.d.1. Single transverse mode output and any of the following:

b.6.d.1.a. "Peak power" exceeding 500 kW;

b.6.d.1.b. 'Wall-plug efficiency' exceeding 12% and "average output power" exceeding 100 W; or

b.6.d.1.c. "Average output power" exceeding 150 W; or

b.6.d.2. Multiple transverse mode output and any of the following:

b.6.d.2.a. "Peak power" exceeding 1 MW;

b.6.d.2.b. 'Wall-plug efficiency' exceeding 18% and "average output power" exceeding 500 W; *or*

b.6.d.2.c. "Average output power" exceeding 2 kW;

* * * * *

d. Other "lasers", not controlled by 6A005.a., 6A005.b, or 6A005.c as follows:

* * * * *

■ 37. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6A007 is amended by:

■ a. Removing "µgal" and adding in its place "µGal" in paragraph 6A007.a; and

■ b. Revising paragraphs b.1. and b.2. in the Items paragraph of the List of Items Controlled section.

The revisions read as follows:

6A007 Gravity Meters (Gravimeters) and Gravity Gradiometers, as Follows (see List of Items Controlled)

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

b. * * *

b.1. A static accuracy of less (better) than 0.7 mGal; *and*

b.2. An in-service (operational) accuracy of less (better) than 0.7 mGal having a 'time-to-steady-state registration' of less than 2 minutes under any combination of attendant corrective compensations and motional influences;

* * * * *

■ 38. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6A008 is amended by:

■ a. Revising paragraph k.2., and adding a Note to 6A008.k, in the Items paragraph of the List of Items Controlled section;

■ b. Revising the Note to 6A008.l.1. following paragraph l.1. in the Items

paragraph of the List of Items Controlled section;

■ c. Revising the Note to 6A008.1 following the Nota Bene after paragraph l.4; and

■ d. Adding Technical Notes to the end of the Items paragraph of the List of Items Controlled section, to read as follows:

6A008 Radar systems, equipment and assemblies, having any of the following (see List of Items Controlled), and "specially designed" "components" therefor.

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

k. * * *

k.2. A compressed pulse width of less than 200 ns; *or*

Note: *6A008.k.2 does not apply to two dimensional 'marine radar' or 'vessel traffic service' radar, having all of the following:*

a. "Pulse compression" ratio not exceeding 150;

b. Compressed pulse width of greater than 30 ns;

c. Single and rotating mechanically scanned antenna;

d. Peak output power not exceeding 250 W; and

e. *Not capable of "frequency hopping".*

l. * * *

l.1. * * *

Note: *6A008.l.1 does not control conflict alert capability in ATC systems, or 'marine radar'.*

* * * * *

l.4. * * *

N.B.: * * *

Note: *6A008.l does not apply to systems, equipment and assemblies designed for 'vessel traffic services'.*

Technical Notes:

1. For the purposes of 6A008, 'marine radar' is a radar that is used to navigate safely at sea, inland waterways or near-shore environments.

2. For the purposes of 6A008, 'vessel traffic service' is a vessel traffic monitoring and control service sinilar to air traffic control for aircraft.

■ 39. ECCN 6A205 is amended by removing the reference to "6A005.b.6.b" and adding in its place "6A005.b.6.c" in paragraph (3) of the Related Controls paragraph of the List of Items Controlled section.

■ 40. In Supplement No. 1 to part 774 (the Commerce Control List, Category 6, ECCN 6B007, the heading is amended by removing "mgal" and adding in its place "mGal."

■ 41. In Supplement No. 1 to part 774 (the Commerce Control List, Category 6, ECCN 6D001 is amended by removing "NP" from the reason for control paragraph and the NP control paragraph in the License Requirements section.

■ 42. ECCN 6E201 is amended by revising the heading to read as follows:

6E201 "Technology" according to the General Technology Note for the "use" of equipment controlled by 6A003.a.2., 6A003.a.3, 6A003.a.4; 6A005.a.2, 6A005.b.2.b, 6A005.b.3, 6A005.b.4.b.2, 6A005.b.6.c, 6A005.c.1.b, 6A005.c.2.b, 6A005.d.2, 6A005.d.3.c, or 6A005.d.4.c (that meet or exceed the parameters of 6A205); 6A202, 6A203, 6A205, 6A225 or 6A226.

* * * * *

■ 43. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 7, ECCN 7A002 is amended by:

■ a. Revising the Note to 7A002.a.1.b in the Items paragraph of the List of Items Controlled section;

■ b. Removing the Technical Note below the Note to 7A002.a.1.b in the Items paragraph of the List of Items Controlled section; and

■ c. Revising paragraphs a.2.a. and a.2.b., and the Note to 7A002.a.2.b in the Items paragraph of the List of Items Controlled section.

The revisions read as follows:

7A002 Gyros or angular rate sensors, having any of the following (see List of Items Controlled) and "specially designed" "components" therefor.

* * * * *

List of Items Controlled

* * * * *

Items:

a. * * *

a.1. * * *

a.1.b. * * *

Note: *7A002.a.1.b does not control "spinning mass gyros".*

a.2. * * *

a.2.a. A "bias" "stability" of less (better) than 4 degrees per hour, when measured in a 1 g environment over a period of three minutes, and with respect to a fixed calibration value; *or*

a.2.b. An "angle random walk" of less (better) than or equal to 0.1 degree per square root hour; *or*

Note: *7A002.a.2.b does not apply to "spinning mass gyros".*

* * * * *

■ 44. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 7, ECCN 7A003 is amended by:

■ a. Revising the heading;

■ b. Removing the text and adding in its place "N/A" in the Related Definitions paragraph of the List of Items Controlled section; and

■ c. Revising the Items paragraph in the List of Items Controlled section.

The revisions read as follows:

7A003 'Inertial measurement equipment or systems', having any of the following (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

Note 1: *'Inertial measurement equipment or systems' incorporate accelerometers or gyroscopes to measure changes in velocity and orientation in order to determine or maintain heading or position without requiring an external reference once aligned. 'Inertial measurement equipment or systems' include:*

—Attitude and Heading Reference Systems (AHRSs);

—Gyrocompasses;

—Inertial Measurement Units (IMUs);

—Inertial Navigation Systems (INSs);

—Inertial Reference Systems (IRSs);

—Inertial Reference Units (IRUs).

Note 2: *7A003 does not apply to 'inertial measurement equipment or systems' which are certified for use on "civil aircraft" by civil authorities of a Wassenaar Arrangement Participating State, see Supplement No. 1 to part 743 of the EAR.*

Technical Notes:

1. 'Positional aiding references' independently provide position, and include:

a. Global Navigation Satellite Systems (GNSS);

b."Data-Based Referenced Navigation" ("DBRN").

2. 'Circular Error Probable' ('CEP')—In a circular normal distribution, the radius of the circle containing 50% of the individual measurements being made, or the radius of the circle within which there is a 50% probability of being located.

a. Designed for "aircraft", land vehicles or vessels, providing position without the use of 'positional aiding references', and having any of the following accuracies subsequent to normal alignment:

a.1. 0.8 nautical miles per hour (nm/hr) 'Circular Error Probable' ('CEP') rate or less (better);

a.2. 0.5% distanced travelled 'CEP' or less (better); *or*

a.3. Total drift of 1 nautical mile 'CEP' or less (better) in a 24 hr period;

Technical Note: *The performance parameters in 7A003.a.1, 7A003.a.2 and 7A003.a.3 typically apply to 'inertia measurement equipment or systems' designed for "aircraft", vehicles and vessels, respectively. These parameters result from the utilization of specialized non-positional aiding references (e.g., altimeter, odometer, velocity log). As a consequence, the specified performance values cannot be readily converted between these parameters. Equipment designed for multiple platforms are evaluated against each applicable entry 7A003.a.1, 7A003.a.2, or 7A003.a.3.*

b. Designed for "aircraft", land vehicles or vessels, with an embedded 'positional aiding reference' and providing position after loss of all 'positional aiding references' for a period of up to 4 minutes, having an accuracy of less (better) than 10 meters 'CEP';

Technical Note: *7A003.b refers to systems in which 'inertial measurement equipment or systems' and other independent 'positional aiding references' are built into a single unit (i.e., embedded) in order to achieve improved performance.*

c. Designed for "aircraft", land vehicles or vessels, providing heading or True North determination and having any of the following:

c.1. A maximum operating angular rate less (lower) than 500 deg/s and a heading accuracy without the use of 'positional aiding references' equal to or less (better) than 0.07 deg sec (Lat) (equivalent to 6 arc minutes rms at 45 degrees latitude); *or*

c.2. A maximum operating angular rate equal to or greater (higher) than 500 deg/s and a heading accuracy without the use of 'positional aiding references' equal to or less (better) than 0.2 deg sec (Lat) (equivalent to 17 arc minutes rms at 45 degrees latitude);

d. Providing acceleration measurements or angular rate measurements, in more than one dimension, and having any of the following:

d.1. Performance specified by 7A001 or 7A002 along any axis, without the use of any aiding references; *or*

d.2. Being "space-qualified" and providing angular rate measurements having an "angle random walk" along any axis of less (better) than or equal to 0.1 degree per square root hour.

Note: *7A003.d.2 does not apply to 'inertial measurement equipment or systems' that contain "spinning mass gyros" as the only type of gyro.*

■ 45. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 7, ECCN 7D003 is amended by:

■ a. Revising the Special Conditions for STA section; and

■ b. Removing and reserving paragraph 7D003.c.

The revision reads as follows:

7D003 Other "software" as follows (see List of Items Controlled).

* * * * *

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit software in 7D003.a or .b to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

* * * * *

■ 46. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 7, ECCN 7D004 is amended by revising the heading to read as follows:

7D004 "Source code" incorporating "development" "technology" specified by 7E004.a.1 to a.6 or 7E004.b, for any of the following: (see List of Items Controlled).

* * * * *

■ 47. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 7 is amended by adding ECCN 7D005 to read as follows:

7D005 "Software" "specially designed" to decrypt Global Navigation Satellite Systems (GNSS) ranging signals designed for government use.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1.
AT applies to entire entry.	AT Column 1.

List Based License Exceptions (See Part 740 for a description of all license exceptions)

CIV: N/A
TSR: N/A

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items:

The list of items controlled is contained in the ECCN heading.

■ 48. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 7, ECCN 7E001 is amended by:

■ a. Revising the heading;

■ b. Revising the NS paragraph in the License Requirements section; and

■ c. Adding a Note to the end of the Items paragraph of the List of Items Controlled section.

The revisions and addtion to read as follows:

7E001 "Technology" according to the General Technology Note for the "development" of equipment or "software", specified by 7.A., 7.B., 7D001, 7D002, 7D003 or 7D005.

License Requirements

* * * * *

Control(s)	*Country chart (see Supp. No. 1 to part 738).*
NS applies to "technology" for items controlled by 7A001 to 7A004, 7A006, 7A008, 7B001 to 7B003, 7D001 to 7D005.	NS Column 1.

* * * * *

* * * * *

List of Items Controlled

* * * * *

Items:

The list of items controlled is contained in the ECCN heading.

Note: *7E001 includes key management "technology" exclusively for equipment specified in 7A005.a.*

■ 49. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 7, ECCN 7E004 is amended by removing and reserving paragraph b.6 and removing the Nota Bene below it. Note that 7E004.b remains.

■ 50. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 8, ECCN 8A002 is amended by:

■ a. Revising paragraph i.2 and the Technical Note below it in the Items paragraph of the List of Items Controlled; and

■ b. Adding a Nota Bene below the Note that follows paragraph q.2 in the Items paragraph of the List of Items Controlled section.

The revisions and addition read as follows:

8A002 Marine systems, equipment, "parts" and "components," as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

i. * * *

i.2. Controlled by proportional master-slave techniques and having 5 degrees of 'freedom of movement' or more;

Technical Note: *Only functions having proportionally related motion control using positional feedback are counted when determining the number of degrees of 'freedom of movement'.*

* * * * *

q. * * *

q.2. * * *

Note: * * *

N.B. For equipment and devices "specially designed" for military use see ECCN 8A620.f.

* * * * *

■ 51. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9, ECCN 9A001 is amended by revising the Note to 9A001.a to be Note 1 and adding Note 2 following 9A001.a in the Items paragraph of the List of Items Controlled section, to read as follows:

9A001 Aero gas turbine engines having any of the following (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

a. * * *

Note 1: *9A001.a. does not control aero gas turbine engines which meet all of the following:*

a. Certified by the civil aviation authority in a country listed in Supplement No. 1 to Part 743; and

b. Intended to power non-military manned aircraft for which any of the following has been issued by a Wassenaar Arrangement Participating State listed in Supplement No.

1 to Part 743 for the aircraft with this specific engine type:

b.1. A civil type certificate; or

b.2. An equivalent document recognized by the International Civil Aviation Organization (ICAO).

Note 2: *9A001.a does not apply to aero gas turbine engines for Auxiliary Power Units (APUs) approved by the civil aviation authority in a Wassenaar Arrangement Participating State (see Supplement No. 1 to part 743 of the EAR).*

* * * * *

■ 52. Supplement No. 2 to part 774 "General Technology and Software Notes" is amended by removing the phrase "operation, maintenance (checking), and repair" and adding in its place "operation, maintenance (checking), or repair" in the General Technology Note.

■ 53. Supplement No. 5 to part 774 "Items Classified Under ECCNS 0A521, 0B521, 0C521, 0D521 and 0E521" is amended by removing the date "June 20, 2014" and adding in its place "June 20, 2015" from rows 0D521 No. 2 and 0E521 No. 6 and under the column entitled "Date when the item will be designated EAR99, unless reclassified in another ECCN or the 0Y521 classification is reissued."

■ 54. Supplement No. 6 to part 774 "Sensitive List" is amended by:

■ a. Revising paragraphs (4)(ii) and (iii);

■ b. Removing and reserving paragraph (7)(iv);

■ c. Redesignating paragraphs (7)(v) and (vi) as paragraphs (7)(vi) and (vii);

■ d. Adding new paragraph (7)(v).

The revisions and addition read as follows:

Supplement No. 6 to Part 774—Sensitive List

* * * * *

(4) * * *

(ii) 4D001—"Software" "specially designed" for the "development" or "production" of equipment controlled under ECCN 4A001.a.2 or for the "development" or "production" of "digital computers" having an 'Adjusted Peak Performance' ('APP') exceeding 1.0 Weighted TeraFLOPS (WT).

(iii) 4E001— "Technology" according to the General Technology Note for the "development" or "production" of any of the following equipment or "software": equipment controlled under ECCN 4A001.a.2, "digital computers" having an 'Adjusted Peak Performance' ('APP') exceeding 1.0 Weighted TeraFLOPS (WT), or "software" controlled under the specific provisions of 4D001 described in this Supplement.

* * * * *

(7) * * *

(v) 7D004.a to .d and .g.

* * * * *

Dated: July 25, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

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